THE ONE HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 23, 2019

Senate called to order at 1:38 p.m.

President Marshall presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Bruce Henderson.

Father, I pray this day for all of the people who are doing the work we give them to do. Please bless those at the Front Desk and all of the staff here and in all of the offices around us, above us, and in other buildings and locations here and throughout the State. Let them know they are appreciated and give them patience, strength and even joy in what they do.

Thank You. And the whole Senate says,

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Finance, to which were referred Senate Bills Nos. 504, 508, 509, 511, 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 referred Assembly Bill No. 64, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Madam President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 70, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Madam President:

Your Committee on Growth and Infrastructure, to which was referred Assembly Bill No. 288, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

YVANNA D. CANCELA, *Chair*

Madam President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 15, 60, 112, 222, 286, 301, 307, 393, 417, 421, 434, 439, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

NICOLE J. CANNIZZARO, *Chair*

Madam President:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bill No. 50; Assembly Joint Resolution No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES OHRENSCHALL, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 22, 2019

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 103, 104, 201, 262, 270, 315.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 8.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ohrenschall moved that Assembly Bill No. 299 be taken from the Secretary's desk and placed on the General File on the second Agenda.

Motion carried.

Senator Scheible moved that Assembly Bills Nos. 62, 95 be taken from the Secretary's desk and placed on the General File on the third Agenda.

Motion carried.

Senator Ratti moved that Assembly Bills Nos. 132, 140, 141, 161, 205, 282, 334, 336, 340, 367, 443, 457 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. 102.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 102 authorizes General Fund appropriations of $77,000 in each year of the 2019-2021 Biennium to the Western Regional Higher Education Compact Account. Funding would support ten advanced practice registered nurse student slots through the Nevada Western Interstate Compact for Higher Education program to receive training on treating and understanding the special needs of elderly persons.

Roll call on Senate Bill No. 102:

YEAS—21.

NAYS—None.

Senate Bill No. 102 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 41.

Bill read third time.

Remarks by Senator Pickard.

Assembly Bill No. 41 requires a governmental entity or utility service provider to allow the use of a fictitious address upon the request of a participant who has received a fictitious address issued by the Division of Child and Family Services. The measure allows these entities to maintain records that contain the participant's actual physical address while prohibiting disclosure of the address under certain circumstances. The Division or other governmental entity or utility provider is not to share a person's actual address until required to do so by federal and State law and when such information may be released to a law enforcement agency at the direction of a court order or when required by any other local, State or federal law.

Roll call on Assembly Bill No. 41:
YEAS—21.
NAYS—None.

Assembly Bill No. 41 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 164.
Bill read third time.
Remarks by Senators Ratti and Hardy.

SENATOR RATTI:
Assembly Bill No. 164 conforms the statutes for medical-marijuana establishments and marijuana establishments with respect to the application process and fees required to obtain an agent registration card; procedures for suspending an agent registration card in the event a holder fails to comply with child support payment requirements; provisions governing fingerprinting and background checks of applicants for registration as agents, and provisions that prohibit a person from volunteering or working at, contracting to provide labor to or being employed by an independent contractor to provide labor unless the person is registered with the Department of Taxation and issued an agent registration card.

The bill authorizes a marijuana establishment to place an advertisement at a sports or entertainment event where persons are less than 21 years old under certain circumstances. A local government may adopt an ordinance regulating the content of advertisements used by a marijuana establishment or a medical-marijuana establishment.

Lastly, the bill expands the grounds for revocation of a medical marijuana-establishment agent registration card and establishes similar grounds for revoking a marijuana-establishment agent registration card.

SENATOR HARDY:
I rise in opposition to this bill; it may still require a complaint be issued to take an ad off. If that is the case, the ad will have already happened and been seen, and I have challenges with that. I am be willing to be corrected if this is a misconception.

Conflict of interest declared by Senator Ohrenschall.

Roll call on Assembly Bill No. 164:
YEAS—15.
NAYS—Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert—5.
NOT VOTING—Ohrenschall.

Assembly Bill No. 164 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 226.
Bill read third time.
Remarks by Senator Pickard.
Assembly Bill No. 226 prohibits an officer or employee of this State or any political subdivision, an employer as a condition of employment, a licensed insurance seller or provider or a person licensed in a business related to bail, from requiring another person to undergo the implantation of a microchip or other permanent marker of any kind or nature.

Roll call on Assembly Bill No. 226:
YEAS—20.
NAYS—Scheible.

Assembly Bill No. 226 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 230.
Bill read third time.
Remarks by Senators Parks and Seevers Gansert.

SENATOR PARKS:
Assembly Bill No. 230 provides a procedure for a governing body of any county or city to designate a historic neighborhood, including a requirement that the governing body hold a public hearing before designating an area as a historic neighborhood. The bill also clarifies that a landmark is a site, building, structure or object that is eligible for inclusion in the State Register of Historic Places.

SENATOR SEEVERS GANSERT:
I rise in opposition to Assembly Bill No. 230. Much of this legislation is in statute, but the public notice in the bill of the one required meeting, is just a standard, open meeting notice, which is three days. In statute, for historic districts, there is a requirement to provide notice over three weeks, at least once a week.
Once your home is in an historic neighborhood, the governing body can pass any type of ordinance they want over that neighborhood. They could superimpose a homeowner's association over your home, whether or not you opt in. You do not have the choice to opt in or opt out of the historic neighborhood; once it is established, ordinances can be passed. Homeowners in these areas need to have far more notice than our standard three-day notice. I would support this bill if it provided the three, consecutive-week notice as in statute. I will be opposing this measure.

Roll call on Assembly Bill No. 230:
YEAS—14.
NAYS—Hammond, Hansen, Hardy, Pickard, Seevers Gansert, Settelmeyer, Washington—7.

Assembly Bill No. 230 having received a constitutional majority, Madam President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 260.
Bill read third time.
Remarks by Senator Hansen.
Assembly Bill No. 260 revises provisions relating to confidential communications made by law enforcement or public-safety personnel who participate in a peer-support counseling session. This measure prohibits a court from issuing an order or subpoena requiring the disclosure of confidential communications made during such a peer-support counseling session.

Roll call on Assembly Bill No. 260:
YEAS—21.
NAYS—None.

Assembly Bill No. 260 having received a constitutional majority, Madam President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 285.

Bill read third time.

Remarks by Senators Ohrenschall, Hardy and Hammond.

SENATOR OHRENSCHALL:

Assembly Bill No. 285 allows certain observers to attend a mental or physical examination ordered by a court for the purpose of discovery in a civil action. The observer is prohibited from participating in or disrupting the examination, and if he or she does so, the examiner may suspend the examination. The observer may make an audio or stenographic recording of the examination or suspend the examination in certain circumstances. If the examination is suspended, the party subject to the order for the examination may petition a court for a protective order pursuant to the Nevada Rules of Civil Procedure.

SENATOR HARDY:

Are these observers prescreened to avoid potential HIPAA violations? What allows them the right to observe a physical examination?

SENATOR OHRENSCHALL:

Pursuant to the bill, it would be the patient who is requesting the observer accompany them for the examination. This is an examination that relates to pending litigation and is not a normal patient-doctor visit. Patients, as the Senator is aware, can, if they choose, bring a friend or relative in for any examination; this would be similar to that. Testimony about the bill stated when someone finds himself or herself perhaps catastrophically injured and has never been in that situation, they might want someone with them for an examination that is ordered pursuant to litigation. This would not be an issue, since the choice of observer would be made by the person who is being examined.

SENATOR HARDY:

What obligation would this random observer have? Although chosen by the person being examined, would the observer be subjected or know they are subjected to the HIPAA regulations which state they are not allowed to tell anybody or say anything or do anything without the explicit permission of the patient?

SENATOR OHRENSCHALL:

Nothing in this bill would supersede HIPAA law because federal law, under the supremacy clause of the *United States Constitution*, would be the governing rule. The bill is specific; if the person accompanying the patient becomes disruptive, the doctor who is performing the examination can stop the examination. This does not change anything under HIPAA Law.

SENATOR HAMMOND:

I rise in opposition to this bill; I voted against it in Committee. We heard compelling testimony from legal defense in opposition to the bill. They thought the pendulum swung too far in trying to strike the right balance between certain rights. For that reason, I am on the fence and will be voting "no" on the bill.

Roll call on Assembly Bill No. 285:

YEAS—14.

NAYS—Goicoechea, Hammond, Hardy, Kieckhefer, Scheible, Seevers Gansert, Settelmeyer— 7.

Assembly Bill No. 285 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 290.

Bill read third time.

Remarks by Senator Brooks.

Assembly Bill No. 290 requires the Division of Industrial Relations of the Department of Business and Industry to establish a registry that is publicly accessible via an Internet website to track certain persons in the construction industry who have completed required courses in construction industry safety- and health-hazard recognition and to track persons who are authorized as trainers of such courses. The bill also revises provisions concerning when a worker must obtain a completion card for a workplace safety- and health-hazard training course.

Roll call on Assembly Bill No. 290:

YEAS—21.

NAYS—None.

Assembly Bill No. 290 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 298.

Bill read third time.

Remarks by Senator Hammond.

Assembly Bill No. 298 requires a child-welfare services agency to adopt a plan for the recruitment and retention of foster homes. The measure requires the agency to appoint one or more employees to develop, carry out and evaluate the implementation of the plan and evaluate certain other issues related to the ability of existing foster homes to meet the needs of children.

In addition, Assembly Bill No. 298 requires child-welfare agencies to publish certain information on their websites annually. This report must include: information regarding progress toward achieving their goals for the number of foster homes needed in the agency's geographic area; the number of children placed outside the State, including children placed in out-of-state residential treatment facilities, for more than 15 days during the immediately preceding year; the reasons for the placements; a summary of changes that could prevent the placements, and a summary of changes or actions necessary to allow children currently placed outside of the State to return to Nevada.

Roll call on Assembly Bill No. 298:

YEAS—21.

NAYS—None.

Assembly Bill No. 298 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 304.

Bill read third time.

Remarks by Senators Washington, Kieckhefer, Hardy and Denis.

SENATOR WASHINGTON:

Assembly Bill No. 304 relates to pupil-teacher ratios. Assembly bill No. 304 requires a school district requesting a variance to the maximum pupil-teacher ratio prescribed by the State Board of Education for grades kindergarten through third grade, to develop a plan of action to reduce the ratio of pupils per class. Further, Assembly Bill No. 304 requires the board of trustees of each school district to maintain on the Internet website of the school district, the number of pupils per licensed teacher in each class in the district not less than 30 days after the beginning of the school year. The bill also requires the State Board of Education to establish nonbinding recommendations for the ratio of counselors and licensed social workers per pupil.

SENATOR KIECKHEFER:

I rise in support of Assembly Bill No. 304. When I visit schools and talk to teachers throughout the district, I hear about class size and the lack of new teachers coming into the system to reduce those class sizes. This seems to be a chronic problem plaguing school systems throughout the State, and it is having a direct impact on the achievement of our students and the working conditions for our teaching professionals. This bill is a step toward ensuring when a school district requests a variance from the class-size reduction targets we have for grades 1, 2, and 3, they have to put forward a plan to reduce those class sizes in the future. We also need to be thinking about what we can do to target class sizes at the higher grades, that are plagued by class sizes of 40 or 50 kids, and how we can address that to impact student outcome on an ongoing basis.

SENATOR HARDY:

I am taking the opposite position on this. I am in opposition to the bill because it is putting the cart before the horse. We need to look at the money we have and what our projections are. It may be time to use the money that has been projected and look at funding class-size reduction. We can all agree we need it, so we should just fund it. I will be against the bill.

SENATOR DENIS:

I rise in support of this bill. The important thing in here is to recognize it requires reporting how many licensed teachers are in the classroom. Currently when we get class size reports, the pupil-teacher ratio includes counselors and others so we do not get a feel for the true size of the classes. Having to report this will be helpful, especially as we have this discussion about funding. It is important to have the right information and this will provide it. I am in support of this bill.

Roll call on Assembly Bill No. 304:

YEAS—20.

NAYS—Hardy.

Assembly Bill No. 304 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 353.

Bill read third time.

The following amendment was proposed by Senator Seevers Gansert:

Amendment No. 861.

SUMMARY—Revises provisions governing the disposition of certain types of materials and waste produced by certain governmental entities. (BDR 40-623)

AN ACT relating to recycling; revising certain provisions governing recyclable material; requiring certain governmental entities to recycle certain additional products and waste; providing certain exemptions from such a requirement; revising the required contents of a report made to the Legislature on the status of recycling programs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Environmental Commission to adopt regulations establishing minimum standards for: (1) separating at the source recyclable material from other solid waste originating from residential premises and public buildings where services for the collection of solid waste are provided, including the placement of recycling containers where those services are provided. (NRS 444A.020) Section 1.8 of this bill clarifies that

the term "recyclable material" in this requirement includes electronic waste, paper and paper products.

Existing law requires courts, the Legislative Counsel Bureau, state agencies, school districts and the Nevada System of Higher Education to recycle paper and paper products unless the cost of recycling is unreasonable and would place an undue burden on the entity. (NRS 1.115, 218F.310, 232.007, 386.4159, 396.437) Sections 2-6 of this bill require these entities to also recycle electronic waste and other recyclable materials, except for construction and demolition waste. Sections 2-6 further require these entities to permanently remove any data from electronic waste before recycling the electronic waste. Sections 2-6 also use standardized definitions of electronic waste, paper, paper products and recyclable material that conform to the definitions in the regulations relating to recycling adopted by the State Environmental Commission.

Existing law also authorizes the Legislative Counsel Bureau and state agencies to apply for a waiver from compliance with the requirements for recycling. (NRS 218F.310, 232.007) Sections 3 and 4 of this bill eliminate the waiver process and exempt these entities from complying with the requirements relating to recycling if these entities determine that the cost of compliance is unreasonable and would place an undue burden on the entity.

Additionally, existing law requires the Legislative Commission, state agencies, school districts and the Nevada System of Higher Education to prescribe procedures for the recycling of certain waste. (NRS 218F.310, 232.007, 386.4159, 396.437) Sections 3-6 remove the requirement for these entities to prescribe such procedures and instead, require these entities to consult with the State Department of Conservation and Natural Resources for the disposition of such waste.

Existing law also requires any money received by the Legislative Counsel Bureau for recycling or causing to be recycled certain paper products and waste to be paid by the Director to the State Treasurer for credit to the State General Fund. (NRS 218F.310) Section 3 requires money received by the Legislative Counsel Bureau for recycling or causing to be recycled certain paper products, electronic waste and other recyclable materials to be: (1) accounted for separately; and (2) used to carry out the provisions of section 3.

Existing law requires the Director of the State Department of Conservation and Natural Resources to deliver a biennial report to the Director of the Legislative Counsel Bureau on the status of current and proposed programs for recycling and reuse of materials. (NRS 444A.070) Section 1.9 of this bill requires such a report to include the amount of recycled material reported by state agencies.

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

Section 1. (Deleted by amendment.)

Sec. 1.1. Chapter 444A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2, 1.3 and 1.4 of this act.

Sec. 1.2. *"Electronic waste" means electronic equipment that has been discarded, is no longer wanted by the owner or for any other reason enters the waste collection, recovery, treatment, processing or recycling system.*

Sec. 1.3. *"Paper" includes newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, mimeo paper, duplicator paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, without limitation, a laminate, binder, coating and saturant.*

Sec. 1.4. *"Paper product" means any paper article or commodity, including, without limitation, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, without limitation, a laminate, binder, coating and saturant.*

Sec. 1.5. NRS 444A.010 is hereby amended to read as follows:

444A.010 As used in NRS 444A.010 to 444A.080, inclusive, *and sections 1.2, 1.3 and 1.4 of this act,* unless the context otherwise requires, the words and terms defined in NRS 444A.0103 to 444A.017, inclusive, *and sections 1.2, 1.3 and 1.4 of this act* have the meanings ascribed to them in those sections.

Sec. 1.8. NRS 444A.013 is hereby amended to read as follows:

444A.013 "Recyclable material" means solid waste that can be processed and returned to the economic mainstream in the form of raw materials or products, as determined by the State Environmental Commission. *The term includes, without limitation:*

1. Electronic waste;

2. Paper; and

3. Paper products.

Sec. 1.9. NRS 444A.070 is hereby amended to read as follows:

444A.070 The Director of the Department shall deliver to the Director of the Legislative Counsel Bureau a biennial report on or before January 31 of each odd-numbered year for submission to the Legislature on the status of current and proposed programs for recycling and reuse of materials *, the amount of recycled material that is reported by state agencies pursuant to subsection 5 of NRS 232.007* and on any other matter relating to recycling and reuse which he or she deems appropriate.

Sec. 2. NRS 1.115 is hereby amended to read as follows:

1.115 1. Except as otherwise provided in this section, each court of justice for this State shall recycle or cause to be recycled, to the extent reasonably possible, the paper and paper products *, electronic waste and other recyclable materials* it ~~[uses.]~~ *produces.* This subsection does not apply to ~~[confidential]~~ *:*

(a) Construction and demolition waste; or

(b) Confidential documents if there is an additional cost for recycling those documents.

2. *Before recycling electronic waste, each court of justice shall permanently remove any data stored on the electronic waste.*

3. As used in this section:

(a) *"Electronic waste" has the meaning ascribed to it in section 1.2 of this act.*

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

~~(b)]~~ *has the meaning ascribed to it in section 1.3 of this act.*

(c) "Paper product" ~~[means any paper article or commodity, including, but not limited to, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.]~~ *has the meaning ascribed to it in section 1.4 of this act.*

(d) "Recyclable material" has the meaning ascribed to it in NRS 444A.013.

Sec. 3. NRS 218F.310 is hereby amended to read as follows:

218F.310 1. Except as otherwise provided in this section, the Legislative Counsel Bureau shall recycle or cause to be recycled the paper and paper products *, electronic waste and other recyclable materials* it ~~[uses.]~~ *produces.* This subsection does not apply to ~~[confidential]~~ *:*

(a) Construction and demolition waste; or

(b) Confidential documents if there is an additional cost for recycling those documents.

2. ~~[The Director may apply to the Legislative Commission for a waiver from the requirements of subsection 1.]~~ *Before recycling electronic waste, the Legislative Counsel Bureau shall permanently remove any data stored on the electronic waste.*

3. The Legislative ~~[Commission shall grant a waiver if it]~~ *Counsel Bureau is not required to comply with the requirements of subsection 1 if the Director* determines that the cost to recycle or cause to be recycled the paper and paper products ~~[used]~~ *, electronic waste and other recyclable materials produced* by the Legislative Counsel Bureau is unreasonable and would place an undue burden on the operations of the Legislative Counsel Bureau.

~~[3. The]~~

4. Except as otherwise provided in this subsection, the Legislative Commission shall ~~[, after consulting]~~ *consult* with the State Department of Conservation and Natural Resources ~~[, adopt regulations which prescribe the procedure]~~ for the disposition of the paper and paper products *, electronic waste and other recyclable materials* to be recycled ~~[. The Legislative Commission may prescribe a procedure for the recycling of other waste~~

~~materials produced]~~ *, including, without limitation, the placement of recycling containers* on the premises of the Legislative Building. *This subsection does not apply to construction and demolition waste.*

~~[4.]~~ *5.* Any money received by the Legislative Counsel Bureau for recycling or causing to be recycled the paper and paper products *, electronic waste and other recyclable materials* it ~~[uses]~~ *produces* must be ~~[paid by the Director to the State Treasurer for credit to the State General Fund.]~~ *:*

(a) Accounted for separately; and

(b) Used to carry out the provisions of this section.

~~[5.]~~ *6.* As used in this section:

(a) *"Electronic waste" has the meaning ascribed to it in section 1.2 of this act.*

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

~~(b)]~~ *has the meaning ascribed to it in section 1.3 of this act.*

(c) "Paper product" ~~[means any paper article or commodity, including, but not limited to, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.]~~ *has the meaning ascribed to it in section 1.4 of this act.*

(d) "Recyclable material" has the meaning ascribed to it in NRS 444A.013.

Sec. 4. NRS 232.007 is hereby amended to read as follows:

232.007 1. Except as otherwise provided in this section, each state agency shall recycle or cause to be recycled the paper and paper products *, electronic waste and other recyclable materials* it ~~[uses.]~~ *produces.* This subsection does not apply to ~~[confidential]~~ *:*

(a) Construction and demolition waste; or

(b) Confidential documents if there is an additional cost for recycling those documents.

2. *Before recycling electronic waste, each state agency shall permanently remove any data stored on the electronic waste.*

3. A state agency ~~[may apply to the Chief of the Budget Division of the Office of Finance for a waiver from the requirements of subsection 1. The Chief shall grant a waiver to the state agency if the Chief]~~ *is not required to comply with the requirements of subsection 1 if the administrator of the agency* determines that the cost to recycle or cause to be recycled the paper and paper products ~~[used]~~ *, electronic waste and other recyclable materials produced* by the agency is unreasonable and would place an undue burden on the operations of the agency.

~~[3. The State Environmental Commission shall, through the State Department of Conservation and Natural Resources, adopt regulations which~~

~~prescribe the procedure for the disposition of the paper and paper products to be recycled. In adopting such regulations, the Commission:~~

~~(a) Shall consult with any other state agencies which are coordinating or have coordinated programs for recycling paper and paper products.~~

~~(b) May prescribe a procedure for the recycling of other waste materials produced by state agencies.]~~

4. Except as otherwise provided in this subsection, a state agency shall consult with the State Department of Conservation and Natural Resources for the disposition of the paper and paper products, electronic waste and other recyclable materials to be recycled, including, without limitation, the placement of recycling containers on the premises of the state agency. This subsection does not apply to construction and demolition waste.

~~[4.]~~ *5.* Any money received by a state agency for recycling or causing to be recycled the paper and paper products *, electronic waste and other recyclable materials* it ~~[uses]~~ *produces* must be ~~[paid by the chief administrative officer of that agency to the State Treasurer for credit to the State General Fund.]~~ *:*

(a) Accounted for separately; and

(b) Used to carry out the provisions of this section.

~~[5.]~~ *6. On or before July 1 of each year, each state agency shall submit to the Director a report on the amount of material recycled by the state agency pursuant to this section.*

~~*[6.]*~~ *7.* As used in this section:

(a) *"Electronic waste" has the meaning ascribed to it in section 1.2 of this act.*

(b) "Paper" ~~[includes newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, mimeo paper, duplicator paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.]~~ *has the meaning ascribed to it in section 1.3 of this act.*

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

~~(c)]~~ *has the meaning ascribed to it in section 1.4 of this act.*

(d) "Recyclable material" has the meaning ascribed to it in NRS 444A.013.

(e) "State agency" means every public agency, bureau, board, commission, department, division, officer or employee of the Executive Department of State Government.

Sec. 5. NRS 386.4159 is hereby amended to read as follows:

386.4159 1. Except as otherwise provided in this section, each school district shall recycle or cause to be recycled the paper and paper products ,

electronic waste and other recyclable materials that it ~~[uses.]~~ *produces.* This subsection does not apply to ~~[confidential]~~ *:*

(a) Construction and demolition waste; or

(b) Confidential documents if there is an additional cost for recycling those documents.

2. *Before recycling electronic waste, a school district shall permanently remove any data stored on the electronic waste.*

3. A school district is not required to comply with the requirements of subsection 1 if the board of trustees of the school district determines that the cost to recycle or cause to be recycled the paper and paper products ~~[used]~~ , *electronic waste and other recyclable materials produced* by the schools in the district is unreasonable and would place an undue burden on the operations of the district or a particular school.

~~[3. The]~~

4. Except as otherwise provided in this subsection, the board of trustees shall ~~[adopt rules which prescribe the procedure]~~ *consult with the State Department of Conservation and Natural Resources* for the disposition of the paper and paper products , *electronic waste and other recyclable materials* to be recycled ~~[. The board of trustees may prescribe a procedure for the recycling of other waste material produced]~~ , *including, without limitation, the placement of recycling containers* on the premises of the schools in the school district and the administrative offices of the school district. *This subsection does not apply to construction and demolition waste.*

~~[4.]~~ *5.* Any money received by the school district for recycling or causing to be recycled the paper and paper products , *electronic waste and other recyclable materials* it ~~[uses]~~ *produces* must be paid by the board of trustees for credit to the general fund of the school district.

~~[5.]~~ *6.* As used in this section:

(a) *"Electronic waste" has the meaning ascribed to it in section 1.2 of this act.*

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

~~(b)]~~ *has the meaning ascribed to it in section 1.3 of this act.*

(c) "Paper product" ~~[means any paper article or commodity, including, but not limited to, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.]~~ *has the meaning ascribed to it in section 1.4 of this act.*

(d) "Recyclable material" has the meaning ascribed to it in NRS 444A.013.

Sec. 6. NRS 396.437 is hereby amended to read as follows:

396.437 1. Except as otherwise provided in this section, the System shall recycle or cause to be recycled the paper , ~~[and]~~ paper products , *electronic waste and other recyclable materials* it ~~[uses.]~~ *produces.* This subsection does not apply to ~~[confidential]~~ *:*

(a) Construction and demolition waste; or

(b) Confidential documents if there is an additional cost for recycling those documents.

2. *Before recycling electronic waste, the System shall permanently remove any data stored on the electronic waste.*

3. The System is not required to comply with the requirements of subsection 1 if the Board of Regents determines that the cost to recycle or cause to be recycled the paper , ~~[and]~~ paper products ~~[used]~~ , *electronic waste and other recyclable materials produced* by the System or one of its branches or facilities is unreasonable and would place an undue burden on the operations of the System, branch or facility.

~~[3. The]~~

4. Except as otherwise provided in this subsection, the Board of Regents shall ~~[adopt regulations which prescribe the procedure]~~ *consult with the State Department of Conservation and Natural Resources* for the disposition of the paper and paper products , *electronic waste and other recyclable materials* to be recycled , ~~[. The Board of Regents shall prescribe procedures for the recycling of other waste material produced on the premises of the System, a branch or a facility,]~~ including, without limitation, the placement of recycling containers on the premises of the System . ~~[, a branch or a facility where services for the collection of solid waste are provided.]~~ *This subsection does not apply to construction and demolition waste.*

~~[4.]~~ *5.* Any money received by the System for recycling or causing to be recycled the paper and paper products , *electronic waste and other recyclable materials* it ~~[uses and other waste material it]~~ produces must be ~~[accounted]~~ *:*

(a) Accounted for separately *;* and ~~[used]~~

(b) Used to carry out the provisions of this section.

~~[5.]~~ *6.* As used in this section:

(a) *"Electronic waste" has the meaning ascribed to it in section 1.2 of this act.*

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

~~(b)]~~ *has the meaning ascribed to it in section 1.3 of this act.*

(c) "Paper product" ~~[means any paper article or commodity, including, but not limited to, paper napkins, towels, cardboard, construction material, paper and any other cellulosic material which contains not more than 10 percent by~~

~~weight or volume of a noncellulosic material, including, but not limited to, a laminate, binder, coating and saturant.~~

~~(c) "Solid waste" has the meaning ascribed to it in NRS 444.490.]~~ *has the meaning ascribed to it in section 1.4 of this act.*

(d) "Recyclable material" has the meaning ascribed to it in NRS 444A.013.

Sec. 7. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 8. This act becomes effective on July 1, 2019.

Senator Seevers Gansert moved the adoption of the amendment.

Remarks by Senator Seevers Gansert.

When we were recycling electronic devises, we were not making sure they were scrubbed. Amendment No. 861 to Assembly Bill No. 353 ensures when we do recycle an electronic device, no personal identifying information or other information is contained on the devices.

Amendment adopted.

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

Assembly Bill No. 378.

Bill read third time.

The following amendment was proposed by Senator Denis:

Amendment No. 889.

SUMMARY—Makes various changes relating to the transportation and admission of certain persons alleged to be a danger to themselves or others to certain facilities or hospitals. (BDR 34-711)

AN ACT relating to mental health; requiring the model plan for the management of a crisis, emergency or suicide involving a school to include a plan for responding to a pupil with a mental illness; clarifying that consent from any parent or legal guardian of a person is not necessary for the emergency admission of that person; requiring a person who applies for the emergency admission of a child to attempt to obtain the consent of a parent or guardian of the child and maintain documentation of such an attempt; requiring the notification of a parent or guardian of a child of the emergency admission of the child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Education to develop a model plan for the management of a suicide or a crisis or emergency that involves a public or private school and requires immediate action. (NRS 388.253) Existing law requires the development of a plan to be used by all public schools in a school district or a charter school in responding to a crisis or emergency, which must include the plans, procedures and information included in the model plan developed by the Department. (NRS 388.243) Existing law authorizes the emergency admission of a person who is determined to present a clear and present danger of harm to himself, herself or others as a result of mental illness to a public or private mental health facility or hospital for evaluation, observation and treatment. (NRS 433A.150) Existing law authorizes certain

persons to make an application for such an emergency admission, including an officer authorized to make arrests in this State. (NRS 433A.160) Section 1 of this bill requires the model plan to include a ~~[plan]~~ procedure for responding to a pupil who is determined to present a clear and present danger of harm to himself or herself or others as a result of mental illness, including: (1) utilizing mobile mental health crisis response units, where available; and (2) transporting the pupil to a mental health facility or hospital for admission. Section 5 of this bill requires the Department of Education to: (1) collaborate with the Department of Health and Human Services, consult with interested persons and consider the due process rights of pupils and parents when developing such procedures. The Department of Education is also required to provide periodic reports to and receive input from the Legislative Committee on Health Care concerning the development of the procedures and to collect data about the utilization of the procedures once developed.

Section 2 of this bill clarifies that such a facility or hospital may accept for emergency admission any person for whom a proper application for emergency admission has been made, regardless of whether any parent or legal guardian of the person has consented to such admission. Section 2.2 of this bill requires a person, other than a parent or guardian, who applies for the emergency admission of a person who is less than 18 years of age to attempt to obtain the consent of a parent or guardian to make the application when practicable. Section 2.2 requires the person who makes the application or his or her employer, if applicable, to maintain documentation of each such attempt.

Existing law requires the administrative officer of a mental health facility to ask a person who is admitted to the facility on an emergency basis for permission to notify a family member, friend or other person. If the person provides such permission, the administrator is required to notify the family member, friend or other person. If permission is not given, the administrator is prohibited from notifying another person of the emergency admission in most circumstances. (NRS 433A.190, as amended by section 14 of Assembly Bill No. 85 of the 2019 Legislative Session) Section 4 of this bill limits the application of these provisions to the emergency admission of a person who is at least 18 years of age. Section 1.3 of this bill requires a mental health facility or hospital to notify a parent or guardian within 24 hours of the emergency admission of a person who is less than 18 years of age. Section 1.6 of this bill makes conforming changes.

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

Section 1. NRS 388.253 is hereby amended to read as follows:

388.253 1. The Department shall, with assistance from other state agencies, including, without limitation, the Division of Emergency Management, the Investigation Division, and the Nevada Highway Patrol Division of the Department of Public Safety, develop a model plan for the management of:

(a) A suicide; or

(b) A crisis or emergency that involves a public school or a private school and that requires immediate action.

2. The model plan must include, without limitation, a procedure for:

(a) In response to a crisis or emergency:

(1) Coordinating the resources of local, state and federal agencies, officers and employees, as appropriate;

(2) Accounting for all persons within a school;

(3) Assisting persons within a school in a school district, a charter school or a private school to communicate with each other;

(4) Assisting persons within a school in a school district, a charter school or a private school to communicate with persons located outside the school, including, without limitation, relatives of pupils and relatives of employees of such a school, the news media and persons from local, state or federal agencies that are responding to a crisis or an emergency;

(5) Assisting pupils of a school in the school district, a charter school or a private school, employees of such a school and relatives of such pupils and employees to move safely within and away from the school, including, without limitation, a procedure for evacuating the school and a procedure for securing the school;

(6) Reunifying a pupil with his or her parent or legal guardian;

(7) Providing any necessary medical assistance;

(8) Recovering from a crisis or emergency;

(9) Carrying out a lockdown at a school; and

(10) Providing shelter in specific areas of a school;

(b) Providing specific information relating to managing a crisis or emergency that is a result of:

(1) An incident involving hazardous materials;

(2) An incident involving mass casualties;

(3) An incident involving an active shooter;

(4) An outbreak of disease;

(5) Any threat or hazard identified in the hazard mitigation plan of the county in which the school district is located, if such a plan exists; or

(6) Any other situation, threat or hazard deemed appropriate;

(c) Providing pupils and staff at a school that has experienced a crisis, emergency or suicide with access to counseling and other resources to assist in recovering from the crisis, emergency or suicide; ~~[and]~~

(d) Evacuating pupils and employees of a charter school to a designated space within an identified public middle school, junior high school or high school in a school district that is separate from the general population of the school and large enough to accommodate the charter school, and such a space may include, without limitation, a gymnasium or multipurpose room of the public school ~~[.]~~ *; and*

(e) Responding to a pupil who is determined to be a person with mental illness, as defined in NRS 433A.115, including, without limitation:

(1) Utilizing mobile mental health crisis response units, where available, before transporting the pupil to a public or private mental health facility pursuant to subparagraph (2); and

(2) Transporting the pupil to a public or private mental health facility or hospital for admission pursuant to NRS 433A.150.

3. In developing the model plan, the Department shall consider the plans developed pursuant to NRS 388.243 and 394.1687 and updated pursuant to NRS 388.245 and 394.1688.

4. The Department shall require a school district to ensure that each public school in the school district identified pursuant to paragraph (d) of subsection 2 is prepared to allow a charter school to evacuate to the school when necessary in accordance with the procedure included in the model plan developed pursuant to subsection 1. A charter school shall hold harmless, indemnify and defend the school district to which it evacuates during a crisis or an emergency against any claim or liability arising from an act or omission by the school district or an employee or officer of the school district.

5. The Department may disseminate to any appropriate local, state or federal agency, officer or employee, as the Department determines is necessary:

(a) The model plan developed by the Department pursuant to subsection 1;

(b) A plan developed pursuant to NRS 388.243 or updated pursuant to NRS 388.245;

(c) A plan developed pursuant to NRS 394.1687 or updated pursuant to NRS 394.1688; and

(d) A deviation approved pursuant to NRS 388.251 or 394.1692.

6. The Department shall, at least once each year, review and update as appropriate the model plan developed pursuant to subsection 1.

Sec. 1.3. Chapter 433A of NRS is hereby amended by adding thereto a new section to read as follows:

As soon as practicable but not more than 24 hours after the emergency admission of a person alleged to be a person with mental illness who is under 18 years of age, the administrative officer of the public or private mental health facility shall give notice of such admission in person, by telephone or facsimile and by certified mail to the parent or legal guardian of that person.

Sec. 1.6. NRS 433A.115 is hereby amended to read as follows:

433A.115 1. As used in NRS 433A.115 to 433A.330, inclusive, *and section 1.3 of this act,* unless the context otherwise requires, "person with mental illness" means any person whose capacity to exercise self-control, judgment and discretion in the conduct of the person's affairs and social relations or to care for his or her personal needs is diminished, as a result of a mental illness, to the extent that the person presents a clear and present danger of harm to himself or herself or others, but does not include any person in whom that capacity is diminished by epilepsy, intellectual disability, dementia, delirium, brief periods of intoxication caused by alcohol or drugs, or dependence upon or addiction to alcohol or drugs, unless a mental illness that

can be diagnosed is also present which contributes to the diminished capacity of the person.

2. A person presents a clear and present danger of harm to himself or herself if, within the immediately preceding 30 days, the person has, as a result of a mental illness:

(a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, the person will be unable to satisfy his or her need for nourishment, personal or medical care, shelter, self-protection or safety, and if there exists a reasonable probability that the person's death, serious bodily injury or physical debilitation will occur within the next following 30 days unless he or she is admitted to a mental health facility or required to participate in a program of community-based or outpatient services pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and section 1.3 of this act* and adequate treatment is provided to the person;

(b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide, and if there exists a reasonable probability that the person will commit suicide unless he or she is admitted to a mental health facility or required to participate in a program of community-based or outpatient services pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and section 1.3 of this act* and adequate treatment is provided to the person; or

(c) Mutilated himself or herself, attempted or threatened to mutilate himself or herself or committed acts in furtherance of a threat to mutilate himself or herself, and if there exists a reasonable probability that he or she will mutilate himself or herself unless the person is admitted to a mental health facility or required to participate in a program of community-based or outpatient services pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and section 1.3 of this act* and adequate treatment is provided to the person.

3. A person presents a clear and present danger of harm to others if, within the immediately preceding 30 days, the person has, as a result of a mental illness, inflicted or attempted to inflict serious bodily harm on any other person, or made threats to inflict harm and committed acts in furtherance of those threats, and if there exists a reasonable probability that he or she will do so again unless the person is admitted to a mental health facility or required to participate in a program of community-based or outpatient services pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and section 1.3 of this act* and adequate treatment is provided to him or her.

Sec. 2. NRS 433A.150 is hereby amended to read as follows:

433A.150 1. ~~[Any]~~ *Except as otherwise provided in this subsection, a* person alleged to be a person with mental illness may, upon application pursuant to NRS 433A.160 and subject to the provisions of subsection 2, be detained in a public or private mental health facility or hospital under an emergency admission for evaluation, observation and treatment ~~[.]~~ *, regardless*

of whether any parent or legal guardian of the person has consented to the admission.

2. Except as otherwise provided in subsection 3, a person detained pursuant to subsection 1 must be released within 72 hours, including weekends and holidays, after the certificate required pursuant to NRS 433A.170 and the examination required by paragraph (a) of subsection 1 of NRS 433A.165 have been completed, if such an examination is required, or within 72 hours, including weekends and holidays, after the person arrives at the mental health facility or hospital, if an examination is not required by paragraph (a) of subsection 1 of NRS 433A.165, unless, before the close of the business day on which the 72 hours expires, a written petition for an involuntary court-ordered admission to a mental health facility is filed with the clerk of the district court pursuant to NRS 433A.200, including, without limitation, the documents required pursuant to NRS 433A.210, or the status of the person is changed to a voluntary admission.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

Sec. 2.2. NRS 433A.160 is hereby amended to read as follows:

433A.160 1. Except as otherwise provided in subsection 2, an application for the emergency admission of a person alleged to be a person with mental illness for evaluation, observation and treatment may only be made by an accredited agent of the Department, an officer authorized to make arrests in the State of Nevada or a physician, physician assistant, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse. The agent, officer, physician, physician assistant, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse may:

(a) Without a warrant:

(1) Take a person alleged to be a person with mental illness into custody to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Transport the person alleged to be a person with mental illness to a public or private mental health facility or hospital for that purpose, or arrange for the person to be transported by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority;

(III) An entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421; or

(IV) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➥ only if the agent, officer, physician, physician assistant, psychologist, marriage and family therapist, clinical professional counselor, social worker

or registered nurse has, based upon his or her personal observation of the person alleged to be a person with mental illness, probable cause to believe that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty.

(b) Apply to a district court for an order requiring:

(1) Any peace officer to take a person alleged to be a person with mental illness into custody to allow the applicant for the order to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport the person alleged to be a person with mental illness to a public or private mental health facility or hospital for that purpose.

➥ The district court may issue such an order only if it is satisfied that there is probable cause to believe that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty.

2. An application for the emergency admission of a person alleged to be a person with mental illness for evaluation, observation and treatment may be made by a spouse, parent, adult child or legal guardian of the person. The spouse, parent, adult child or legal guardian and any other person who has a legitimate interest in the person alleged to be a person with mental illness may apply to a district court for an order described in paragraph (b) of subsection 1.

3. The application for the emergency admission of a person alleged to be a person with mental illness for evaluation, observation and treatment must reveal the circumstances under which the person was taken into custody and the reasons therefor.

4. *To the extent practicable, a person who applies for the emergency admission of a person who is less than 18 years of age to a public or private mental health facility or hospital, other than a parent or guardian, shall attempt to obtain the consent of the parent or guardian before making the application. The person who applies for the emergency admission or, if the person makes the application within the scope of his or her employment, the employer of the person, shall maintain documentation of each such attempt until the person who is the subject of the application reaches at least 23 years of age.*

5. Except as otherwise provided in this subsection, each person admitted to a public or private mental health facility or hospital under an emergency admission must be evaluated at the time of admission by a psychiatrist or a psychologist. If a psychiatrist or a psychologist is not available to conduct an evaluation at the time of admission, a physician or an advanced practice registered nurse who has the training and experience prescribed by the State Board of Nursing pursuant to NRS 632.120 may conduct the evaluation. Each such emergency admission must be approved by a psychiatrist.

~~[5.]~~ *6.* As used in this section, "an accredited agent of the Department" means any person appointed or designated by the Director of the Department

to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.

Sec. 2.5. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. Section 14 of Assembly Bill No. 85 of this session is hereby amended to read as follows:

Sec. 14. NRS 433A.190 is hereby amended to read as follows:

433A.190 1. The administrative officer of a public or private mental health facility shall ensure that, within 24 hours of the emergency admission of a person alleged to be a person in a mental health crisis pursuant to NRS 433A.150 ~~[,]~~ *who is at least 18 years of age*, the person is asked to give permission to provide notice of the emergency admission to a family member, friend or other person identified by the person.

2. If a person alleged to be a person in a mental health crisis *who is at least 18 years of age* gives permission to notify a family member, friend or other person of the emergency admission, the administrative officer shall ensure that:

(a) The permission is recorded in the medical record of the person; and

(b) Notice of the admission is promptly provided to the family member, friend or other person in person or by telephone, facsimile, other electronic communication or certified mail.

3. Except as otherwise provided in subsections 4 and 5, if a person alleged to be a person in a mental health crisis *who is at least 18 years of age* does not give permission to notify a family member, friend or other person of the emergency admission of the person, notice of the emergency admission must not be provided until permission is obtained.

4. If a person alleged to be a person in a mental health crisis *who is at least 18 years of age* is not able to give or refuse permission to notify a family member, friend or other person of the emergency admission, the administrative officer of the mental health facility may cause notice as described in paragraph (b) of subsection 2 to be provided if the administrative officer determines that it is in the best interest of the person in a mental health crisis.

5. If a guardian has been appointed for a person alleged to be a person in a mental health crisis *who is at least 18 years of age* or the person has executed a durable power of attorney for health care pursuant to NRS 162A.700 to 162A.865, inclusive, or appointed an attorney-in-fact using an advance directive for psychiatric care pursuant to NRS 449A.600 to 449A.645, inclusive, the administrative officer of the mental health facility must ensure that the guardian, agent designated by the durable power of attorney or the attorney-in-fact, as applicable, is promptly notified of the admission as described in

paragraph (b) of subsection 2, regardless of whether the person alleged to be a person in a mental health crisis has given permission to the notification.

Sec. 5. 1. When developing procedures for the model plan relating to paragraph (e) of subsection 2 of NRS 388.253, as amended by section 1 of this act, the Department of Education shall:

(a) Collaborate with the Department of Health and Human Services;

(b) Engage stakeholders, including, without limitation, parents and guardians of pupils and child advocates to obtain meaningful, open and transparent input concerning the procedures;

(c) Consider the due process rights of pupils and parents and guardians of pupils; and

(d) Provide periodic reports to and receive input from the Legislative Committee on Health Care.

2. The Department of Education shall collect relevant data concerning the utilization of the procedures described in subsection 1 when developed.

~~[Sec. 5.]~~ *Sec. 6.* This act becomes effective upon passage and approval.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Amendment No. 889 to Assembly Bill No. 378 adds a new section, which provides for additional requirements of Nevada's Department of Education (NDE) when developing procedures for responding to a pupil who is a clear and present danger to him or herself or others, including that NDE collaborate with the Department of Health and Human Services; consult with interested parties, and consider the due-process rights of students and parents. The amendment also requires NDE to report to and receive input from the Legislative Committee on Health Care concerning the development of such procedures and to collect data about the utilization of the procedures.

There were a few concerns when this bill came out, so we were able to get everyone together for input on this amendment. I urge approval on this amendment.

Amendment adopted.

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

Assembly Bill No. 397.

Bill read third time.

Remarks by Senator Scheible.

Assembly Bill No. 397 requires the Nevada Equal Rights Commission to accept a complaint that alleges a local elected officer has engaged in an unlawful employment practice regarding discrimination and take appropriate action. The Commission is required to present a complaint to the district court if it determines in a public hearing that a local elected officer has committed an unlawful employment practice regarding discrimination pursuant to Title VII of the Equal Rights Act of 1964 or State employment law, and that the discrimination is severe or pervasive such that removal from office is appropriate. Finally, the measure provides that any fine or penalty assessed against a local elected officer because such officer was determined to have engaged in an unlawful employment practice of discrimination must be paid in his or her personal capacity, not with public money or campaign contributions.

Roll call on Assembly Bill No. 397:

YEAS—21.

NAYS—None.

Assembly Bill No. 397 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 440.

Bill read third time.

Remarks by Senators Hansen and Pickard.

SENATOR HANSEN:

Assembly Bill No. 440 requires a licensee who builds a new residence to provide to the purchaser of the residence a disclosure describing the rights of the purchaser and a builder's warranty that meets certain criteria. The builder's warranty must be valid for at least one year from the date of completion of a "punch list" of materials or work that was incomplete, incorrectly installed or includes incidental damage to existing finishes, material or structures that do not meet the specifications of the contract or the requirements of the *Nevada Revised Statutes*. The builder must also notify an owner about the ability to file a claim with the Residential Recovery Fund. A violation of these provisions by a licensed contractor constitutes cause for disciplinary action by the State Contractors Board.

SENATOR PICKARD:

At the hearing on Assembly Bill No. 440 in the Senate Judiciary Committee, there were concerns raised over potential uncertainty as to when a punch list is considered complete. This concern seemed to be shared by many stakeholders. The testimony, which was undisputed, was the punch list is considered complete when one of two things happen, whichever happens first. The first is a purchaser signs off on the punch list indicating that work on the punch list has been resolved to their satisfaction, and the second is a contractor notifies the purchaser that all of the items on the punch list have been resolved. This is important to note because it prevents a potentially unlimited warranty period in the event a purchaser is nonresponsive or unreasonable. An unlimited warranty period runs contrary to industry standards as well as the one-year minimum warranty period included in this bill. This is equally important to note because it protects a purchaser against an unreasonable or nonresponsive contractor and allows an unsatisfied purchaser to seek recourse with the Contractor's Board.

It is important to clarify this intent to provide certainty to both purchasers, contractors and ultimately to the Contractors Board who serves as the enforcement agency on warranty claims pursuant to this bill. With that understanding, I am in support of the bill. I apologize for having read this twice since I did it yesterday during the amendment and not during the bill.

Roll call on Assembly Bill No. 440:

YEAS—21.

NAYS—None.

Assembly Bill No. 440 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 450.

Bill read third time.

Remarks by Senators Ohrenschall and Pickard.

SENATOR OHRENSCHALL:

Assembly Bill No. 450 revises the manner in which incarcerated individuals are counted for apportionment of the population for legislative districts, congressional district and districts of the Board of Regents of the University of Nevada. The Department of Corrections (NDOC) must compile the last known address of each offender immediately before the offender was imprisoned. After the national decennial census, the State Demographer must use this information to revise

population counts for reapportionment purposes to include each inmate who was a Nevada resident before incarceration in the block, block group and census tract of the inmate's last known residential address before incarceration. Other states that have passed similar legislation include Virginia, Tennessee, New York, California, Michigan, Massachusetts, Delaware and Colorado.

SENATOR PICKARD:

I rise in opposition on a practical matter. Although I understand the intent of the bill, we have heard repeated testimony from the Department of Corrections they are not confident what the prior address is for a majority of the inmates. From a practical standpoint, this would be a difficult bill to enforce and would put an undue burden on the Department of Corrections to determine what that appropriate address might be. It also invites a certain amount of mischief since that would be an open question. I am going to be a "no" on this bill.

SENATOR OHRENSCHALL:

The status quo does not represent our State's population. The needs of the communities that the offenders came from are still the needs of those communities. All of the State correctional facilities, except the ones near Carson City, are in the less populous counties, yet the majority of offenders, according to statistics we received from NDOC, come from the populous counties. The status quo really does a disservice to our constituents. I urge passage of this bill.

SENATOR PICKARD:

I do not disagree with the premise; however, since we do not know which constituency an offender comes from, as we have no way of verifying what that prior address is—if they do not know it, there probably is no way of determining it—it is deciding which district they would belong to under this bill. The mischief this invites would allow a person to pick a district in which they mean to have the most influence, and that would be inappropriate. If the Department of Corrections does not have their last known address or have any confidence in it, it is impossible for them to determine this. They would have to use a random address or an address they were given. From a practical standpoint, I do not think this is workable. It will be an undue burden on the Department of Corrections, and I urge a "no" vote on this bill.

SENATOR OHRENSCHALL:

There are going to be some offenders for whom the last known address may be unknown. In those cases, the prison would be apportioned for redistricting purposes. However, even though it has been a while since I practiced downtown, anyone sentenced had a presentence investigation report prepared by the Department of Parole and Probation, which listed their last known address—even if they were homeless at the time they had been arrested. We have constituents who show up on our voter rolls with addresses such as the corner of Elm and Bruce Street because they do not have a permanent address yet want to participate. There are answers to these questions, and there would not be random picking of addresses if this bill passes.

Roll call on Assembly Bill No. 450:

YEAS—12.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer, Washington—9.

Assembly Bill No. 450 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 458.

Bill read third time.

Remarks by Senators Dondero Loop, Seevers Gansert, Hammond, Spearman, Denis and Pickard.

SENATOR DONDERO LOOP:

Assembly Bill No. 458 eliminates the 10-percent annual increase in the tax credits against the Modified Business Tax that may be awarded for donations made to an eligible scholarship organization under the Nevada Educational Choice Scholarship Program. This was originally approved by the Legislature in Assembly Bill 165 of the 2015 Session. The bill additionally provides the annual amount of credits that may be issued is permanently set at a total of $6,655,000 for each fiscal year pursuant to both Nevada Revised Statute 363A and Nevada Revised Statute 363B combined.

SENATOR SEEVERS GANSERT:

I rise in opposition to Assembly Bill No. 458. The cost of education goes up every year and this Body historically has increased funding for education between the bienniums. There are 2,300 families on this program. The average income of these households is only $47,000. When you consider inflation and remove the 10-percent increase each year, these families will fall behind and may not be able to use this program.

This is a means-tested scholarship that will require a little more money every year to ensure those families can continue using it. The type of children in this program are those who may have been bullied or may have not been able to find a public school that suits their needs. We also have number of families that have children with disabilities. It is critical that each child is able to attend a school that best fits his or her needs. By eliminating the budget escalator on this, we are threatening the continuation and use of this program for the current enrollees. I urge your opposition.

SENATOR HAMMOND:

I rise in opposition to this bill. My colleague from Senate District 15 did a good job of discussing the issues on this bill. We started this program in 2015. Since that time, I have spent a lot of time with families who have been able to use it. It is means-tested. It is directed towards helping those who do not have a lot of choice as to where their child is educated. What I have seen over the last four years is families have clung onto the hope they can make a change in their child's future where they did not see this hope before. This is rolling back a program that is working.

A couple of years ago we were asked to reevaluate programs like Zoom Schools, and we got evidence that showed they were working. I was anxious to vote to continue funding for Zoom Schools and other programs that seem to be working for children in certain circumstances. This is another program that does that; it gives hope. I do not want to see something reduced or diminished in any capacity if it has a chance to help a student create or be a part of an environment where they actually thriving. For that reason, I cannot vote for the bill; I have to be in opposition.

SENATOR SPEARMAN:

I rise in support of the bill. I have thought about it long and hard and looked at it several different ways. I understand my colleagues wanting to continue the program, but when I look at the bill, there is nothing that says private individuals or businesses cannot donate. Last Session we passed Senate Bill 400 which is now codified in Nevada Revised Statute 231. The purpose for that bill was to implement "success contracts." Those were developed so if someone wanted to donate to or wanted to help us accomplish something in the State, they could do that. The fact the tax credits may be going away does not mean the money has to go away. Those who strongly believe in this still have an opportunity to follow that belief under this legislation.

SENATOR DENIS:

I am not going to speak about whether this is a good or bad program; it is something we are trying to determine. A comment was made this is means-tested. I do not believe enough evaluation has been done to say that. There are good things happening and perhaps some things that are not happening. I want to make sure the record is clear that we still do not have all the information we need as far as how this program is working.

SENATOR PICKARD:

I have also been meeting with the families as recently as last Saturday. When we watch the Senate Finance Committee going through the budget and closing out the budget, this amounts to

budget dust. There is no reason why, with the savings we have already found, we cannot fund this. Why do we have to cap this program? This program serves the neediest students, the students that cannot find an adequate program in their existing schools. This limitation is unnecessary and eventually these families will be falling off of the program. It is a total mistake.

SENATOR DONDERO LOOP:

I rise in support. I want to clarify there is nothing in our budget that is dust. I would like to confirm there is nothing in this bill that prevents anyone, including public school parents, from donating to their favorite local school for any reason. I would rise to tell you we have many fine choices in this State. We have many effective and qualified teachers. We have a lot of great schools that are producing results and having many of their children graduate at a high level and move on to prestigious universities. That we discount any of our public schools is just wrong in my opinion. I recognize all children do not have the same needs, but those needs can also be met at many different schools. I hope that you support this bill.

Roll call on Assembly Bill No. 458:

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Assembly Bill No. 458 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 462.

Bill read third time.

Remarks by Senators Denis and Pickard.

SENATOR DENIS:

Assembly Bill No. 462 requires the State Public Charter School Authority (SPCSA) to prepare a five-year growth management plan. The bill specifies the contents of the plan and requires the plan to be reviewed biennially. The initial plan must be submitted to the Legislative Committee on Education (LCE) and Nevada's Department of Education (NDE).

Additionally, the bill requires charter school sponsors to provide written notice to NDE and the relevant local school district regarding any notice of intent to submit, or submission of, a charter school application or a request to amend a charter contract. The SPCSA must prepare, in conjunction with NDE, other sponsors and the school districts an annual evaluation of the demographic information and academic needs of students for the State. Other sponsors must prepare such an evaluation before approving a charter school application. Prior to approving a charter school application, the sponsor must consider the degree to which the school addresses the needs identified in the evaluation.

Assembly Bill No. 462 directs sponsors to complete periodic site evaluations of each charter school campus, and it includes a requirement to identify performance deficiencies and develop plans for improvement. The initial site evaluations must be completed no later than June 30, 2020, and the sponsors must submit a report on the evaluations to the LCE.

There has been a lot of discussion, even during the interim, about charter schools and what we could do to help them succeed. This bill requires the Department of Education and the local school districts to communicate in order to develop plans which meet the needs of its particular geographical area. I urge your support.

SENATOR PICKARD:

Did you say this does not require the school district to sign off or have a veto right on the charter school application but only requires the operators of the charter school or the putative charter school to seek their input?

SENATOR DENIS:

That is correct. This is trying to cause the Department of Education, the charter school applicant and the local school district where they plan to build to talk to each other so there is better coordination when and where they plan open a school. The school district does not have the ability to veto or anything else.

Roll call on Assembly Bill No. 462:

YEAS—21.

NAYS—None.

Assembly Bill No. 462 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 465.

Bill read third time.

Remarks by Senator Denis.

Assembly Bill No. 465 provides for the implementation of an expanded solar-access program by certain electric utilities in this State. The bill requires such electric utilities to offer an expanded solar-access program to residential customers and to certain nonresidential customers who consume less than 10,000 kilowatt-hours of electricity per month.

The Public Utilities Commission of Nevada shall adopt regulations establishing the standards for the program. The Commission must review an electric utility's plan for an expanded solar-access program and issue an order approving, with or without modifications, or denying the plan within 210 days. The Commission may approve the plan if it finds that the proposed program complies with the regulations.

Among the requirements for this plan are that the total capacity of megawatt-hours of the expanded solar-access program is below a certain amount; the program broadens access to solar energy in an equitable manner and the program provides participating low-income residential customers with a lower rate. This bill requires an electric utility, in implementing an expanded solar-access program, to make use of a certain number of community-based solar resources and utility-scale solar resources.

Roll call on Assembly Bill No. 465:

YEAS—21.

NAYS—None.

Assembly Bill No. 465 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 472.

Bill read third time.

Remarks by Senator Seevers Gansert.

Assembly Bill No. 472 requires certain health-insurance providers to cover maternity care for a gestational carrier. Furthermore, if a child is born from a gestational carrier, the child is considered a dependent of the intended parent. These provisions apply to any health insurance that includes coverage for maternity care with the exception of Medicaid and any insurance provided by local governments for their employees.

Roll call on Assembly Bill No. 472:

YEAS—21.

NAYS—None.

Assembly Bill No. 472 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 478.

Bill read third time.

Remarks by Senator Parks.

Assembly Bill No. 478 requires the Peace Officers' Standards and Training Commission to include in its regulations a requirement for all peace officers to annually complete not less than 12 hours of continuing education in courses that address racial profiling, mental health, officer well-being, implicit bias recognition, de-escalation, human trafficking and firearms.

Roll call on Assembly Bill No. 478:

YEAS—21.

NAYS—None.

Assembly Bill No. 478 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 488.

Bill read third time.

Remarks by Senator Seevers Gansert.

Assembly Bill No. 488 eliminates certain reports to the Legislature. In addition, reports from the Director of the Office of Energy, Office of the Governor are revised by eliminating one and combining its provisions with another. Reports from certain governing bodies, pursuant to the Nye County Sales and Use Tax Act, must be submitted to the Department of Taxation, rather than the Director of the Legislative Counsel Bureau.

Roll call on Assembly Bill No. 488:

YEAS—21.

NAYS—None.

Assembly Bill No. 488 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 490.

Bill read third time.

Remarks by Senator Harris.

Assembly Bill No. 490 requires each public school to collect and report data on the discipline of its students. Suspensions and expulsions are to be reported as separate events, and the data must be made available by subgroups. The bill further requires the Superintendent of Public Instruction to report trends in discipline data to the State Board of Education. Nevada's Department of Education and the State Board must also include this information in the annual report of the State of Public Education. Finally, Assembly Bill No. 490 requires the Department to: 1) develop and provide guidance to school districts on the collection of discipline data; 2) develop standard definitions for offenses and sanctions, and 3) provide training and professional development on reporting and analyzing discipline data.

Roll call on Assembly Bill No. 490:

YEAS—21.

NAYS—None.

Assembly Bill No. 490 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 492.

Bill read third time.

The following amendment was proposed by Senator Dondero Loop:

Amendment No. 896.

SUMMARY—Revises provisions governing industrial insurance benefits. (BDR 53-709)

AN ACT relating to industrial insurance; revising the circumstances in which a first responder or an employee of the State or a local government is authorized to receive compensation under industrial insurance for certain stress-related claims; requiring an agency which employs a first responder or a volunteer first responder to provide certain educational training concerning mental health issues to the first responder; exempting a claim for certain stress-related injuries suffered by a first responder or an employee of the State or any of its agencies or political subdivisions from certain prohibitions on compensation for an injury and temporary disability; requiring the Administrator of the Division of Industrial Relations of the Department of Business and Industry to include concurrent wages of an injured employee in the calculation of average monthly wage under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, for the purposes of determining whether an injury or disease caused by stress is compensable under industrial insurance, such an injury is deemed to arise out of and in the course of employment only if the employee can prove by clear and convincing medical or psychiatric evidence that the employee has a mental injury caused by extreme stress in time of danger and that the primary cause of the mental injury was an event that arose out of and during the course of his or her employment. (NRS 616C.180) Section 2 of this bill provides that a first responder may additionally prove by clear and convincing medical or psychiatric evidence that the mental injury was primarily caused by extreme stress due to the first responder directly witnessing a death or grievous injury, or the aftermath of a death or grievous injury, under certain circumstances during the course of his or her employment. Section 2 of this bill also provides that an employee of the State or any of its agencies or political subdivisions may additionally prove by clear and convincing medical or psychiatric evidence that the mental injury was caused primarily by extreme stress due to the employee responding to a mass casualty incident during the course of his or her employment. Finally, section 2 requires an agency which employs a first responder, including, without limitation, a first responder who is a volunteer, to provide educational training to the first responder on the awareness, prevention, mitigation and treatment of mental health issues.

Existing law prohibits the payment of temporary compensation benefits for an injury or temporary total disability which does not incapacitate the employee for a minimum number of days. (NRS 616C.400, 617.420) Sections 3 and 5 of this bill exempt claims for mental injury caused by extreme stress under the circumstances described by the amendatory provisions of section 2 from these prohibitions.

Existing law provides that the amount of compensation for certain industrial injuries or death is based, in part, on the average monthly wage of the injured or deceased employee. (NRS 616C.440, 616C.475, 616C.490, 616C.505). Existing law requires the Administrator of the Division of Industrial Relations of the Department of Business and Industry to provide by regulation for a method of determining average monthly wage. (NRS 616C.420) Section 3.5 of this bill requires the method for determining average monthly wage to include concurrent wages of the employee under certain circumstances.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 616C.180 is hereby amended to read as follows:

616C.180 1. Except as otherwise provided in this section, an injury or disease sustained by an employee that is caused by stress is compensable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS if it arose out of and in the course of his or her employment.

2. Any ailment or disorder caused by any gradual mental stimulus, and any death or disability ensuing therefrom, shall be deemed not to be an injury or disease arising out of and in the course of employment.

3. ~~[An]~~ *Except as otherwise provided by subsections 4 and 5, an* injury or disease caused by stress shall be deemed to arise out of and in the course of employment only if the employee proves by clear and convincing medical or psychiatric evidence that:

(a) The employee has a mental injury caused by extreme stress in time of danger;

(b) The primary cause of the injury was an event that arose out of and during the course of his or her employment; and

(c) The stress was not caused by his or her layoff, the termination of his or her employment or any disciplinary action taken against him or her.

4. *An injury or disease caused by stress shall be deemed to arise out of and in the course of employment, and shall not be deemed the result of gradual mental stimulus, if the employee is a first responder and proves by clear and convincing medical or psychiatric evidence that:*

(a) The employee has a mental injury caused by extreme stress due to the employee directly witnessing:

(1) The death, or the aftermath of the death, of a person as a result of a violent event, including, without limitation, a homicide, suicide or mass casualty incident; or

(2) An injury, or the aftermath of an injury, that involves grievous bodily harm of a nature that shocks the conscience; and

(b) The primary cause of the mental injury was the employee witnessing an event described in paragraph (a) during the course of his or her employment.

5. An injury or disease caused by stress shall be deemed to arise out of and in the course of employment, and shall not be deemed the result of gradual mental stimulus, if the employee is employed by the State or any of its agencies or political subdivisions and proves by clear and convincing medical or psychiatric evidence that:

(a) The employee has a mental injury caused by extreme stress due to the employee responding to a mass casualty incident; and

(b) The primary cause of the injury was the employee responding to the mass casualty incident during the course of his or her employment.

6. An agency which employs a first responder, including, without limitation, a first responder who serves as a volunteer, shall provide educational training to the first responder related to the awareness, prevention, mitigation and treatment of mental health issues.

7. The provisions of this section do not apply to a person who is claiming compensation pursuant to NRS 617.457.

8. As used in this section:

(a) "Directly witness" means to see or hear for oneself.

(b) "First responder" means:

(1) A salaried or volunteer firefighter;

(2) A police officer;

(3) An emergency dispatcher or call taker who is employed by a law enforcement or public safety agency in this State; or

(4) An emergency medical technician or paramedic who is employed by a public safety agency in this State.

(c) "Mass casualty incident" means an event that, for the purposes of emergency response or operations, is designated as a mass casualty incident by one or more governmental agencies that are responsible for public safety or for emergency response.

Sec. 3. NRS 616C.400 is hereby amended to read as follows:

616C.400 1. Temporary compensation benefits must not be paid under chapters 616A to 616D, inclusive, of NRS for an injury which does not incapacitate the employee for at least 5 consecutive days, or 5 cumulative days within a 20-day period, from earning full wages, but if the incapacity extends for 5 or more consecutive days, or 5 cumulative days within a 20-day period, compensation must then be computed from the date of the injury.

2. The period prescribed in this section does not apply to:

(a) Accident benefits, whether they are furnished pursuant to NRS 616C.255 or 616C.265, if the injured employee is otherwise covered by the provisions of chapters 616A to 616D, inclusive, of NRS and entitled to those benefits.

(b) Compensation paid to the injured employee pursuant to subsection 1 of NRS 616C.477.

(c) A claim which is filed pursuant to NRS 617.453, 617.455 or 617.457.

(d) A claim to which subsection 4 or 5 of NRS 616C.180 applies.

Sec. 3.5. NRS 616C.420 is hereby amended to read as follows:

616C.420 *1.* The Administrator shall provide by regulation for a method of determining average monthly wage.

2. In determining average monthly wage pursuant to subsection 1, the method must include concurrent wages of the injured employee only if the concurrent wages are earned from one or more employers who are insured for workers' compensation or government disability benefits by:

(a) A private carrier;

(b) A plan of self-insurance;

(c) A workers' compensation insurance system operating under the laws of any other state or territory of the United States; or

(d) A workers' compensation or disability benefit plan provided for and administered by the Federal Government or any agency thereof.

3. Except as otherwise provided by subsection 2, concurrent wages include, without limitation, wages earned from:

(a) Active or reserve duty with or in:

(1) The Army, Navy, Air Force, Marine Corps or Coast Guard of the United States;

(2) The Merchant Marine; or

(3) The National Guard; or

(b) Employment by:

(1) The Federal Government or any branch or agency thereof;

(2) A state, territorial, county, municipal or local government of any state or territory of the United States; or

(3) A private employer, whether that employment is full-time, part-time, temporary, periodic, seasonal or otherwise limited in term, or pursuant to contract.

4. As used in this section, "concurrent wages" means the sum of wages earned or deemed to have been earned at each place of employment, including, without limitation, the sum of any and all money earned for work of any kind or nature performed by an employee for two or more employers during the one-year period immediately preceding the date of injury or the onset of occupational disease, whether measured by an hourly rate, salary, piecework, commissions, gratuities, bonuses, per diem, value of meals, value of housing or any other employment benefit that can be fairly calculated to a monetary value expressed in an average monthly amount.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 617.420 is hereby amended to read as follows:

617.420 1. No compensation may be paid under this chapter for temporary total disability which does not incapacitate the employee for at least 5 cumulative days within a 20-day period from earning full wages, but if the

incapacity extends for 5 or more days within a 20-day period, the compensation must then be computed from the date of disability.

2. The limitations in this section do not apply to medical benefits, including, without limitation, medical benefits pursuant to NRS 617.453, 617.455 or 617.457, *or a claim to which subsection 4 or 5 of NRS 616C.180 applies*, which must be paid from the date of application for payment of medical benefits.

Sec. 5.5. The amendatory provisions of section 3.5 of this act apply prospectively with regard to any claim pursuant to chapters 616A to 616D, inclusive, or 617 of NRS which is open on or filed on or after July 1, 2019.

Sec. 6. 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. 7. 1. This section and sections 1 to 5, inclusive, and 6 of this act ~~[becomes]~~ become effective upon passage and approval.

2. Sections 3.5 and 5.5 of this act become effective on July 1, 2019.

Senator Dondero Loop moved the adoption of the amendment.

Remarks by Senator Dondero Loop.

Amendment No. 896 to Assembly Bill No. 492 provides mental injuries sustained by certain employees that is caused by extreme stress after directly witnessing certain violent events is considered a compensational injury. This amendment adds the Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marines, National Guard employed by the federal government and State, territorial, county, municipal or local government of any state or any territory of the United States.

Amendment adopted.

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

Assembly Bill No. 496.

Bill read third time.

Remarks by Senator Spearman.

Assembly Bill No. 496 authorizes the Executive Director of the Silver State Health Insurance Exchange to appoint employees in the classified service.

Roll call on Assembly Bill No. 496:

YEAS—21.

NAYS—None.

Assembly Bill No. 496 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Senator Cannizzaro moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 2:47 p.m.

SENATE IN SESSION

At 3:27 p.m.

President Marshall presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ratti moved that the action whereby Assembly Bill No. 334 was moved to the next legislative day be rescinded and placed on the General File, third Agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Joint Resolution No. 2.

Resolution read third time.

The following amendment was proposed by Senator Scheible:

Amendment No. 884.

JOINT SPONSORS: SENATORS SCHEIBLE, RATTI, BROOKS, OHRENSCHALL AND PARKS

SUMMARY—Urges Congress to reject any expansion in the use of land or exercise of jurisdiction by the United States Air Force in the Desert National Wildlife Refuge. (BDR R-697)

ASSEMBLY JOINT RESOLUTION—Urging Congress to oppose the expansion of the United States Air Force into the Desert National Wildlife Refuge in Nevada.

WHEREAS, The Desert National Wildlife Refuge was established in 1936 primarily to preserve the habitat necessary to protect the desert bighorn sheep; and

WHEREAS, At roughly 1.5 million acres in size, the Desert National Wildlife Refuge is the largest wildlife refuge in the lower 48 states and is home to over 320 species of birds, 52 species of mammals, nearly 40 species of amphibians and reptiles, including the federally protected desert tortoise, and over 500 species of plants; and

WHEREAS, Roughly 1.2 million acres of the Desert National Wildlife Refuge are currently proposed for designation as wilderness and have been managed by the United States Fish and Wildlife Service of the Department of the Interior as de facto wilderness since 1974; and

WHEREAS, The Nevada Test and Training Range was established in 1940 as an aerial gunnery and bombing range; and

WHEREAS, At approximately 2.9 million acres of land and nearly 16,000 square miles of airspace, the Nevada Test and Training Range is the largest contiguous air and ground space available for peacetime military operations in the free world and is used by the United States Air Force for testing and evaluation of weapons systems, tactics development and advanced combat training; and

WHEREAS, The boundaries of the Desert National Wildlife Refuge and the Nevada Test and Training Range overlap to the extent that 55 percent of the total area of the Refuge – 826,000 acres – lies within the Range and is used for military purposes as well as for purposes of wildlife conservation; and

WHEREAS, With the exception of 112,000 acres located in the heart of the Desert National Wildlife Refuge over which the Air Force exercises primary jurisdiction, and which it uses as target impact areas for both live and inert ordinance, the United States Fish and Wildlife Service exercises primary jurisdiction over the shared lands, with the Air Force exercising only secondary jurisdiction; and

WHEREAS, Under the terms of the Military Lands Withdrawal Act of 1999, Public Law 106-65, the Air Force's authority over all 2.9 million acres of the Nevada Test and Training Range is limited to 20 years in duration, expires on November 6, 2021, and can only be extended by an act of Congress; and

WHEREAS, The Department of the Air Force has notified Congress that there is a continuing military need for the land and that the Air Force is preparing a proposal for submission to Congress that not only extends its existing use of the land, but seeks to expand that use in significant ways; and

WHEREAS, Although the Air Force has identified several alternatives for its future use of the Nevada Test and Training Range, its preferred alternative includes: (1) increasing the total size of the Range by over 300,000 additional acres, almost all of which are within the Desert National Wildlife Refuge; (2) giving the Air Force primary jurisdiction over all the jointly administered land within the Refuge or making other legislative changes to ensure that the Air Force has the same kind of "ready access" necessary to engage in testing and training for major combat operations to all such land within the Refuge that it currently has throughout the rest of the Range; and (3) in effect, rendering these new arrangements permanent by eliminating the usual 20-year time limit on Congressional grants of land for military purposes; and

WHEREAS, The Air Force's preferred alternative for the Nevada Test and Training Range, if approved by Congress, would eliminate wilderness protections from nearly 1 million acres of land within the Desert National Wildlife Refuge, increase the threats to the survival of the Desert Bighorn Sheep, desert tortoise and other imperiled wildlife, further restrict access to areas of historical, cultural, spiritual and recreational significance to Native and other Americans, and degrade the ability of future Congresses to exercise meaningful oversight of the Air Force's discharge of its environmental responsibilities within the Refuge; and

WHEREAS, The final legislative environmental impact statement also includes proposals that the United States Air Force designates as "Alternative 3A" and "Alternative 3A-1" to withdraw either 18,000 or 15,000 acres of land outside the Desert National Wildlife Refuge, but near the town of Beatty, for incorporation into the Nevada Test and Training Range, which would result in substantial encroachment on the town of Beatty and result in

significant negative impacts to the local economy, including losses of revenue from existing and planned trails, ecotourism activities and mining; and

WHEREAS, The Moapa Band of Paiutes have asserted in Tribal Resolution M-18-03-07 their opposition to an increase of the use and size of the Nevada Test and Training Range given that the Desert National Wildlife Refuge includes abundant ecological and cultural resources where the Southern Paiute people carved petroglyphs into rocks and left artifacts that help show how they thrived in the beautiful desert and mountain environment; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the members of the 80th Session of the Nevada Legislature hereby urge Congress to reject any proposal by the United States Air Force to expand its use of land or exercise of jurisdiction within the Desert National Wildlife Refuge beyond that which it currently possesses and to limit any proposal to extend the Air Force's authority over the Nevada Test and Training Range to not more than 20 years; and be it further

RESOLVED, That the members of the 80th Session of the Nevada Legislature urge Congress to work collaboratively with all interested parties to develop a compromise alternative that would both enhance training opportunities for the United States Air Force and continue to provide essential protections for Nevada's wildlife and outdoor recreational experiences for Nevadans and visitors; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Scheible moved the adoption of the amendment.

Remarks by Senator Scheible.

The amendment adds Senators Ratti, Brooks, Ohrenschall, Parks and myself as joint sponsors of Assembly Joint Resolution No. 2.

Amendment adopted.

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

Assembly Joint Resolution No. 3.

Resolution read third time.

Remarks by Senator Harris.

Assembly Joint Resolution No. 3 expresses support for the implementation of the Nevada Greater Sage-Grouse Conservation Plan and utilization of the Nevada Conservation Credit System to provide compensatory mitigation on State and federal lands. This joint resolution further urges the United States Secretary of the Interior of the United States, Department of the Interior, to direct the Bureau of Land Management to require compensatory mitigation to offset anthropogenic disturbances in accordance with the Credit System.

Roll call on Assembly Joint Resolution No. 3:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 3 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 4.

Resolution read third time.

Remarks by Senator Washington.

Assembly Joint Resolution No. 4 relates to illegal harvesting of and trafficking of human organs. Assembly Joint Resolution No. 4 expresses the Nevada Legislature's support of the resolutions brought forth by the United States Congress to combat the worldwide illegal harvesting and trafficking of human organs.

If passed by the Nevada Legislature, this resolution will be transmitted to the President of the United States; the Vice President, as the President of the United States Senate; the Speaker of the United States House of Representatives and each member of the Nevada Congressional Delegation.

Roll call on Assembly Joint Resolution No. 4:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 4 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 6.

Resolution read third time.

Remarks by Senator Ohrenschall.

Assembly Joint Resolution No. 6 urges the United States Congress to prevent the Census Bureau, under the United States Department of Commerce, from adding a question on citizenship to the upcoming 2020 decennial census.

Roll call on Assembly Joint Resolution No. 6:

YEAS—12.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer, Washington—9.

Assembly Joint Resolution No. 6 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 7.

Resolution read third time.

Remarks by Senators Scheible, Settelmeyer and Hansen.

SENATOR SCHEIBLE:

Assembly Joint Resolution No. 7 expresses the opposition of the Nevada Legislature to the expansion of the Fallon Range Training Complex as described in the Fallon Range Training Complex Modernization Draft Environmental Impact Statement.

SENATOR SETTELMEYER:

I represent Churchill County and in this respect, I cannot rise in support; I have to rise in opposition to Assembly Joint Resolution No. 7. The community of Churchill County completely supports the military and all the people around it. This is a situation where not only does the

community support the military, but also the military supports the community. They are an integral part of the community.

We need to look at what is happening in our military today and how technology is changing. In the old days on the Fallon test range, planes flew over and just dropped their bombs. Now, they drop the bombs from 26 miles out, and the bomb then glides to a path. Because of that, they need a bigger range. There is a technical deviation within the failure rate within that technology of 0.002 percent. Because of this failure rate, they need to more than double the size of their range for safety considerations.

Other things have changed. They used to have San Diego, Miramar, Top Gun to train the best of the best. Now, every pilot, prior to fleet deployment, comes to Fallon to train. Not just the best, but every pilot dispatched by our Navy comes to Nevada first to train on an aircraft carrier in the desert. They need this expansion. I have been working closely with Congressman Amodei on how that expansion should happen. We wanted to make sure to go forth regarding the Nevada Plan. This resolution creates an adversarial position between the State of Nevada and the military. That would be unwise.

SENATOR HANSEN:

I, too, rise in opposition after speaking with Captain Morrison who presented the bill for the Navy. He mentioned that one of main reasons for this expansion is for our Navy Seals to train. As my son is a member of the naval special warfare, I would be uncomfortable voting against something the Navy says is necessary for one of our most elite units. I urge my colleagues to vote "no" on Assembly Joint Resolution No. 7.

Roll call on Assembly Joint Resolution No. 7:

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Assembly Joint Resolution No. 7 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 8.

Resolution read third time.

Remarks by Senator Brooks.

Assembly Joint Resolution No. 8 expresses the opposition of the Nevada Legislature to the elimination of the Nevada State Office of the Bureau of Land Management.

Roll call on Assembly Joint Resolution No. 8:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 8 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 2 of the 79th Session.

Resolution read third time.

Remarks by Senator Parks.

Assembly Joint Resolution No. 2 of the 79th Session proposes to amend the *Nevada Constitution* to provide that the State of Nevada and its political subdivisions shall recognize marriages of and issue licenses to couples regardless of gender. All legally valid marriages shall be treated equally under the law. The resolution also proposes to repeal existing provisions that only a marriage between a male and female person may be recognized and given effect in Nevada. Finally, the resolution specifies that religious organizations and members of the

clergy have the right to refuse to solemnize a marriage, and no person has the right to make any claim against a religious organization or member of the clergy for refusing to perform a marriage.

Roll call on Assembly Joint Resolution No. 2 of the 79th Session:
YEAS—19.
NAYS—Hansen, Washington—2.

Assembly Joint Resolution No. 2 of the 79th Session having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 30.

The following Assembly amendment was read:

Amendment No. 698.

SUMMARY—Revises provisions governing the duties of the Director of the Department of Corrections to provide programs for the employment of offenders. (BDR 16-202)

AN ACT relating to offenders; revising certain requirements for private employers who enter into contracts for the employment of offenders; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Corrections to establish programs for the employment of offenders who are committed to the custody of the Department including contracting with private employers for the employment of offenders. Before entering into a contract with a private employer for the employment of offenders, existing law requires the Director to obtain from the private employer: (1) a personal guarantee of not less than 100 percent of the prorated annual amount of the contract; (2) a surety bond of not less than 100 percent of the prorated annual amount of the contract; or (3) a security agreement to secure any debt, obligation or other liability of the private employer under the contract. (NRS 209.461) This bill : (1) revises the amount of a personal guarantee or surety bond obtained by the Director to not less than ~~[10]~~ 25 percent of the prorated annual amount of the contract but not more than 100 percent of the prorated annual amount of the contract ~~.~~ ~~[.]~~ for a contract that does not relate to construction; and (2) maintains the requirement in existing law of a personal guarantee or surety bond of not less than 100 percent of the prorated annual amount of the contract for a contract that relates to construction. This bill additionally requires the Director to appear before the Committee on Industrial Programs to explain the amount fixed for any personal guarantee or surety bond.

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

Section 1. NRS 209.461 is hereby amended to read as follows:

209.461 1. The Director shall:

(a) To the greatest extent possible, approximate the normal conditions of training and employment in the community.

(b) Except as otherwise provided in this section, to the extent practicable, require each offender, except those whose behavior is found by the Director to preclude participation, to spend 40 hours each week in vocational training or employment, unless excused for a medical reason or to attend educational classes in accordance with NRS 209.396. The Director shall require as a condition of employment that an offender sign an authorization for the deductions from his or her wages made pursuant to NRS 209.463. Authorization to make the deductions pursuant to NRS 209.463 is implied from the employment of an offender and a signed authorization from the offender is not required for the Director to make the deductions pursuant to NRS 209.463.

(c) Use the earnings from services and manufacturing conducted by the institutions and the money paid by private employers who employ the offenders to offset the costs of operating the prison system and to provide wages for the offenders being trained or employed.

(d) Provide equipment, space and management for services and manufacturing by offenders.

(e) Employ craftsmen and other personnel to supervise and instruct offenders.

(f) Contract with governmental agencies and private employers for the employment of offenders, including their employment on public works projects under contracts with the State and with local governments.

(g) Contract for the use of offenders' services and for the sale of goods manufactured by offenders.

(h) On or before January 1, 2014, and every 5 years thereafter, submit a report to the Director of the Legislative Counsel Bureau for distribution to the Committee on Industrial Programs. The report must include, without limitation, an analysis of existing contracts with private employers for the employment of offenders and the potential impact of those contracts on private industry in this State.

(i) Submit a report to each meeting of the Interim Finance Committee identifying any accounts receivable related to a program for the employment of offenders.

2. Every program for the employment of offenders established by the Director must:

(a) Employ the maximum number of offenders possible;

(b) Except as otherwise provided in NRS 209.192, provide for the use of money produced by the program to reduce the cost of maintaining the offenders in the institutions;

(c) Have an insignificant effect on the number of jobs available to the residents of this State; and

(d) Provide occupational training for offenders.

3. An offender may not engage in vocational training, employment or a business that requires or permits the offender to:

(a) Telemarket or conduct opinion polls by telephone; or

(b) Acquire, review, use or have control over or access to personal information concerning any person who is not incarcerated.

4. Each fiscal year, the cumulative profits and losses, if any, of the programs for the employment of offenders established by the Director must result in a profit for the Department. The following must not be included in determining whether there is a profit for the Department:

(a) Fees credited to the Fund for Prison Industries pursuant to NRS 482.268, any revenue collected by the Department for the leasing of space, facilities or equipment within the institutions or facilities of the Department, and any interest or income earned on the money in the Fund for Prison Industries.

(b) The selling expenses of the Central Administrative Office of the programs for the employment of offenders. As used in this paragraph, "selling expenses" means delivery expenses, salaries of sales personnel and related payroll taxes and costs, the costs of advertising and the costs of display models.

(c) The general and administrative expenses of the Central Administrative Office of the programs for the employment of offenders. As used in this paragraph, "general and administrative expenses" means the salary of the Deputy Director of Industrial Programs and the salaries of any other personnel of the Central Administrative Office and related payroll taxes and costs, the costs of telephone usage, and the costs of office supplies used and postage used.

5. If any state-sponsored program incurs a net loss for 2 consecutive fiscal years, the Director shall appear before the Committee on Industrial Programs to explain the reasons for the net loss and provide a plan for the generation of a profit in the next fiscal year. If the program does not generate a profit in the third fiscal year, the Director shall take appropriate steps to resolve the issue.

6. Except as otherwise provided in subsection 3, the Director may, with the approval of the Board:

(a) Lease spaces and facilities within any institution of the Department to private employers to be used for the vocational training and employment of offenders.

(b) Grant to reliable offenders the privilege of leaving institutions or facilities of the Department at certain times for the purpose of vocational training or employment.

7. Before entering into any contract with a private employer for the employment of offenders pursuant to subsection 1, the Director shall obtain from the private employer:

(a) A personal guarantee to secure an amount fixed by the Director ~~[but]~~ *of* :

(1) For a contract that does not relate to construction, not less than ~~*[10]*~~ *25 percent of the prorated annual amount of the contract but not more than* 100 percent of the prorated annual amount of the contract, a surety bond made

payable to the State of Nevada in an amount fixed by the Director ~~[but]~~ *of* not less *than* ~~*[10]*~~ *25 percent of the prorated annual amount of the contract but not more* than 100 percent of the prorated annual amount of the contract and conditioned upon the faithful performance of the contract in accordance with the terms and conditions of the contract ~~[,]~~ *; or*

(2) For a contract that relates to construction, not less than 100 percent of the prorated annual amount of the contract, a surety bond made payable to the State of Nevada in an amount fixed by the Director of not less than 100 percent of the prorated annual amount of the contract and conditioned upon the faithful performance of the contract in accordance with the terms and conditions of the contract,

➥ or a security agreement to secure any debt, obligation or other liability of the private employer under the contract, including, without limitation, lease payments, wages earned by offenders and compensation earned by personnel of the Department. *The Director shall appear before the Committee on Industrial Programs to explain the reasons for the amount fixed by the Director for any personal guarantee or surety bond.*

(b) A detailed written analysis on the estimated impact of the contract on private industry in this State. The written analysis must include, without limitation:

(1) The number of private companies in this State currently providing the types of products and services offered in the proposed contract.

(2) The number of residents of this State currently employed by such private companies.

(3) The number of offenders that would be employed under the contract.

(4) The skills that the offenders would acquire under the contract.

8. The provisions of this chapter do not create a right on behalf of the offender to employment or to receive the federal or state minimum wage for any employment and do not establish a basis for any cause of action against the State or its officers or employees for employment of an offender or for payment of the federal or state minimum wage to an offender.

9. As used in this section, "state-sponsored program" means a program for the vocational training or employment of offenders which does not include a contract of employment with a private employer.

Sec. 2. This act becomes effective upon passage and approval.

Senator Cannizzaro moved that the Senate concur in Assembly Amendment No. 698 to Senate Bill No. 30.

Remarks by Senator Cannizzaro.

Amendment No. 698 to Senate Bill No. 30 makes changes regarding the amount of the contract that must be bonded with respect to corrections and changes that to be "not less than 100 percent of the prorated annual amount of the contract" for those projects.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 46.

The following Assembly amendment was read:

Amendment No. 653.

SUMMARY—Revises provisions relating to the regulation of gaming. (BDR 41-342)

AN ACT relating to gaming; revising the definition of "gross revenue"; prohibiting a person from performing an act that requires registration without being registered; ~~[revising the definition of "interactive gaming service provider";]~~ revising the definition of "service provider"; providing for the registration, rather than licensure, of service providers; authorizing the Attorney General or district attorney of any county to apply for a court order to intercept communications during an investigation involving certain offenses relating to gaming; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Nevada Gaming Commission to charge and collect from each licensee a license fee based upon all the gross revenue of the licensee. (NRS 463.370) Under existing law, "gross revenue" does not include cash received as entry fees for contests or tournaments in which patrons compete for prizes, except for a contest or tournament conducted in conjunction with an inter-casino linked system. (NRS 463.0161) Section 3 of this bill revises the definition of "gross revenue" to include cash received as entry fees for all contests or tournaments, with the exception of all cash and the cost of any noncash prizes paid out to participants which does not exceed the total compensation received for the right to participate in the contests or tournaments.

Existing law provides that it is unlawful for a person to perform certain acts relating to gaming without having first procured, and thereafter maintaining in effect, all federal, state, county and municipal gaming licenses as required by statute, regulation or ordinance or by the governing board of any unincorporated town. (NRS 463.160) Section 4 of this bill extends this prohibition to performing such acts related to gaming without first having procured, and thereafter maintained, all federal, state, county or municipal gaming registrations, if applicable.

Existing law authorizes the Commission to provide by regulation for the licensing and operation of service providers and all persons, locations and matters associated therewith. Existing law defines "service provider" as a person who: (1) acts on behalf of a person who holds a nonrestricted gaming license, who assists, manages, administers or controls wagers or games or its software or hardware and who is authorized to share revenue from the games without being licensed to conduct a gaming establishment; (2) is an interactive gaming service provider; (3) is a cash accessing and wagering instrument service provider; or (4) meets certain criteria established by the Commission. Existing law defines "interactive gaming service provider" as a person who acts on behalf of an establishment licensed to operate interactive gaming and:

(1) manages, administers or controls wagers initiated, made or received on an interactive gaming system; (2) manages, administers or controls the games with which wagers are initiated, received or made on such a system; (3) maintains or operates the software or hardware of such a system; or (4) provides products, services, information or assets to an interactive gaming establishment and receives a percentage of such an establishment's interactive gaming revenue. (NRS 463.677)

Section 5 of this bill revises the definition of ~~["interactive gaming service provider" to mean a person who acts on behalf of an establishment licensed to operate interactive gaming and who assists, manages, administers or controls wagers or games, or maintains or operates software or hardware on behalf of such a licensed person and who is authorized to share the revenue from such games under certain circumstances. Section 5 also revises the definition of]~~ "service provider" to mean a person who: (1) is a cash access and wagering instrument service provider; or (2) meets certain criteria established by the Commission. Sections 5-7 of this bill revise various sections of NRS to provide for: (1) the licensure of an interactive gaming service provider; and (2) the registration, rather than licensure, of service providers.

Existing law authorizes the Attorney General or the district attorney of any county to apply for a court order authorizing the interception of wire, electronic or oral communications by investigative or law enforcement officers having responsibility for the investigation of certain offenses. (NRS 179.460) Existing law also provides that it is unlawful for a person to: (1) perform certain actions relating to gaming without having first procured, and thereafter maintaining, all required gaming licenses; or (2) receive any compensation or reward, or any percentage or share of the money or property played, for performing certain actions relating to a bet or wager on the result of any event held at a track involving a horse or other animal, sporting event or other event, without having first procured, and thereafter maintaining, all required gaming licenses. (NRS 463.160, 465.086) Section 8 of this bill adds those offenses to the list of offenses for which such an interception of communications may be ordered.

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. NRS 463.0161 is hereby amended to read as follows:

463.0161 1. "Gross revenue" means the total of all:

(a) Cash received as winnings;

(b) *Cash received as entry fees for contests and tournaments;*

(c) Cash received in payment for credit extended by a licensee to a patron for purposes of gaming; and

~~[(c)]~~ *(d)* Compensation received for conducting any game, or any contest or tournament in conjunction with interactive gaming, in which the licensee is not party to a wager,

➥ less the total of all cash paid out as losses to patrons, *all cash and the cost of any noncash prizes paid out to participants in contests or tournaments not to exceed the total compensation received for the right to participate in the contests or tournaments,* those amounts paid to fund periodic payments and any other items made deductible as losses by NRS 463.3715. ~~[For the purposes of this section, cash or the value of noncash prizes awarded to patrons in a contest or tournament are not losses, except that losses in a contest or tournament conducted in conjunction with an inter-casino linked system may be deducted to the extent of the compensation received for the right to participate in that contest or tournament.]~~

2. The term does not include:

(a) Counterfeit facsimiles of money, chips, tokens, wagering instruments or wagering credits;

(b) Coins of other countries which are received in gaming devices;

(c) Any portion of the face value of any chip, token or other representative of value won by a licensee from a patron for which the licensee can demonstrate that it or its affiliate has not received cash;

(d) Cash taken in fraudulent acts perpetrated against a licensee for which the licensee is not reimbursed;

(e) ~~[Cash received as entry fees for contests or tournaments in which patrons compete for prizes, except for a contest or tournament conducted in conjunction with an inter-casino linked system;~~

~~(f)]~~ Uncollected baccarat commissions; or

~~[(g)]~~ *(f)* Cash provided by the licensee to a patron and subsequently won by the licensee, for which the licensee can demonstrate that it or its affiliate has not been reimbursed.

3. As used in this section, "baccarat commission" means:

(a) A fee assessed by a licensee on cash paid out as a loss to a patron at baccarat to modify the odds of the game; or

(b) A rate or fee charged by a licensee for the right to participate in a baccarat game.

Sec. 4. NRS 463.160 is hereby amended to read as follows:

463.160 1. Except as otherwise provided in subsection 4 and NRS 463.172, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others:

(a) To deal, operate, carry on, conduct, maintain or expose for play in the State of Nevada any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool;

(b) To provide or maintain any information service;

(c) To operate a gaming salon;

(d) To receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool;

(e) To operate as a cash access and wagering instrument service provider; or

(f) To operate, carry on, conduct, maintain or expose for play in or from the State of Nevada any interactive gaming system,

➥ without having first procured, and thereafter maintaining in effect, all federal, state, county and municipal gaming licenses *or registrations* as required by statute, regulation or ordinance or by the governing board of any unincorporated town.

2. The licensure of an operator of an inter-casino linked system is not required if:

(a) A gaming licensee is operating an inter-casino linked system on the premises of an affiliated licensee; or

(b) An operator of a slot machine route is operating an inter-casino linked system consisting of slot machines only.

3. Except as otherwise provided in subsection 4, it is unlawful for any person knowingly to permit any gambling game, slot machine, gaming device, inter-casino linked system, mobile gaming system, race book or sports pool to be conducted, operated, dealt or carried on in any house or building or other premises owned by the person, in whole or in part, by a person who is not licensed pursuant to this chapter, or that person's employee.

4. The Commission may, by regulation, authorize a person to own or lease gaming devices for the limited purpose of display or use in the person's private residence without procuring a state gaming license.

5. For the purposes of this section, the operation of a race book or sports pool includes making the premises available for any of the following purposes:

(a) Allowing patrons to establish an account for wagering with the race book or sports pool;

(b) Accepting wagers from patrons;

(c) Allowing patrons to place wagers;

(d) Paying winning wagers to patrons; or

(e) Allowing patrons to withdraw cash from an account for wagering or to be issued a ticket, receipt, representation of value or other credit representing a withdrawal from an account for wagering that can be redeemed for cash,

➥ whether by a transaction in person at an establishment or through mechanical means, such as a kiosk or similar device, regardless of whether that device would otherwise be considered associated equipment. A separate license must be obtained for each location at which such an operation is conducted.

6. As used in this section, "affiliated licensee" has the meaning ascribed to it in NRS 463.430.

Sec. 5. NRS 463.677 is hereby amended to read as follows:

463.677 1. The Legislature finds that:

(a) Technological advances have evolved which allow licensed gaming establishments to expose games, including, without limitation, system-based and system-supported games, gaming devices, mobile gaming systems,

interactive gaming, cashless wagering systems or race books and sports pools, and to be assisted by *an interactive gaming service provider or* a service provider *, as applicable,* who provides important services to the public with regard to the conduct and exposure of such games.

(b) To protect and promote the health, safety, morals, good order and general welfare of the inhabitants of this State, and to carry out the public policy declared in NRS 463.0129, it is necessary that the Board and Commission have the ability to ~~[license]~~ *:*

(1) License interactive gaming service providers;

(2) Register service providers ~~[by maintaining]~~ *; and*

(3) Maintain strict regulation and control of the operation of such *interactive gaming service providers or* service providers *, respectively,* and all persons and locations associated therewith.

2. Except as otherwise provided in subsection ~~[3,]~~ *4,* the Commission may, with the advice and assistance of the Board, provide by regulation for the ~~[licensing]~~ *:*

(a) Licensing of an interactive gaming service provider;

(b) Registration of a service provider; and ~~[operation]~~

(c) Operation of *such* a service provider *or interactive gaming service provider, respectively,* and all persons, locations and matters associated therewith. ~~[Such]~~

3. The regulations *pursuant to subsection 2* may include, without limitation:

(a) Provisions requiring ~~[the]~~ *:*

(1) The interactive gaming service provider to meet the qualifications for licensing pursuant to NRS 463.170, in addition to any other qualifications established by the Commission ~~[,]~~ and to be licensed regardless of whether the *interactive gaming* service provider holds any ~~[other]~~ license.

(2) The service provider to be registered regardless of whether the service provider holds any license.

(b) Criteria regarding the location from which the *interactive gaming service provider or* service provider *, respectively,* conducts its operations, including, without limitation, minimum internal and operational control standards established by the Commission.

(c) Provisions relating to ~~[the]~~ *:*

(1) The licensing *of persons owning or operating an interactive gaming service provider, and any person having a significant involvement therewith, as determined by the Commission.*

(2) The registration of persons owning or operating a service provider, and any persons having a significant involvement therewith, as determined by the Commission.

(d) A provision that a person owning, operating or having significant involvement with *an interactive gaming service provider or* a service provider, *respectively,* as determined by the Commission, may be required by the

Commission to be found suitable to be associated with licensed gaming, including race book or sports pool operations.

(e) Additional matters which the Commission deems necessary and appropriate to carry out the provisions of this section and which are consistent with the public policy of this State pursuant to NRS 463.0129, including that *an interactive gaming service provider or* a service provider *, respectively,* must be liable to the licensee on whose behalf the services are provided for the *interactive gaming service provider's or* service provider's proportionate share of the fees and taxes paid by the licensee.

~~[3.]~~ *4.* The Commission may not adopt regulations pursuant to this section until the Commission first determines that *interactive gaming service providers or* service providers *, respectively,* are secure and reliable, do not pose a threat to the integrity of gaming and are consistent with the public policy of this State pursuant to NRS 463.0129.

~~[4.]~~ *5.* Regulations adopted by the Commission pursuant to this section must provide that the premises on which *an interactive gaming service provider and* a service provider *, respectively,* conducts its operations are subject to the power and authority of the Board and Commission pursuant to NRS 463.140, as though the premises are where gaming is conducted and the *interactive gaming service provider or* service provider *, respectively,* is a gaming licensee.

~~[5.]~~ *6.* As used in this section:

(a) "Interactive gaming service provider" means a person who acts on behalf of an establishment licensed to operate interactive gaming and :

(1) Manages, administers or controls wagers that are initiated, received or made on an interactive gaming system;

(2) Manages, administers or controls the games with which wagers that are initiated, received or made on an interactive gaming system are associated;

(3) Maintains or operates the software or hardware of an interactive gaming system; or

(4) Provides products, services, information or assets to an establishment licensed to operate interactive gaming and receives therefor a percentage of gaming revenue from the establishment's interactive gaming system. ~~*[who assists, manages, administers or controls wagers or games or maintains or operates software or hardware of a game on behalf of the licensed person, and is authorized to share in the revenue from the games without being licensed to conduct gaming at an establishment.]*~~

(b) "Service provider" means a person who:

(1) ~~[Acts on behalf of another licensed person who conducts nonrestricted gaming operations, and who assists, manages, administers or controls wagers or games, or maintains or operates the software or hardware of games on behalf of such a licensed person, and is authorized to share in the revenue from games without being licensed to conduct gaming at an establishment;~~

~~(2) Is an interactive gaming service provider;~~

~~(3)]~~ Is a cash access and wagering instrument service provider; or

~~[(4)]~~ *(2)* Meets such other or additional criteria as the Commission may establish by regulation.

Sec. 6. NRS 463.750 is hereby amended to read as follows:

463.750 1. The Commission shall, with the advice and assistance of the Board, adopt regulations governing ~~[the]~~ *:*

(a) The licensing and operation of interactive gaming ~~[.]~~ *; and*

(b) The registration of service providers to perform any action described in paragraph (b) of subsection 6 of NRS 463.677.

2. The regulations adopted by the Commission pursuant to this section must:

(a) Establish the investigation fees for:

(1) A license to operate interactive gaming;

(2) A license for a manufacturer of interactive gaming systems; ~~[and]~~

(3) A license for *an interactive gaming service provider to perform the actions described in paragraph (a) of subsection 6 of NRS 463.677; and*

(4) Registration as a service provider to perform the actions described in paragraph ~~[(a)]~~ *(b)* of subsection ~~[5]~~ *6* of NRS 463.677.

(b) Provide that:

(1) A person must hold a license for a manufacturer of interactive gaming systems to supply or provide any interactive gaming system, including, without limitation, any piece of proprietary software or hardware; ~~[and]~~

(2) A person must hold a license for *an interactive gaming service provider to perform the actions described in paragraph (a) of subsection 6 of NRS 463.677; and*

(3) A person must be registered as a service provider to perform the actions described in paragraph ~~[(a)]~~ *(b)* of subsection ~~[5]~~ *6* of NRS 463.677.

(c) Except as otherwise provided in subsections 6 to 10, inclusive, set forth standards for the suitability of a person to be ~~[licensed]~~ *:*

(1) Licensed as a manufacturer of interactive gaming systems ~~[or]~~ *;*

(2) Licensed as an interactive gaming service provider as described in paragraph (a) of subsection 6 of NRS 463.677 that are as stringent as the standards for a nonrestricted license; or

(3) Registered as a service provider as described in paragraph (b) of subsection ~~[5]~~ *6* of NRS 463.677 that are as stringent as the standards for a nonrestricted license.

(d) Set forth provisions governing:

(1) The initial fee for a license for *an interactive gaming service provider as described in paragraph (a) of subsection 6 of NRS 463.677.*

(2) The initial fee for registration as a service provider as described in paragraph (b) of subsection ~~[5]~~ *6* of NRS 463.677.

~~[(2)]~~ *(3)* The fee for the renewal of such a license for such *an interactive gaming service provider or registration as* a service provider *, as applicable,* and any renewal requirements for such a license ~~[.]~~ *or registration, as applicable.*

~~[(3)]~~ *(4)* Any portion of the license fee paid by a person licensed to operate interactive gaming, pursuant to subsection 1 of NRS 463.770, for which ~~[a]~~ *an interactive gaming* service provider may be liable to the person licensed to operate interactive gaming.

(e) Provide that gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions of NRS 463.370 as the games and gaming devices of the establishment, unless federal law otherwise provides for a similar fee or tax.

(f) Set forth standards for the location and security of the computer system and for approval of hardware and software used in connection with interactive gaming.

(g) Define "interactive gaming system," "manufacturer of interactive gaming systems," "operate interactive gaming" and "proprietary hardware and software" as the terms are used in this chapter.

3. Except as otherwise provided in subsections 4 and 5, the Commission shall not approve a license for an establishment to operate interactive gaming unless:

(a) In a county whose population is 700,000 or more, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices.

(b) In a county whose population is 45,000 or more but less than 700,000, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Holds a nonrestricted license for the operation of games and gaming devices;

(2) Has more than 120 rooms available for sleeping accommodations in the same county;

(3) Has at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

(4) Has at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

(5) Has a gaming area that is at least 18,000 square feet in area with at least 1,600 slot machines, 40 table games, and a sports book and race pool.

(c) In all other counties, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Has held a nonrestricted license for the operation of games and gaming devices for at least 5 years before the date of its application for a license to operate interactive gaming;

(2) Meets the definition of group 1 licensee as set forth in the regulations of the Commission on the date of its application for a license to operate interactive gaming; and

(3) Operates either:

(I) More than 50 rooms for sleeping accommodations in connection therewith; or

(II) More than 50 gaming devices in connection therewith.

4. The Commission may:

(a) Issue a license to operate interactive gaming to an affiliate of an establishment if:

(1) The establishment satisfies the applicable requirements set forth in subsection 3;

(2) The affiliate is located in the same county as the establishment; and

(3) The establishment has held a nonrestricted license for at least 5 years before the date on which the application is filed; and

(b) Require an affiliate that receives a license pursuant to this subsection to comply with any applicable provision of this chapter.

5. The Commission may issue a license to operate interactive gaming to an applicant that meets any qualifications established by federal law regulating the licensure of interactive gaming.

6. Except as otherwise provided in subsections 7, 8 and 9:

(a) A covered person may not be found suitable for licensure under this section within 5 years after February 21, 2013;

(b) A covered person may not be found suitable for licensure under this section unless such covered person expressly submits to the jurisdiction of the United States and of each state in which patrons of interactive gaming operated by such covered person after December 31, 2006, were located, and agrees to waive any statutes of limitation, equitable remedies or laches that otherwise would preclude prosecution for a violation of any provision of federal law or the law of any state in connection with such operation of interactive gaming after that date;

(c) A person may not be found suitable for licensure under this section within 5 years after February 21, 2013, if such person uses a covered asset for the operation of interactive gaming; and

(d) Use of a covered asset is grounds for revocation of an interactive gaming license, or a finding of suitability, issued under this section.

7. The Commission, upon recommendation of the Board, may waive the requirements of subsection 6 if the Commission determines that:

(a) In the case of a covered person described in paragraphs (a) and (b) of subsection 1 of NRS 463.014645:

(1) The covered person did not violate, directly or indirectly, any provision of federal law or the law of any state in connection with the ownership and operation of, or provision of services to, an interactive gaming facility that, after December 31, 2006, operated interactive gaming involving patrons located in the United States; and

(2) The assets to be used or that are being used by such person were not used after that date in violation of any provision of federal law or the law of any state;

(b) In the case of a covered person described in paragraph (c) of subsection 1 of NRS 463.014645, the assets that the person will use in connection with interactive gaming for which the covered person applies for a finding of suitability were not used after December 31, 2006, in violation of any provision of federal law or the law of any state; and

(c) In the case of a covered asset, the asset was not used after December 31, 2006, in violation of any provision of federal law or the law of any state, and the interactive gaming facility in connection with which the asset was used was not used after that date in violation of any provision of federal law or the law of any state.

8. With respect to a person applying for a waiver pursuant to subsection 7, the Commission shall afford the person an opportunity to be heard and present relevant evidence. The Commission shall act as finder of fact and is entitled to evaluate the credibility of witnesses and persuasiveness of the evidence. The affirmative votes of a majority of the whole Commission are required to grant or deny such waiver. The Board shall make appropriate investigations to determine any facts or recommendations that it deems necessary or proper to aid the Commission in making determinations pursuant to this subsection and subsection 7.

9. The Commission shall make a determination pursuant to subsections 7 and 8 with respect to a covered person or covered asset without regard to whether the conduct of the covered person or the use of the covered asset was ever the subject of a criminal proceeding for a violation of any provision of federal law or the law of any state, or whether the person has been prosecuted and the prosecution terminated in a manner other than with a conviction.

10. It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others, to operate interactive gaming:

(a) Until the Commission adopts regulations pursuant to this section; and

(b) Unless the person first procures, and thereafter maintains in effect, all appropriate licenses as required by the regulations adopted by the Commission pursuant to this section.

11. A person who violates subsection 10 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 10 years or by a fine of not more than $50,000, or both.

Sec. 7. NRS 463.767 is hereby amended to read as follows:

463.767 1. The Commission may, with the advice and assistance of the Board, adopt a seal for its use to identify:

(a) A license to operate interactive gaming;

(b) A license for a manufacturer of interactive gaming systems; ~~[and]~~

(c) A license for *an interactive gaming service provider to perform the actions described in paragraph (a) of subsection 6 of NRS 463.677; and*

(d) Registration as a service provider to perform the actions described in paragraph ~~[(a)]~~ *(b)* of subsection ~~[5]~~ *6* of NRS 463.677.

2. The Chair of the Commission has the care and custody of the seal.

3. The seal must have imprinted thereon the words "Nevada Gaming Commission."

4. A person shall not use, copy or reproduce the seal in any way not authorized by this chapter or the regulations of the Commission. Except under circumstances where a greater penalty is provided in NRS 205.175, a person who violates this subsection is guilty of a gross misdemeanor.

5. A person convicted of violating subsection 4 is, in addition to any criminal penalty imposed, liable for a civil penalty upon each such conviction. A court before whom a defendant is convicted of a violation of subsection 4 shall, for each violation, order the defendant to pay a civil penalty of $5,000. The money so collected:

(a) Must not be deducted from any penal fine imposed by the court;

(b) Must be stated separately on the court's docket; and

(c) Must be remitted forthwith to the Commission.

Sec. 8. NRS 179.460 is hereby amended to read as follows:

179.460 1. The Attorney General or the district attorney of any county may apply to a Supreme Court justice or to a district judge in the county where the interception is to take place for an order authorizing the interception of wire, electronic or oral communications, and the judge may, in accordance with NRS 179.470 to 179.515, inclusive, grant an order authorizing the interception of wire, electronic or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when the interception may provide evidence of the commission of murder, kidnapping, robbery, extortion, bribery, escape of an offender in the custody of the Department of Corrections, destruction of public property by explosives, a sexual offense against a child, sex trafficking, a violation of NRS 200.463, 200.464 or 200.465, trafficking in persons in violation of NRS 200.467 or 200.468 , ~~[or]~~ the commission of any offense which is made a felony by the provisions of chapter 453 or 454 of NRS ~~[.]~~ *or a violation of NRS 463.160 or 465.086.*

2. A provider of electronic communication service or a public utility, an officer, employee or agent thereof or another person associated with the provider of electronic communication service or public utility who, pursuant to an order issued pursuant to subsection 1, provides information or otherwise assists an investigative or law enforcement officer in the interception of a wire, electronic or oral communication is immune from any liability relating to any interception made pursuant to the order.

3. As used in this section, "sexual offense against a child" includes any act upon a child constituting:

(a) Incest pursuant to NRS 201.180;

(b) Lewdness with a child pursuant to NRS 201.230;

(c) Sado-masochistic abuse pursuant to NRS 201.262;

(d) Sexual assault pursuant to NRS 200.366;

(e) Statutory sexual seduction pursuant to NRS 200.368;

(f) Open or gross lewdness pursuant to NRS 201.210; or

(g) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

Sec. 9. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2019, for all other purposes.

Senator Cannizzaro moved that the Senate concur in Assembly Amendment No. 653 to Senate Bill No. 46.

Remarks by Senator Cannizzaro.

Assembly Amendment No. 653 to Senate Bill No. 46 removes the portions of the bill that revise the definition of an "interactive gaming service provider."

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 383.

The following Assembly amendment was read:

Amendment No. 672.

SUMMARY—~~[Revises]~~ Establishes provisions relating to sexual conduct between a law enforcement officer and ~~[a person in his or her custody.]~~ certain other persons. (BDR 3-113)

AN ACT relating to sexual conduct; establishing a rebuttable presumption in civil actions concerning unwelcome or nonconsensual sexual conduct between a law enforcement officer and a person in his or her custody; ~~[revising provisions relating to]~~ prohibiting sexual conduct between a law enforcement officer and a person ~~[in his or her custody;]~~ who is under arrest or is currently detained by any law enforcement officer; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from voluntarily engaging in sexual conduct with a prisoner who is in lawful custody or confinement and provides that any person who violates such a prohibition is guilty of a category D felony. (NRS 212.187) ~~[Existing law defines the term "prisoner" for the purposes of such a prohibition as including any person held in custody under process of law or under lawful arrest. (NRS 208.085)]~~ Section ~~[2]~~ 1.5 of this bill ~~[: (1) clarifies that such a prohibition applies to]~~ provides that if a law enforcement officer ~~[who]~~ voluntarily engages in sexual conduct with a person who is ~~[in his or her custody; and (2)]~~ under arrest or is currently detained by the law enforcement officer or any other law enforcement officer, the law enforcement officer is guilty of a category D felony. Section 1.5 also provides that ~~[if a]~~ the consent of a person who was under arrest or detained by any law enforcement officer ~~[violates such a prohibition by voluntarily engaging in]~~ to any sexual conduct with a ~~[person who is in his or her custody, it]~~ law enforcement officer

is not a defense ~~[that the person in his or her custody consented to the]~~ to a prosecution for such unlawful sexual conduct.

Section 1 of this bill establishes a rebuttable presumption in any civil action concerning any unwelcome or nonconsensual sexual conduct, including sexual harassment, that the sexual conduct was unwelcome or nonconsensual if the alleged perpetrator was a law enforcement officer and the alleged victim was a person in the custody of the law enforcement officer.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In any civil action concerning any unwelcome or nonconsensual sexual conduct, including, without limitation, sexual harassment, there is a rebuttable presumption that the sexual conduct was unwelcome or nonconsensual if the alleged perpetrator was a law enforcement officer and the alleged victim was a person in the custody of the law enforcement officer.

2. As used in this section, "sexual harassment" has the meaning ascribed to it in NRS 176A.280.

Sec. 1.5. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Unless an act committed in violation of this section constitutes sexual assault pursuant to NRS 200.366, a law enforcement officer who voluntarily engages in sexual conduct with a person who is under arrest or is currently detained by the law enforcement officer or any other law enforcement officer is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. The consent of a person who was under arrest or detained by any law enforcement officer to any sexual conduct with a law enforcement officer is not a defense to a prosecution for any act prohibited by this section.

3. As used in this section, "sexual conduct":

(a) Includes acts of masturbation, sexual penetration or physical contact with another person's clothed or unclothed genitals or pubic area to arouse, appeal to or gratify the sexual desires of a person.

(b) Does not include acts of a law enforcement officer that are performed to carry out the necessary duties of the law enforcement officer.

Sec. 2. ~~[NRS 212.187 is hereby amended to read as follows:~~

~~212.187 1. A prisoner who is in lawful custody or confinement, other than in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888 or residential confinement, and who voluntarily engages in sexual conduct with another person who is not an employee of or a contractor or volunteer for a prison is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

~~2. Except as otherwise provided in NRS 212.188, a person who voluntarily engages in sexual conduct with a prisoner who is in lawful custody or~~

~~confinement, [other than in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888 or residential confinement,]~~ *including, without limitation, a law enforcement officer who voluntarily engages in sexual conduct with a person who is in his or her custody*~~, is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

~~*3. If a law enforcement officer violates this section by voluntarily engaging in sexual conduct with a person who is in his or her custody, it is not a defense that the person in his or her custody consented to the sexual conduct.*~~

~~4. As used in this section [, "sexual] :~~

~~*(a) "Lawful custody or confinement" does not include being in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888 or residential confinement.*~~

~~*(b) "Sexual* conduct":~~

~~[(a)] *(1)* Includes acts of masturbation, sexual penetration or physical contact with another person's clothed or unclothed genitals or pubic area to arouse, appeal to or gratify the sexual desires of a person.~~

~~[(b)] *(2)* Does not include acts of a person who has custody of a prisoner or an employee of or a contractor or volunteer for the prison in which the prisoner is confined that are performed to carry out the necessary duties of such a person, employee, contractor or volunteer.]~~ (Deleted by amendment.)

Senator Cannizzaro moved that the Senate concur in Assembly Amendment No. 672 to Senate Bill No. 383.

Remarks by Senator Cannizzaro.

Assembly Amendment No. 672 to Senate Bill No. 383 revises some of the language that refers to what type of sexual conduct would be prohibited by a law enforcement officer against any person within his or her custody and includes some definitions of what sexual conduct would be.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 477, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PAT SPEARMAN, *Chair*

Madam President:

Your Committee on Finance, to which were re-referred Senate Bills Nos. 130, 363, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Madam President:

Your Committee on Health and Human Services, to which were referred Senate Bill No. 544; Assembly Bill No. 66, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JULIA RATTI, *Chair*

Madam President

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 166, 376, 416, 422, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

NICOLE J. CANNIZZARO, *Chair*

Madam President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Concurrent Resolution No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

JAMES OHRENSCHALL, *Chair*

Madam President:

Your Committee on Revenue and Economic Development, to which was referred Assembly Bill No. 400, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN DONDERO LOOP, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ratti moved that Assembly Bill No. 453 be taken from the Secretary's desk and placed on the General File on the third Agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 504.

Bill read second time and ordered to third reading.

Senate Bill No. 508.

Bill read second time and ordered to third reading.

Senate Bill No. 509.

Bill read second time and ordered to third reading.

Senate Bill No. 511.

Bill read second time and ordered to third reading.

Assembly Bill No. 15.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 695.

SUMMARY—Revises provisions governing crimes. (BDR 15-409)

AN ACT relating to crimes; prohibiting the preparation or delivery of documents that simulate legal process for certain purposes; revising provisions governing crimes related to certain financial transactions; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill makes it unlawful for a person to cause to be prepared or delivered to another person any document that simulates a summons, complaint, judgment, order or other legal process with the intent to: (1) induce payment of a claim from another person; or (2) induce another person to submit to the putative authority of the document or take or refrain from taking certain actions. Section 1 provides that a person who violates any such provision is

guilty of a category D felony. Section 1 also establishes the circumstances: (1) in which a rebuttable presumption exists that a person intended to violate any such provision; and (2) that do not constitute a defense to a prosecution under the section.

Existing law provides that if a monetary instrument represents the proceeds of or is derived from any unlawful activity, it is unlawful for a person who has knowledge of that fact to conduct or attempt to conduct a financial transaction involving such monetary instrument or transport or attempt to transport the monetary instrument, if the person has the intent to further any unlawful activity or has certain other knowledge. (NRS 207.195) Section 1.5 of this bill: (1) increases the penalty for a violation of any such provision from a category D to a category C felony; and (2) includes other property that represents the proceeds of or is derived from any unlawful activity in such provisions.

Existing law also provides that it is unlawful for any person to conduct or attempt to conduct a financial transaction with the intent to evade any regulation governing the records of certain casinos regarding transactions involving cash. A person who violates such a provision is guilty of a category D felony. (NRS 207.195) Section 1.5: (1) expands the prohibition and makes it unlawful for any person to conduct or attempt to conduct a financial transaction with the intent to evade any provision of federal or state law that requires the reporting of a financial transaction; and (2) provides that a person who violates such a provision is guilty of a category C felony.

Section 1.5 additionally makes it unlawful for a person to conduct or attempt to conduct a financial transaction concerning any monetary instrument or other property that has a value of $5,000 or more with the knowledge that the monetary instrument or other property is directly or indirectly derived from any unlawful activity. A person who violates such a provision is guilty of a category C felony. Section 1.5 further: (1) provides that each violation of the section involving one or more monetary instruments, financial transactions or property valued at 5,000 or more is a separate offense; (2) provides that the section must not be construed to prohibit any financial transaction relating to the medical use of marijuana or the regulation or taxation of marijuana; and (3) revises the definition of "monetary instrument" to include ~~[cryptocurrency.]~~ virtual currency.

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

Section 1. Chapter 207 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who causes to be prepared or delivered to another person any document that simulates a summons, complaint, judgment, order or other legal process with the intent to:

(a) Induce payment of a claim from another person; or

(b) Induce another person to:

(1) Submit to the putative authority of the document; or

(2) Take any action or refrain from taking any action:

(I) In response to or on the basis of the document; or

(II) To comply with the document,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. There is a rebuttable presumption that a person intended to violate the provisions of this section if the person files with or presents or delivers to any court in this State any document that simulates a summons, complaint, judgment, order or other legal process.

3. It is not a defense to a prosecution under this section that a document that simulates a summons, complaint, judgment, order or other legal process states that the document is not legal process or purports to have been issued or authorized by a person or entity who does not have the lawful authority to issue or authorize the document.

4. As used in this section, "action" includes, without limitation:

(a) Making a court appearance;

(b) Obtaining legal counsel;

(c) Acting upon a perceived conflict created by a document that simulates a summons, complaint, judgment, order or other legal process; or

(d) Recusal.

Sec. 1.5. NRS 207.195 is hereby amended to read as follows:

207.195 1. If a monetary instrument *or other property* represents the proceeds of or is directly or indirectly derived from any unlawful activity, it is unlawful for a person, having knowledge of that fact:

(a) To conduct or attempt to conduct a financial transaction involving the *monetary* instrument ~~[:]~~ *or other property:*

(1) With the intent to further any unlawful activity;

(2) With the knowledge that the transaction conceals the location, source, ownership or control of the *monetary* instrument ~~[;]~~ *or other property;* or

(3) With the knowledge that the transaction evades any provision of federal or state law that requires the reporting of a financial transaction.

(b) To transport or attempt to transport the monetary instrument ~~[:]~~ *or other property:*

(1) With the intent to further any unlawful activity;

(2) With the knowledge that the transportation conceals the location, source, ownership or control of any proceeds derived from unlawful activity; or

(3) With the knowledge that the transportation evades any provision of federal or state law that requires the reporting of a financial transaction.

2. *It is unlawful for any person to conduct or attempt to conduct a financial transaction concerning any monetary instrument or other property that has a value of $5,000 or more with the knowledge that the monetary instrument or other property is directly or indirectly derived from any unlawful activity.*

3. It is unlawful for any person to conduct or attempt to conduct a financial transaction with the intent to evade ~~[a regulation adopted pursuant to NRS 463.125.~~

~~3.]~~ *any provision of federal or state law that requires the reporting of a financial transaction.*

4. A person who violates any provision of subsection 1 , ~~[or]~~ 2 *or 3* is guilty of a category ~~[D]~~ *C* felony and shall be punished as provided in NRS 193.130.

~~[4.]~~ *5.* Each violation of ~~[subsection 1 or 2]~~ *this section* involving one or more monetary instruments ~~[totaling $10,000]~~ *, financial transactions or property valued at $5,000* or more shall be deemed a separate offense.

~~[5.]~~ *6. The provisions of this section must not be construed to prohibit any financial transaction conducted pursuant to chapter 453A or 453D of NRS.*

7. As used in this section:

(a) "Financial transaction" means any purchase, sale, loan, pledge, gift, transfer, deposit, withdrawal or other exchange involving a monetary instrument ~~[,]~~ *or other property*. The term does not include any instrument or transaction for the payment of assistance of counsel in a criminal prosecution.

(b) "Monetary instrument" includes any coin or currency of the United States or any other country, any traveler's check, personal check, money order, bank check, cashier's check, ~~*[cryptocurrency,]*~~ *virtual currency*, stock, bond, precious metal, precious stone or gem or any negotiable instrument to which title passes upon delivery. The term does not include any instrument or transaction for the payment of assistance of counsel in a criminal prosecution.

(c) "Unlawful activity" includes any crime related to racketeering as defined in NRS 207.360 or any offense punishable as a felony pursuant to state or federal statute. The term does not include any procedural error in the acceptance of a credit instrument, as defined in NRS 463.01467, by a person who holds a nonrestricted gaming license.

Sec. 2. This act becomes effective on July 1, 2019.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 695 to Assembly Bill No. 15 changes the term "cryptocurrency" to "virtual currency" to comport with common usage.

Amendment adopted.

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

Assembly Bill No. 50.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 835.

SUMMARY—Revises provisions governing the dates for certain city elections. (BDR 24-473)

AN ACT relating to elections; revising provisions governing the dates for certain city elections; revising provisions relating to candidates in certain city elections; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under the Nevada Constitution, the Legislature may require city elections to be held in even-numbered years on the statewide election cycle by amending: (1) the general law governing cities and their elections; and (2) the charters of the cities organized under special legislative acts or the commission form of government. (Nev. Const. Art. 4, § 27, Art. 8, § 1; chapters 266, 267 and 293C of NRS) In transitioning city elections to even-numbered years, the Legislature may shorten or lengthen the existing terms of office of elected city officers, without violating federal and state constitutional limitations, where the object of the legislation is to regulate the time of holding city elections, and not merely to reduce or extend the terms of particular incumbents. (Nev. Att'y Gen. Op. 2005-02 (Feb. 8, 2005); *Spencer v. Knight*, 98 N.E. 342, 346 (Ind. 1912); *Long v. City of New York*, 81 N.Y. 425, 427-28 (1880); *Lanza v. Wagner*, 183 N.E.2d 670, 673-74 (N.Y. 1962); *State ex rel. Voss v. Davis*, 418 S.W.2d 163, 167-72 (Mo. 1967))

Existing law authorizes the governing body of a city incorporated pursuant to general law to choose by ordinance whether to: (1) hold city elections on the statewide election cycle; or (2) hold a primary city election on the first Tuesday after the first Monday in April and hold a general city election on the second Tuesday after the first Monday in June of odd-numbered years. (NRS 293C.115, 293C.140, 293C.145, 293C.175) Existing provisions of various city charters also authorize the cities incorporated under those charters to make the same choice by ordinance regarding the dates of their city elections, and some of the charter cities currently hold their city elections on the statewide election cycle in even-numbered years, while other charter cities currently hold their city elections in odd-numbered years.

Sections ~~[4-7]~~ 1, 2, 4, 5, 6.4, 7.4 and 17-50 of this bill require that all cities hold elections on the statewide election cycle beginning in the year 2022. Sections 3, ~~[6]~~ 3.8, 6.2, 7.2 and ~~[7.3-14]~~ 8-16 of this bill amend various ~~[other dates]~~ provisions relating to city elections, such as the date for filing declarations of candidacy , in order to ~~[conform]~~ facilitate the transition to the statewide election cycle. ~~[Section]~~

Under existing law, the cities of Ely and Fallon are the only cities incorporated pursuant to general law that currently hold their city elections in odd-numbered years. To carry out the transition to the statewide election cycle in those general-law cities, section 51 of this bill provides that officials of ~~[affected]~~ those cities who ~~[are]~~ were elected in ~~[2019]~~ 2017 will hold office until the city elections are held in 2022, and ~~[that]~~ officials of ~~[such]~~ those cities who ~~[are]~~ will be elected in ~~[2021]~~ 2019 will hold office until the city elections are held in 2024.

Certain charter cities ~~[that are created by charters]~~ currently hold general municipal elections in June of odd-numbered years (Boulder City, Caliente,

Henderson, Las Vegas, North Las Vegas and Yerington). Sections 17-50 of this bill amend the charter of each of those cities to require that the cities hold ~~[primary and general]~~ their city elections on the same dates as the statewide ~~[primary and general elections.]~~ election cycle in even-numbered years. Section 52 of this bill provides for the terms of office of officials of such cities who were elected in 2017 or who will be elected in 2019, and the terms of office of municipal judges who were elected to 6-year terms in 2015 or 2017 or who will be elected in 2019, to be extended by 1 year to allow for the transition to the statewide election cycle. Section 52.5 of this bill requires Boulder City to transition to the statewide election cycle in accordance with the ordinance adopted by the City Council of Boulder City for such purpose effective November 1, 2018.

~~[Existing law requires,]~~ Under existing law, with limited exception, a judicial candidate for justice of the Supreme Court, judge of the Court of Appeals, judge of a district court or justice of the peace must file a declaration of candidacy with the appropriate filing officer in January in even-numbered years. (NRS 293.177) Depending on the organization of a city and its population category, existing law provides that a judge of a municipal court of the city may be either elected or appointed to office or, under certain circumstances, a justice of the peace of the township in which the city is located may serve ex officio as a judge of a municipal court of the city. (NRS 5.020, 266.405) If a judge of a municipal court is elected to office, existing law provides that a judicial candidate for ~~[any]~~ the elective office ~~[to be voted for at the primary city election to]~~ must file a declaration of candidacy with the city clerk : (1) in cities that currently hold their city elections in even-numbered years, in March in even-numbered years; and (2) in cities that currently hold their city elections in odd-numbered years, not less than 60 days or more than 70 days before the date of the primary city election ~~[.]~~ or, if the city does not hold a primary city election, not less than 60 days nor more than 70 days before the date of the general city election. (NRS 293.177, 293C.115, 293C.145, 293C.175) ~~[Section 7]~~

Sections 3.8, 6.2 and 7.2 of this bill ~~[requires, effective upon passage and approval of this bill,]~~ provide that, beginning in the year 2020, a judicial candidate for ~~[judicial office at a primary city election to instead]~~ the elective office of judge of a municipal court in cities that currently hold their city elections in even-numbered years must file a declaration of candidacy with the city clerk not earlier than the first Monday in January ~~[of the year in which the general city election is to be held]~~ and not later than 5 p.m. on the second Friday after the first Monday in January ~~[,]~~ in even-numbered years, consistent with the filing period for all other judicial candidates ~~[.]~~ in even-numbered years. When all other cities transition to the statewide election cycle beginning in the year 2022, sections 6.4 and 7.4 of this bill provide that all judicial candidates for the elective office of judge of a municipal court must file a declaration of candidacy with the city clerk during that same period in January in even-numbered years.

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

Section 1. NRS 293.059 is hereby amended to read as follows:

293.059 "General city election" means an election held pursuant to NRS ~~[293C.115,]~~ 293C.140 or 293C.145. The term includes a general municipal election held pursuant to the provisions of a special charter of an incorporated city.

Sec. 2. NRS 293.079 is hereby amended to read as follows:

293.079 "Primary city election" means an election held pursuant to NRS ~~[293C.115 or]~~ 293C.175. The term includes a primary municipal election held pursuant to the provisions of a special charter of an incorporated city.

Sec. 3. NRS 293B.354 is hereby amended to read as follows:

293B.354 1. The county clerk shall, not later than April 15 of each year in which a general election is held, submit to the Secretary of State for 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]~~ *April 15* of each year in which a general city election is held, submit to the Secretary of State for 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.

Sec. 3.8. NRS 293C.115 is hereby amended to read as follows:

293C.115 1. The governing body of a city incorporated pursuant to general law may by ordinance provide for a primary city election and a general city election on:

(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or

(b) The dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.

2. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165, and in NRS 293.175, ~~[293.177,]~~

293.345 and 293.368 apply for purposes of conducting the primary city elections and general city elections of the city.

3. If a governing body of a city adopts an ordinance pursuant to subsection 1:

(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and

(b) Each elected city official holds office until the end of his or her term and until his or her successor has been elected and qualified.

Sec. 4. NRS 293C.115 is hereby amended to read as follows:

293C.115 ~~[1.]~~ The governing body of a city incorporated pursuant to general law ~~[may]~~ *shall* by ordinance provide for a primary city election and a general city election on ~~[:~~

~~(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or~~

~~(b) The]~~ *the* dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.

~~[2. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165, and in NRS 293.175, 293.345 and 293.368 apply for purposes of conducting the primary city elections and general city elections of the city.~~

~~3. If a governing body of a city adopts an ordinance pursuant to subsection 1:~~

~~(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and~~

~~(b) Each elected city official holds office until the end of his or her term and until his or her successor has been elected and qualified.]~~

Sec. 5. NRS 293C.140 is hereby amended to read as follows:

293C.140 1. ~~[Except as otherwise provided in NRS 293C.115, a]~~ *A* general city election must be held in each city of population categories one and two on the ~~[second]~~ *first* Tuesday after the first Monday in ~~[June]~~ *November* of the first ~~[odd-numbered]~~ *even-numbered* year after incorporation, and ~~[on the same day every]~~ *at each successive interval of* 2 years , ~~[thereafter as determined by law, ordinance or resolution,]~~ at which time there must be elected the elective city officers, the offices of which are required next to be filled by election. All candidates, except as otherwise provided in NRS 266.220, at the general city election must be voted upon by the electors of the city at large.

2. ~~[Unless the terms of office of city council members are extended by an ordinance adopted pursuant to NRS 293C.115, the]~~ *The* terms of office *of the council members* are 4 years, which terms must be staggered. The council members elected to office immediately after incorporation shall decide, by lot, among themselves which of their offices expire at the next general city election, and thereafter the terms of office must be 4 years . ~~[unless the terms are extended by an ordinance adopted pursuant to NRS 293C.115.]]~~

Sec. 6. ~~[NRS 293C.145 is hereby amended to read as follows:~~

~~293C.145 1. [Except as otherwise provided in NRS 293C.115, a] *A* general city election must be held in each city of population category three on the [second] *first* Tuesday after the first Monday in [June] *November* of the first [odd-numbered] *even-numbered* year after incorporation, and [on the same day every] *at each successive interval of* 2 years . [thereafter, as determined by ordinance.]~~

~~2. There must be one mayor and three or five council members, as the city council shall provide by ordinance, for each city of population category three. [Unless the terms of office of the mayor and the council members are extended by an ordinance adopted pursuant to NRS 293C.115, the] *The* terms of office of the mayor and the council members are 4 years, which terms must be staggered. The mayor and council members elected to office immediately after incorporation shall decide, by lot, among themselves which two of their offices expire at the next general city election, and thereafter the terms of office must be 4 years . [unless the terms are extended by an ordinance adopted pursuant to NRS 293C.115.] If a city council thereafter increases the number of council members, it shall, by lot, stagger the initial terms of the additional members.~~

~~3. [Except as otherwise provided in NRS 293C.115, a] *A* candidate for any office to be voted for at the general city election must file a declaration of candidacy with the city clerk not [less than 60 days nor more than 70 days before the day of the general city election.] *earlier than the first Monday in March of the year in which the general city election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.* The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the city council by ordinance or resolution.~~

~~4. Candidates for mayor must be voted upon by the electors of the city at large. Candidates for the city council must be voted upon by the electors of their respective wards to represent the wards in which they reside or by the electors of the city at large in accordance with the provisions of chapter 266 of NRS.]~~ (Deleted by amendment.)

Sec. 6.2. NRS 293C.145 is hereby amended to read as follows:

293C.145 1. Except as otherwise provided in NRS 293C.115, a general city election must be held in each city of population category three on the second Tuesday after the first Monday in June of the first odd-numbered year after incorporation, and on the same day every 2 years thereafter, as determined by ordinance.

2. There must be one mayor and three or five council members, as the city council shall provide by ordinance, for each city of population category three. Unless the terms of office of the mayor and the council members are extended by an ordinance adopted pursuant to NRS 293C.115, the terms of office of the mayor and the council members are 4 years, which terms must be staggered. The mayor and council members elected to office immediately after incorporation shall decide, by lot, among themselves which two of their offices

expire at the next general city election, and thereafter the terms of office must be 4 years unless the terms are extended by an ordinance adopted pursuant to NRS 293C.115. If a city council thereafter increases the number of council members, it shall, by lot, stagger the initial terms of the additional members.

3. ~~[Except as otherwise provided in NRS 293C.115, a]~~ *A* candidate for ~~[any]~~ *an* office to be voted for at the general city election must file a declaration of candidacy with the city clerk *:*

(a) If the city has provided by ordinance for a general city election on the same date as the statewide general election pursuant to chapter 293 of NRS and the candidate is filing for:

(1) The office of judge of a municipal court, not earlier than the first Monday in January of the year in which the applicable election is to be held and not later than 5 p.m. on the second Friday after the first Monday in January.

(2) Any other office, not earlier than the first Monday in March of the year in which the applicable election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.

(b) If the city has not provided by ordinance for a general city election on the same date as the statewide general election pursuant to chapter 293 of NRS, not ~~[less]~~ *earlier* than ~~[60 days nor more]~~ *the 70th day before the applicable election is to be held and not later* than ~~[70 days]~~ *5 p.m. on the 60th day* before the ~~[day of the general city election. The]~~ *applicable election is to be held.*

4. At the time that a candidate files a declaration of candidacy, the city clerk shall charge and collect from the candidate *,* and the candidate must pay to the city clerk, ~~[at the time of filing the declaration of candidacy,]~~ a filing fee in an amount fixed by the city council by ordinance or resolution.

~~[4.]~~ *5.* Candidates for mayor must be voted upon by the electors of the city at large. Candidates for the city council must be voted upon by the electors of their respective wards to represent the wards in which they reside or by the electors of the city at large in accordance with the provisions of chapter 266 of NRS.

Sec. 6.4. NRS 293C.145 is hereby amended to read as follows:

293C.145 1. ~~[Except as otherwise provided in NRS 293C.115, a]~~ *A* general city election must be held in each city of population category three on the ~~[second]~~ *first* Tuesday after the first Monday in ~~[June]~~ *November* of the first ~~[odd-numbered]~~ *even-numbered* year after incorporation, and ~~[on the same day every]~~ *at each successive interval of* 2 years *.* ~~[thereafter, as determined by ordinance.]~~

2. There must be one mayor and three or five council members, as the city council shall provide by ordinance, for each city of population category three. ~~[Unless the terms of office of the mayor and the council members are extended by an ordinance adopted pursuant to NRS 293C.115, the]~~ *The* terms of office of the mayor and the council members are 4 years, which terms must be staggered. The mayor and council members elected to office immediately after

incorporation shall decide, by lot, among themselves which two of their offices expire at the next general city election, and thereafter the terms of office must be 4 years . ~~[unless the terms are extended by an ordinance adopted pursuant to NRS 293C.115.]~~ If a city council thereafter increases the number of council members, it shall, by lot, stagger the initial terms of the additional members.

3. A candidate for an office to be voted for at the general city election must file a declaration of candidacy with the city clerk ~~[:]~~ *not earlier than:*

(a) ~~[If the city has provided by ordinance for a general city election on the same date as the statewide general election pursuant to chapter 293 of NRS and the candidate is filing for:~~

~~(1) The]~~ *For the* office of judge of a municipal court, ~~[not earlier than]~~ the first Monday in January of the year in which the applicable election is to be held and not later than 5 p.m. on the second Friday after the first Monday in January.

~~[(2) Any]~~

(b) For any other office, ~~[not earlier than]~~ the first Monday in March of the year in which the applicable election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.

~~[(b) If the city has not provided by ordinance for a general city election on the same date as the statewide general election pursuant to chapter 293 of NRS, not earlier than the 70th day before the applicable election is to be held and not later than 5 p.m. on the 60th day before the applicable election is to be held.]~~

4. At the time that a candidate files a declaration of candidacy, the city clerk shall charge and collect from the candidate, and the candidate must pay to the city clerk, a filing fee in an amount fixed by the city council by ordinance or resolution.

5. Candidates for mayor must be voted upon by the electors of the city at large. Candidates for the city council must be voted upon by the electors of their respective wards to represent the wards in which they reside or by the electors of the city at large in accordance with the provisions of chapter 266 of NRS.

Sec. 7. ~~[NRS 293C.175 is hereby amended to read as follows:~~

~~"293C.175 1. Except as otherwise provided in NRS 293C.115, a primary city election must be held in each city of population category one, and in each city of population category two that has so provided by ordinance, on the first Tuesday after the first Monday in April of every year in which a general city election is to be held, at which time there must be nominated candidates for offices to be voted for at the next general city election.~~

~~2. Except as otherwise provided in NRS 293C.115, a candidate for [any] *an* office to be voted for at the primary city election must file a declaration of candidacy with the city clerk :~~

~~*(a) For a judicial office in a city that has by ordinance provided for a primary and a general city election on the dates set forth in chapter 293 of NRS, not earlier than the first Monday in January of the year in which the*~~

~~*general city election is to be held and not later than 5 p.m. on the second Friday after the first Monday in January; and*~~

~~*(b) For all other offices,* not [less than 60 days or more than 70 days before the date of the primary city election.] *earlier than the 70th day before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.*~~

~~*3.* The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the governing body of the city by ordinance or resolution. The filing fees collected by the city clerk must be deposited to the credit of the general fund of the city.~~

~~[3.] *4.* All candidates, except as otherwise provided in NRS 266.220, must be voted upon by the electors of the city at large.~~

~~[4.] *5.* If, in a primary city election held in a city of population category one or two, one candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the candidate must be declared elected to the office and the candidate's name must not be placed on the ballot for the general city election. If, in the primary city election, no candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general city election.]~~ (Deleted by amendment.)

Sec. 7.2. NRS 293C.175 is hereby amended to read as follows:

293C.175 1. Except as otherwise provided in NRS 293C.115, a primary city election must be held in each city of population category one, and in each city of population category two that has so provided by ordinance, on the first Tuesday after the first Monday in April of every year in which a general city election is to be held, at which time there must be nominated candidates for offices to be voted for at the next general city election.

2. ~~[Except as otherwise provided in NRS 293C.115, a]~~ *A* candidate for ~~[any]~~ *an* office to be voted for at the primary *or general* city election must file a declaration of candidacy with the city clerk *:*

(a) If the city has provided by ordinance for the primary and general city elections on the same dates, respectively, as the statewide primary and general elections pursuant to chapter 293 of NRS and the candidate is filing for:

(1) The office of judge of a municipal court, not earlier than the first Monday in January of the year in which the applicable election is to be held and not later than 5 p.m. on the second Friday after the first Monday in January.

(2) Any other office, not earlier than the first Monday in March of the year in which the applicable election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.

(b) If the city has not provided by ordinance for the primary and general city elections on the same dates, respectively, as the statewide primary and general elections pursuant to chapter 293 of NRS, not ~~[less]~~ *earlier* than

~~[60 days or more]~~ *the 70th day before the applicable election is to be held and not later* than ~~[70 days]~~ *5 p.m. on the 60th day* before the ~~[date of the primary city election. The]~~ *applicable election is to be held.*

3. At the time that a candidate files a declaration of candidacy, the city clerk shall charge and collect from the candidate *,* and the candidate must pay to the city clerk, ~~[at the time of filing the declaration of candidacy,]~~ a filing fee in an amount fixed by the governing body of the city by ordinance or resolution. The filing fees collected by the city clerk must be deposited to the credit of the general fund of the city.

~~[3.]~~ *4.* All candidates, except as otherwise provided in NRS 266.220, must be voted upon by the electors of the city at large.

~~[4.]~~ *5.* If, in a primary city election held in a city of population category one or two, one candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the candidate must be declared elected to the office and the candidate's name must not be placed on the ballot for the general city election. If, in the primary city election, no candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general city election.

Sec. 7.3. ~~[NRS 293C.175 is hereby amended to read as follows:~~

~~293C.175 1. [Except as otherwise provided in NRS 293C.115, a] A primary city election must be held in each city of population category one, and in each city of population category two that has so provided by ordinance, on the [first] *second* Tuesday [after the first Monday] in [April] *June* of [every] *each even-numbered* year , [in which a general city election is to be held,] at which time there must be nominated candidates for offices to be voted for at the next general city election.~~

~~2. [Except as otherwise provided in NRS 293C.115, a] A candidate for an office to be voted for at the primary city election must file a declaration of candidacy with the city clerk [:] *not earlier than:*~~

~~(a) For a judicial office , [in a city that has by ordinance provided for a primary and a general city election on the dates set forth in chapter 293 of NRS, not earlier than] the first Monday in January of the year in which the general city election is to be held and not later than 5 p.m. on the second Friday after the first Monday in January; and~~

~~(b) For all other offices, [not earlier than the 70th day before the primary city election] *the first Monday in March of the year in which the general city election is to be held* and not later than 5 p.m. on the [60th day before the primary city election.] *second Friday after the first Monday in March.*~~

~~3. The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the governing body of the city by ordinance or resolution. The filing fees collected by the city clerk must be deposited to the credit of the general fund of the city.~~

~~4. All candidates, except as otherwise provided in NRS 266.220, must be voted upon by the electors of the city at large.~~

~~5. If, in a primary city election held in a city of population category one or two, one candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the candidate must be declared elected to the office and the candidate's name must not be placed on the ballot for the general city election. If, in the primary city election, no candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general city election.]~~ (Deleted by amendment.)

Sec. 7.4. NRS 293C.175 is hereby amended to read as follows:

293C.175 1. ~~[Except as otherwise provided in NRS 293C.115, a]~~ *A* primary city election must be held in each city of population category one, and in each city of population category two that has so provided by ordinance, on the ~~[first]~~ *second* Tuesday ~~[after the first Monday]~~ in ~~[April]~~ *June* of ~~[every]~~ *each even-numbered* year , ~~[in which a general city election is to be held,]~~ at which time there must be nominated candidates for offices to be voted for at the next general city election.

2. A candidate for an office to be voted for at the primary or general city election must file a declaration of candidacy with the city clerk ~~[:]~~ *not earlier than:*

(a) ~~[If the city has provided by ordinance for the primary and general city elections on the same dates, respectively, as the statewide primary and general elections pursuant to chapter 293 of NRS and the candidate is filing for:~~

~~(1) The]~~ *For the* office of judge of a municipal court, ~~[not earlier than]~~ the first Monday in January of the year in which the applicable election is to be held and not later than 5 p.m. on the second Friday after the first Monday in January.

~~[(2) Any]~~

(b) For any other office, ~~[not earlier than]~~ the first Monday in March of the year in which the applicable election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.

~~[(b) If the city has not provided by ordinance for the primary and general city elections on the same dates, respectively, as the statewide primary and general elections pursuant to chapter 293 of NRS, not earlier than the 70th day before the applicable election is to be held and not later than 5 p.m. on the 60th day before the applicable election is to be held.]~~

3. At the time that a candidate files a declaration of candidacy, the city clerk shall charge and collect from the candidate, and the candidate must pay to the city clerk, a filing fee in an amount fixed by the governing body of the city by ordinance or resolution. The filing fees collected by the city clerk must be deposited to the credit of the general fund of the city.

4. All candidates, except as otherwise provided in NRS 266.220, must be voted upon by the electors of the city at large.

5. If, in a primary city election held in a city of population category one or two, one candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the candidate must be declared elected to the office and the candidate's name must not be placed on the ballot for the general city election. If, in the primary city election, no candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general city election.

Sec. 7.7. NRS 293C.180 is hereby amended to read as follows:

293C.180 1. If at 5 p.m. on the last day for filing a declaration of candidacy, there is only one candidate who has filed for nomination for an office, that candidate must be declared elected and no election may be held for that office.

2. Except as otherwise provided in subsection 1, if not more than twice the number of candidates to be elected have filed for nomination for an office, the names of those candidates must be omitted from all ballots for a primary city election and placed on all ballots for a general city election.

3. If more than twice the number of candidates to be elected have filed for nomination for an office, the names of the candidates must appear on the ballot for a primary city election. Except as otherwise provided in subsection ~~[4]~~ *5* of NRS 293C.175, 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.

Sec. 8. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS ~~[293C.115 and]~~ 293C.190, a ~~*[A]*~~ name may not be printed on a ballot to be used at a primary *or general* city election unless the person named has *, in accordance with NRS 293C.145 or 293C.175, as applicable, timely* filed a declaration of candidacy or an acceptance of candidacy and ~~[has]~~ paid the fee established by the governing body of the city . ~~[not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.]~~

2. A declaration *or acceptance* of candidacy required to be filed ~~[by]~~ *pursuant to* this ~~[section]~~ *chapter* must be in substantially the following form:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

City 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 city, township 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 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; that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is a crime punishable as a gross misdemeanor and also subjects me to a civil action disqualifying me from entering upon the duties of 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

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate 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 the candidate fails to comply with the following provisions of this subsection or, if applicable, the provisions of subsection 4:

(a) The candidate shall not list the candidate's address as a post office box unless a street address has not been assigned to the residence; and

(b) Except as otherwise provided in subsection 4, the candidate shall 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. If the candidate executes an oath or affirmation under penalty of perjury stating that the candidate is unable to present to the filing officer the proof of residency required by subsection 3 because a street address has not been assigned to the candidate's residence or because the rural or remote location of the candidate's residence makes it impracticable to present the proof of residency required by subsection 3, the candidate shall present to the filing officer:

(a) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate; and

(b) Alternative proof of the candidate's residential address that the filing officer determines is sufficient to verify where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050. The Secretary of State may adopt regulations establishing the forms of alternative proof of the candidate's residential address that the filing officer may accept to verify where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050.

5. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to subsection 3 or 4. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number, driver's license or identification card number or account number of the candidate.

6. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. 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 city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

7. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.

8. The receipt of information by the city attorney pursuant to subsection 7 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186 to which the provisions of NRS 293.2045 apply.

9. Any person who knowingly and willfully files a declaration of candidacy or acceptance of candidacy which contains a false statement in violation of this section is guilty of a gross misdemeanor.

Sec. 9. NRS 293C.190 is hereby amended to read as follows:

293C.190 1. ~~[Except as otherwise provided in NRS 293C.115, a vacancy occurring in a nomination for a city office after the close of filing and on or before 5 p.m. of the first Tuesday after the first Monday in March in a year in which a general city election is held must be filled by filing a nominating petition that is signed by at least 1 percent of the persons who are registered to vote and who voted for that office at the last preceding general city election. Except as otherwise provided in NRS 293C.115, the petition must be filed not earlier than the third Tuesday in February and not later than the third Tuesday after the third Monday in March. A candidate nominated pursuant to the provisions of this subsection may be elected only at a general city election, and the candidate's name must not appear on the ballot for a primary city election.~~

~~2. Except as otherwise provided in NRS 293C.115, a]~~ *A* vacancy occurring in a nomination for a city office ~~[after 5 p.m. of the first Tuesday after the first Monday in March and on or]~~ before 5 p.m. of the ~~[second Tuesday after the second Monday in April]~~ *fourth Friday in July of the year in which the general city election is held* must be filled by the person who received the next highest vote for the nomination in the primary city election ~~[.~~

~~3. Except to place a candidate nominated pursuant to subsection 1 on the ballot and except as otherwise provided in NRS 293C.115, no]~~ *if a primary city election was held for that office. If no primary city election was held for that city office or if there was not more than one person who was seeking the nomination in the primary city election, a person may become a candidate for the city office at the general city election if the person files a declaration of candidacy or acceptance of candidacy and pays the appropriate filing fee before 5 p.m. on the fourth Friday in July.*

2. No change may be made on the ballot for the general city election after 5 p.m. ~~[of the second Tuesday after the second Monday in April]~~ *on the fourth Friday in July* of the year in which the general city election is held. If ~~[a]~~ *, after that time and date:*

(a) A nominee dies ~~[after that time and date,]~~ *or is adjudicated insane or mentally incompetent; or*

(b) A vacancy in the nomination is otherwise created,

➥ the nominee's name must remain on the ballot for the general city election and, if elected, a vacancy exists.

~~[4. Except as otherwise provided in NRS 293C.115, all designations provided for in this section must be filed on or before 5 p.m. on the second Tuesday after the second Monday in April of the year in which the general city election is held. The filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on that date.]~~

Sec. 10. NRS 293C.2675 is hereby amended to read as follows:

293C.2675 1. If an Indian reservation or Indian colony is located in whole or in part within a city, the Indian tribe may submit a request to the city clerk for the establishment of a polling place within the boundaries of the Indian reservation or Indian colony for the day of a primary city election or general city election.

2. A request for the establishment of a polling place within the boundaries of an Indian reservation or Indian colony for the day of a primary city election or general city election:

(a) Must be submitted to the city clerk by the Indian tribe on or before:

(1) If the request is for a primary city election , ~~[that is held:~~

~~(I) On the dates set forth for primary elections pursuant to the provisions of chapter 293 of NRS,]~~ the first Friday in January of the year in which the primary city election is to be held.

~~[(II) On the dates set forth for primary city elections pursuant to the provisions of this chapter, the first Friday in December of the year immediately preceding the year in which the primary city election is to be held.]~~

(2) If the request is for a general city election , ~~[that is held:~~

~~(I) On the dates set forth for general elections pursuant to the provisions of chapter 293 of NRS,]~~ the first Friday in July of the year in which the general city election is to be held.

~~[(II) On the dates set forth for general city elections pursuant to the provisions of this chapter, the first Friday in January of the year in which the general city election is to be held.]~~

(b) May include one or more proposed locations within the boundaries of the Indian reservation or Indian colony for the polling place. Any proposed location for a polling place must satisfy the criteria the city clerk uses for the establishment of any other polling place.

3. Except as otherwise provided in this subsection, if the city clerk receives a request that satisfies the requirements set forth in subsection 2, the city clerk must establish at least one polling place within the boundaries of the Indian reservation or Indian colony at a location or locations, as applicable, approved by the Indian tribe for the day of a primary city election or general city election. The city clerk is not required to establish a polling place within the boundaries of the Indian reservation or Indian colony for the day of a primary city election or general city election if the city clerk established a temporary branch polling place for early voting pursuant to NRS 293C.3572 within the boundaries of the Indian reservation or Indian colony for the same election.

Sec. 11. NRS 293C.291 is hereby amended to read as follows:

293C.291 If a candidate whose name appears on the ballot at a primary city election or general city election dies after the applicable date set forth in ~~[:~~

~~1.]~~ NRS 293C.370 ~~[; or~~

~~2. NRS 293.368, if the governing body of the city has adopted an ordinance pursuant to paragraph (a) of subsection 1 of NRS 293C.115,~~ ~~➥~~] but before the time of the closing of the polls on the day of the election, the city clerk shall post a notice of the candidate's death at each polling place where the candidate's name will appear on the ballot for the primary city election or general city election.

Sec. 12. NRS 293C.345 is hereby amended to read as follows:

293C.345 ~~[Except as otherwise provided in NRS 293C.115, the]~~ *The* city clerk shall mail to each registered voter in each mailing precinct and in each absent ballot mailing precinct ~~[, before 5 p.m. on the third Thursday in March and before 5 p.m. on the fourth Tuesday in May of any year in which a general city election is held,]~~ an official mailing ballot to be voted by the voter at the election ~~[.]~~ *before 5 p.m. on the last business day preceding the first day of the period for early voting for any primary city election or general city election, as applicable.*

Sec. 13. NRS 293C.3572 is hereby amended to read as follows:

293C.3572 1. In addition to permanent polling places for early voting, except as otherwise provided in subsection ~~[3,]~~ *4,* the city clerk may establish temporary branch polling places for early voting pursuant to NRS 293C.3561.

2. If an Indian reservation or Indian colony is located in whole or in part within a city, the Indian tribe may submit a request to the city clerk for the establishment of a temporary branch polling place within the boundaries of the Indian reservation or Indian colony.

3. A request for the establishment of a temporary branch polling place within the boundaries of an Indian reservation or Indian colony:

(a) Must be submitted to the city clerk by the Indian tribe on or before:

(1) If the request is for a primary city election , ~~[that is held:~~

~~(I) On the dates set forth for primary elections pursuant to the provisions of chapter 293 of NRS,]~~ the first Friday in January of the year in which the primary city election is to be held.

~~[(II) On the dates set forth for primary city elections pursuant to the provisions of this chapter, the first Friday in December of the year immediately preceding the year in which the primary city election is to be held.]~~

(2) If the request is for a general city election , ~~[that is held:~~

~~(I) On the dates set forth for general elections pursuant to the provisions of chapter 293 of NRS,]~~ the first Friday in July of the year in which the general city election is to be held.

~~[(II) On the dates set forth for general city elections pursuant to the provisions of this chapter, the first Friday in January of the year in which the general city election is to be held.]~~

(b) May include one or more proposed locations within the boundaries of the Indian reservation or Indian colony for the temporary branch polling place and proposed hours thereof. Any proposed location must satisfy the criteria established by the city clerk pursuant to NRS 293C.3561.

4. Except as otherwise provided in this subsection, if the city clerk receives a request that satisfies the requirements set forth in subsection 3, the city clerk must establish at least one temporary branch polling place for early voting within the boundaries of the Indian reservation or Indian colony. The location and hours of operation of such a temporary branch polling place for early voting must be approved by the Indian tribe. The city clerk is not required to establish a temporary branch polling place within the boundaries of the Indian reservation or Indian colony if the city clerk determines that it is not logistically feasible to establish a temporary branch polling place within the boundaries of the Indian reservation or Indian colony.

5. The provisions of subsection 3 of NRS 293C.3568 do not apply to a temporary branch polling place. Voting at a temporary branch polling place may be conducted on any one or more days and during any hours within the period for early voting by personal appearance, as determined by the city clerk.

6. The schedules for conducting voting are not required to be uniform among the temporary branch polling places.

7. The legal rights and remedies which inure to the owner or lessor of private property are not impaired or otherwise affected by the leasing of the property for use as a temporary branch polling place for early voting, except to the extent necessary to conduct early voting at that location.

Sec. 14. NRS 293C.370 is hereby amended to read as follows:

293C.370 Except as otherwise provided in NRS ~~[293C.115:]~~ *293C.190:*

1. Whenever a candidate whose name appears upon the ballot at a primary city election dies after 5 p.m. ~~[of]~~ *on* the ~~[first]~~ *second* Tuesday ~~[after the first Monday]~~ in ~~[March,]~~ *April,* the deceased candidate's 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 city election receives the number of votes required to receive the nomination to the office for which he or she was a candidate, the nomination is filled ~~[as provided in subsection 2 of NRS 293C.190.]~~ *by the person who received the next highest vote for the nomination in the primary election.*

3. Whenever a candidate whose name appears upon the ballot at a general city election dies after 5 p.m. ~~[of]~~ *on* the ~~[second Tuesday after the second Monday in April,]~~ *fourth Friday in July of the year in which the primary city election was held,* the votes cast for the deceased candidate must be counted in determining the results of the *general city* election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general *city* election receives the majority of the votes cast for the office, the deceased candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she was elected. The vacancy created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 15. NRS 266.405 is hereby amended to read as follows:

266.405 1. In addition to the mayor and city council, there must be in each city of population category one or two a city clerk, a city treasurer, or if those offices are combined pursuant to subsection 4, a city clerk and treasurer, a municipal judge and a city attorney. The offices of city clerk, city treasurer, municipal judge and city attorney may be either elective or appointive offices, as provided by city ordinance. Except as otherwise provided in this subsection , ~~[and unless the terms of those elected officers are extended by an ordinance adopted pursuant to NRS 293C.115,]~~ the elected officers shall hold their respective offices for 4 years and until their successors are elected and qualified. The cities of population category three may by ordinance provide that the mayor and city council members must be elected and shall hold office for 2 years . ~~[unless the terms of office of the mayor and city council members are extended by an ordinance adopted pursuant to NRS 293C.115.]~~

2. In each city of population category one or two, in which the officers are appointed pursuant to ordinance, the mayor, with the advice and consent of the city council, shall appoint all of the officers.

3. In cities of population category three, the mayor, with the advice and consent of the city council, may appoint any officers as may be deemed expedient.

4. The city council may provide by ordinance for the office of city clerk and the office of city treasurer to be combined into the office of city clerk and treasurer.

Sec. 16. NRS 267.110 is hereby amended to read as follows:

267.110 1. Any city having adopted a charter pursuant to the provisions of NRS 267.010 to 267.140, inclusive, has pursuant to the charter:

(a) All of the powers enumerated in the general laws of the State for the incorporation of cities.

(b) Such other powers necessary and not in conflict with the Constitution and laws of the State of Nevada to carry out the commission form of government.

2. The charter, when submitted, must:

(a) Fix the number of commissioners, their terms of office and their duties and compensation.

(b) Provide for all necessary appointive and elective officers for the form of government therein provided, and fix their salaries and emoluments, duties and powers.

(c) Fix, in accordance with the provisions of NRS 293C.140 and 293C.175 or with the provisions of NRS 293C.145, ~~[or with the provisions of paragraph (a) of subsection 1 of NRS 293C.115,]~~ the time for the first and subsequent elections for all elective officers. After the first election and the qualification of the officers who were elected, the old officers and all boards or offices and their emoluments must be abolished.

Sec. 17. Section 4 of the Charter of Boulder City is hereby amended to read as follows:

Section 4. Number; selection *;* ~~[and term;]~~ eligibility for office; recall.

1. Except as otherwise provided in section 96, the City Council shall have four Council Members and a Mayor elected from the City at large in the manner provided in Article IX . ~~[, for terms of four years and until their successors have been elected and have taken office as provided in section 16.]~~ No Council Member shall represent any particular constituency or district of the City, and each Council Member shall represent the entire City. (Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996)

2. (Repealed by Amd. 1; 6-4-1991)

3. No person may be elected to the office of Mayor who has served in that office for 12 years or more, unless the permissible number of terms or duration of service is otherwise specified in the Nevada Constitution. (Add. 26; Amd. 4; 11-2-2010)

4. No person may be elected to the office of Council Member who has served in that office for 12 years or more, unless the permissible number of terms or duration of service is otherwise specified in the Nevada Constitution. (Add. 26; Amd. 4; 11-2-2010)

5. The Council Members and the Mayor are subject to recall as provided in section 111.5.

Sec. 18. Section 12 of the Charter of Boulder City is hereby amended to read as follows:

Section 12. Vacancies in Council.

Except as otherwise provided in NRS 268.325, a vacancy on the Council must be filled by appointment by a majority of the remaining members of the Council within 30 days or after three regular or special meetings, whichever is the shorter period of time. In the event of a tie vote among the remaining members of the Council, selection must be made by lot. No such appointment extends beyond the next *general* municipal election. (Add. 19; Amd. 1; 7-16-1997)

Sec. 19. Section 96 of the Charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of municipal elections.

1. All municipal elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. ~~[All]~~ *On the first Tuesday after the first Monday in November 2022, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members*

who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. On the first Tuesday after the first Monday in November 2024, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, two Council Members who shall hold office for a period of 4 years and until their successors have been elected and qualified.

4. All full terms of office in the City Council are 4 years, and Council Members must be elected at large without regard to precinct residency. ~~[Except as otherwise provided in subsection 8, two full-term Council Members and the Mayor are to be elected in each year immediately preceding a federal presidential election, and two full-term Council Members are to be elected in each year immediately following a federal presidential election.]~~ In each election, the candidates receiving the greatest number of votes must be declared elected to the ~~[vacant]~~ *available* full-term positions. (Add. 17; Amd. 1; 11-5-1996)

~~[3.]~~ *5.* In the event one or more 2-year term positions on the Council will be available at the time of a *general* municipal election as provided in section 12, candidates must file specifically for such position(s). Candidates receiving the greatest respective number of votes must be declared elected to the respective available 2-year positions. (Add. 15; Amd. 2; 6-4-1991)

~~[4.]~~ *6.* Except as otherwise provided in subsection ~~[8,]~~ *7,* a primary municipal election must be held ~~[on]~~ *:*

(a) On the first Tuesday after the first Monday in April ~~[of each odd-numbered year and a general municipal election must be held on the second Tuesday after the first Monday in June of each odd-numbered year.~~

~~5.]~~ *2019; and*

(b) Beginning in 2022, on the second Tuesday in June of each even-numbered year.

7. A primary municipal election must not be held if no more than double the number of Council Members to be elected file as candidates. A primary municipal election must not be held for the office of Mayor if no more than two candidates file for that position. The primary municipal election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council Members to be elected. (Add. 17; Amd. 1; 11-5-1996)

~~[6.]~~ *8.* If, in the primary municipal election, a candidate receives votes equal to a majority of voters casting ballots in that election, he or she shall be considered elected to one of the vacancies and his or her name shall not be placed on the ballot for the general municipal election. (Add. 10; Amd. 7; 6-2-1981)

~~[7.]~~ *9.* In each primary and general municipal election, voters are entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the municipal elections. (Add. 11; Amd. 5; 6-7-1983)

~~[8. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.~~

~~9. If the City Council adopts an ordinance pursuant to subsection 8, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.~~

~~10. If the City Council adopts an ordinance pursuant to subsection 8, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.~~

~~11.]~~ *10.* The conduct of all municipal elections must be under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

Sec. 20. The Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 55, is hereby amended by adding thereto a new section to be designated as section 5.120, immediately following section 5.110, to read as follows:

Sec. 5.120 Continuation of certain officers.

The Mayor and two Council Members elected at the general municipal election held on the second Tuesday after the first Monday in June 2017 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 21. Section 1.060 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as last amended by chapter 515, Statutes of Nevada 1997, at page 2449, is hereby amended to read as follows:

Sec. 1.060 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the City Council or in the office of Mayor must be filled by a majority vote of the members of the City Council within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may

participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elected official.

2. The appointee shall serve until the next *general* municipal election and his or her successor is elected and qualified. At the time of the election, if a balance remains in the term of office to which the appointee was appointed, the successor may be elected only for the balance of that term.

Sec. 22. Section 2.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as last amended by chapter 218, Statutes of Nevada 2011, at page 954, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of five Council Members, including the Mayor.

2. The Mayor and each Council Member must be:

(a) Bona fide residents of the City for at least 2 years immediately prior to their election.

(b) Qualified electors within the City.

3. All Council Members, including the Mayor, must be voted upon by the registered voters of the City at large and shall serve for terms of 4 years except as otherwise provided in ~~[section]~~ *sections* 5.010 ~~[.]~~ *and 5.120.*

4. The Mayor and Council Members shall receive a salary in an amount fixed by the City Council. Such salary must not be increased or diminished during the term of the recipient.

Sec. 23. Section 5.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as last amended by chapter 336, Statutes of Nevada 2015, at page 1889, is hereby amended to read as follows:

Sec. 5.010 ~~[Municipal]~~ *General municipal* elections.

1. ~~[Except as otherwise provided in subsection 2:~~

~~(a)]~~ On the second Tuesday after the first Monday in June 2019, ~~[and at each successive interval of 4 years thereafter,]~~ there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, two Council Members who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~[.]~~ *pursuant to subsection 3.*

~~[(b)]~~ *2.* On the ~~[second]~~ *first* Tuesday after the first Monday in ~~[June 2017,]~~ *November 2022,* and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~[2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.~~

~~3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.~~

~~4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.]~~

3. On the first Tuesday after the first Monday in November 2024, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, two Council Members who shall hold office for a period of 4 years and until their successors have been elected and qualified.

Sec. 24. Section 5.100 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as amended by chapter 185, Statutes of Nevada 2007, at page 627, is hereby amended to read as follows:

Sec. 5.100 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election shall be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person shall be permitted to handle, inspect or in any manner interfere with such returns until canvassed by the City Council.

2. The City Council shall meet within 6 working days after any election and canvass the returns and declare the result. The election returns shall then be sealed and kept by the City Clerk for 6 months, and no person shall have access thereto except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his or her hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the first Monday in *:*

(a) July next following their election ~~[.]~~ *for those officers elected in June 2019.*

(b) January next following their election for those officers elected in November 2022 and November of every even-numbered year thereafter.

4. If any election should result in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

Sec. 25. The Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 402, is hereby amended by adding thereto a new section to be designated as section 5.120, immediately following section 5.110, to read as follows:

Sec. 5.120 Continuation of certain officers.

1. The Municipal Judge for Department 2 elected at the general municipal election held in June 2015 shall continue in office until the election, and qualification thereafter, of his or her successor pursuant to subsection 3 of section 5.020.

2. The Municipal Judge for Department 3 elected at the general municipal election held in June 2017 shall continue in office until the election, and qualification thereafter, of his or her successor pursuant to subsection 5 of section 5.020.

3. The Mayor and one Council Member elected at the general municipal election held in June 2017 shall continue in office until the election, and qualification thereafter, of his or her successor pursuant to subsection 2 of section 5.020.

Sec. 26. Section 2.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 218, Statutes of Nevada 2011, at page 955, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members and the Mayor.

2. The Mayor must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the City.

3. Each Council Member must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the ward which he or she represents.

(c) A resident of the ward which he or she represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, except that changes in ward boundaries pursuant to the provisions of section 1.040 do not affect the right of any elected Council Member to continue in office for the term for which he or she was elected.

4. All Council Members, including the Mayor, must be voted upon by the registered voters of the City at large and, except as otherwise provided in ~~[section]~~ *sections* 5.020 ~~[,]~~ *and 5.120,* shall serve for terms of 4 years.

5. The Mayor and Council Members are entitled to receive a salary in an amount fixed by the City Council. The City Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Council Members during the term for which they have been elected or appointed.

Sec. 27. Section 3.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 412, is hereby amended to read as follows:

Sec. 3.010 Mayor: Duties; Mayor pro tempore.

1. The Mayor shall:

(a) Serve as a member of the City Council and preside over its meetings.

(b) Have no administrative duties.

(c) Be recognized as the head of the City government for all ceremonial purposes.

(d) Perform such emergency duties as may be necessary for the general health, welfare and safety of the City.

(e) Perform such other duties, except administrative duties, as may be prescribed by ordinance or by the provisions of Nevada Revised Statutes which apply to a mayor of a city organized under the provisions of a special charter.

2. The City Council shall elect one of its members to be Mayor pro tempore. Such person shall:

(a) Hold such office and title, without additional compensation, during the term for which he or she was elected.

(b) Perform the duties of Mayor during the absence or disability of the Mayor.

(c) Act as Mayor until the ~~[next municipal election if the office of Mayor becomes vacant.]~~ *vacancy is filled pursuant to section 1.070.*

Sec. 28. Section 4.015 of the Charter of the City of Henderson, being chapter 231, Statutes of Nevada 1991, as last amended by chapter 218, Statutes of Nevada 2011, at page 955, is hereby amended to read as follows:

Sec. 4.015 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by, the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may from time to time establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each.

3. At the first primary or general municipal election which follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal

Judge must be elected for a term of not more than 5 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. Except as otherwise provided in subsection 3, each Municipal Judge must be voted upon by the registered voters of the City at large and, except as otherwise provided in ~~[section]~~ *subsection 3 and sections* 5.020 ~~[,]~~ *and 5.120,* shall serve for a term of 6 years.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic number, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

6. The Senior Municipal Judge is selected by a majority of the sitting judges for a term of 2 years. If no Municipal Judge receives a majority of the votes, the Senior Municipal Judge is the Municipal Judge who has continuously served as a Municipal Judge for the longest period.

Sec. 29. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 266, Statutes of Nevada 2013, at page 1214, is hereby amended to read as follows:

Sec. 5.010 Primary municipal election.

1. ~~[Except as otherwise provided in section 5.020, a]~~ *A* primary municipal election must be held ~~[on]~~ *:*

(a) On the *first* Tuesday after the first Monday in April ~~[of each odd-numbered year,]~~ *2019; and*

(b) Beginning in 2022, on the second Tuesday in June of each even-numbered year,

➥ at which time there must be nominated candidates for offices to be voted for at the next general municipal election.

2. A candidate for any office to be voted for at any primary municipal election must file a declaration of candidacy as provided by the election laws of this State.

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary municipal election no candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general municipal election. If in the primary municipal election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, he or she must be declared elected and no general municipal election need be held for that office. Such candidate shall enter upon his or her respective duties at *:*

(a) If the primary municipal election was held in 2019, the second regular meeting of the City Council held in June ~~[of the year of the general municipal election.]~~ *2019.*

(b) If the primary municipal election was held on the second Tuesday of June of an even-numbered year, the first regular meeting of the City Council held in January of the year following the primary municipal election.

Sec. 30. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 336, Statutes of Nevada 2015, at page 1890, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ~~[Except as otherwise provided in subsection 2:~~

~~(a) A general municipal election must be held in the City on the second Tuesday after the first Monday in June of each odd-numbered year, at which time the registered voters of the City shall elect city officers to fill the available elective positions.~~

~~(b) All candidates for the office of Mayor, Council Member and Municipal Judge must be voted upon by the registered voters of the City at large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015, the term of office for a Municipal Judge is 6 years.~~

~~(c)]~~ On the second Tuesday after the first Monday in June 2019, ~~[and every 6 years thereafter,]~~ there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose ~~[,~~ *a*~~]~~ *:*

(a) Three Council Members who shall hold office until their successors have been elected and qualified pursuant to subsection 4; and

(b) A Municipal Judge for Department 1 who ~~[will]~~ *shall* hold office until his or her successor has been elected and qualified ~~[.~~

~~(d)]~~ *pursuant to subsection 6.*

2. On the first Tuesday after the first Monday in November 2022, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and one Council Member who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. On the ~~[second]~~ *first* Tuesday after the first Monday in ~~[June 2021,]~~ *November 2022,* and ~~[every]~~ *at each successive interval of* 6 years , ~~[thereafter,]~~ there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who ~~[will]~~ *shall* hold office *for a period of 6 years and* until his or her successor has been elected and qualified.

[(e)] *4.* On the [second] *first* Tuesday after the first Monday in [June 2017,] *November 2024, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, three Council Members who shall hold office for a period of 4 years and until their successors have been elected and qualified.*

5. On the first Tuesday after the first Monday in November 2024, and [every] *at each successive interval of* 6 years , [thereafter,] there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who [will] *shall* hold office *for a period of 6 years and* until his or her successor has been elected and qualified.

[2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.]

6. On the first Tuesday after the first Monday in November 2026, and at each successive interval of 6 years, there must be elected by the qualified voters of the City, at a general municipal election held for that purpose, a Municipal Judge for Department 1 who shall hold office for a period of 6 years and until his or her successor has been elected and qualified.

Sec. 31. Section 5.100 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 266, Statutes of Nevada 2013, at page 1216, is hereby amended to read as follows:

Sec. 5.100 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any special, primary or general municipal election must be filed with the City Clerk, who shall immediately place the returns in a safe or vault, and no person may handle, inspect or in any manner interfere with the returns until canvassed by the City Council.

2. The City Council shall meet at any time within 10 days after any election and canvass the returns and declare the result. The election returns must then be sealed and kept by the City Clerk for 6 months. No

person may have access to the returns except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his or her hand and official seal, shall issue to each person elected a certificate of election. Except as otherwise provided in section 1.070, ~~[the officers]~~ *an officer* so elected shall qualify and enter upon the discharge of ~~[their]~~ *his or her* respective duties at *:*

(a) If the officer is elected pursuant to subsection 1 of section 5.020, the second regular meeting of the City Council held in June of the year of the general municipal election.

(b) If the officer is elected pursuant to subsection 2, 3, 4, 5 or 6 of section 5.020, the first regular meeting of the City Council held in January of the year following the general municipal election.

4. If any election results in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The City Clerk shall then issue to the winner a certificate of election.

Sec. 32. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 5.140, immediately following section 5.130, to read as follows:

Sec. 5.140 Continuation of certain officers.

1. The Municipal Judges for Departments 1, 4 and 6 elected at the general municipal election held in June 2015 shall continue in office until the general municipal election, and qualification thereafter, of their successors pursuant to subsection 3 of section 5.020.

2. The Municipal Judges for Departments 2, 3 and 5 elected at the general municipal election held in June 2017 shall continue in office until the general municipal election, and qualification thereafter, of their successors pursuant to subsection 5 of section 5.020.

3. The Council Members from even-numbered wards elected at the general municipal election held in June 2017 shall continue in office until the general municipal election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.020.

Sec. 33. Section 1.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 218, Statutes of Nevada 2011, at page 958, is hereby amended to read as follows:

Sec. 1.140 Elective offices.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) One Council Member from each ward.

(c) Municipal Judges.

2. Except as otherwise provided in ~~[section]~~ *sections* 5.020 ~~[,]~~ *and 5.140,* the terms of office of the Mayor and Council Members are 4 years.

3. Except as otherwise provided in subsection 3 of section 4.010 and ~~[section]~~ *sections* 5.020 ~~[,]~~ *and 5.140*, the term of office of a Municipal Judge is 6 years.

Sec. 34. Section 1.160 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 336, Statutes of Nevada 2015, at page 1891, is hereby amended to read as follows:

Sec. 1.160 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the office of Mayor, Council Member or Municipal Judge must be filled by the majority vote of the entire City Council within 30 days after the occurrence of that vacancy. A person may be selected to fill a prospective vacancy before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official, including, without limitation, any applicable residency requirement.

2. Except as otherwise provided in section 5.010, no appointment extends beyond the first regular meeting of the City Council that follows the next general municipal election, at that election the office must be filled for the remainder of the unexpired term . ~~[, or beyond the first regular meeting of the City Council after the second Tuesday after the first Monday in the next succeeding June in an odd-numbered year, if no general municipal election is held in that year.]~~

Sec. 35. Section 2.030 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1394, is hereby amended to read as follows:

Sec. 2.030 Mayor: Duties; Mayor pro tempore; duties.

1. The Mayor shall preside over and conduct the meetings of the City Council.

2. The City Council shall elect one of its members to be Mayor pro tempore. That person:

(a) Shall hold that office and title without additional compensation during the term for which he or she was elected as Mayor pro tempore.

(b) Possesses the powers and shall perform the duties of Mayor during the absence or disability of the Mayor.

(c) Shall act as Mayor until the ~~[next municipal election, if the office of Mayor becomes vacant.]~~ *vacancy is filled pursuant to section 1.160.*

Sec. 36. Section 4.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 218, Statutes of Nevada 2011, at page 958, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: Qualifications of Municipal Judges; salary; Master Judge; departments; Alternate Judges.

1. Each Municipal Judge shall devote his or her full time to the duties of his or her office and must be:

(a) A duly licensed member, in good standing, of the State Bar of Nevada, but this qualification does not apply to any Municipal Judge who is an incumbent when this Charter becomes effective as long as he or she continues to serve as such in uninterrupted terms.

(b) A qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for the department for which he or she is a candidate.

(c) Voted upon by the registered voters of the City at large.

2. The salary of the Municipal Judges must be fixed by ordinance and be uniform for all departments of the Municipal Court. The salary may be increased during the terms for which the Judges are elected or appointed.

3. The Municipal Judges of the six departments shall elect a Master Judge from among their number. The Master Judge shall hold office for a term of 2 years commencing on *:*

(a) If the general municipal election is held in an odd-numbered year, July 1 of each year of a general municipal election.

(b) If the general municipal election is held in an even-numbered year, January 1 of the year following the general municipal election.

4. If a vacancy occurs in the position of Master Judge, the Municipal Judges shall elect a replacement for the remainder of the unexpired term. If two or more Municipal Judges receive an equal number of votes for the position of Master Judge, the candidates who have received the tie votes shall resolve the tie vote by the drawing of lots. The Master Judge:

(a) Shall establish and enforce administrative regulations for governing the affairs of the Municipal Court.

(b) Is responsible for setting trial dates and other matters which pertain to the Court calendar.

(c) Shall perform such other Court administrative duties as may be required by the City Council.

~~[4.]~~ *5.* Alternate Judges in sufficient numbers may be appointed annually by the Mayor, each of whom:

(a) Must be a duly licensed member, in good standing, of the State Bar of Nevada and have such other qualifications as are prescribed by ordinance.

(b) Has all of the powers and jurisdiction of a Municipal Judge while acting as such.

(c) Is entitled to such compensation as may be fixed by the City Council.

~~[5.]~~ *6.* Any Municipal Judge, other than an Alternate Judge, automatically forfeits his or her office if he or she ceases to be a resident of the City.

Sec. 37. Section 5.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 218, Statutes of Nevada 2011, at page 959, is hereby amended to read as follows:

Sec. 5.010 Primary municipal elections. ~~[Except as otherwise provided in section 5.020:~~

~~1. On the Tuesday after the first Monday in April 2001, and at each successive interval of 4 years, a]~~

1. A primary municipal election must be held in the City ~~[at which time candidates for half of the offices of Council Member and for Municipal Judge, Department 2, must be nominated.~~

~~2.]~~ *:*

(a) On the *first* Tuesday after the first Monday in April ~~[2003, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for Mayor, for the other half of the offices of Council Member and for Municipal Judge, Department 1, must be nominated.~~

~~3.]~~ *2019; and*

(b) Beginning in 2022, on the second Tuesday in June of each even-numbered year.

2. In the primary municipal elections:

(a) The candidates for Council Member who are to be nominated ~~[as provided in subsections 1 and 2]~~ must be nominated and voted for separately according to the respective wards. ~~[The candidates from each even-numbered ward must be nominated as provided in subsection 1, and the candidates from each odd-numbered ward must be nominated as provided in subsection 2.~~

~~4.]~~ *(b)* If the City Council has established an additional department or departments of the Municipal Court pursuant to section 4.010 and, as a result, more than one office of Municipal Judge is to be filled at any election, the candidates for those offices must be nominated and voted upon separately according to the respective departments.

~~[5.]~~ *3.* Each candidate for ~~[the municipal offices which are provided for in subsections 1, 2 and 4]~~ *municipal office* must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be paid into the City Treasury.

~~[6.]~~ *4.* If, in the primary municipal election, regardless of the number of candidates for an office, one candidate receives a majority of votes which are cast in that election for the office for which he or she is a candidate, he or she must be declared elected for the term which commences on the day of the first regular meeting of the City Council next succeeding the meeting at which the canvass of the returns is made, and no general municipal election need be held for that office. If, in the primary municipal election, no candidate receives a majority of votes which are cast in that election for the office for which he or she is a candidate, the names of the two candidates who receive the highest

number of votes must be placed on the ballot for the general municipal election.

Sec. 38. Section 5.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 336, Statutes of Nevada 2015, at page 1892, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ~~[Except as otherwise provided in subsection 2,]~~ *On the second Tuesday after the first Monday in June 2019, there must be elected, at* a general municipal election ~~[must be held in the City on the second Tuesday after the first Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time there must be elected those officers whose offices are required to be filled by election in that year.~~

~~2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.~~

~~3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.~~

~~4. If the City Council adopts an ordinance pursuant to subsection 2, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.~~

~~5.]~~ *held for that purpose, the Mayor and Council Members from odd-numbered wards who shall hold office until their successors have been elected and qualified pursuant to subsection 4.*

2. On the first Tuesday after the first Monday in November 2022, and at each successive interval of 4 years, there must be elected, at a general municipal election held for that purpose, the Council Members from even-numbered wards who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. On the first Tuesday after the first Monday in November 2022, and at each successive interval of 6 years, there must be elected, at a general municipal election held for that purpose, Municipal Judges for Departments 1, 4 and 6 who shall hold office for a period of 6 years and until their successors have been elected and qualified.

4. On the first Tuesday after the first Monday in November 2024, and at each successive interval of 4 years, there must be elected, at a general municipal election held for that purpose, the Mayor and Council Members from odd-numbered wards who shall hold office for

a period of 4 years and until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2024, and at each successive interval of 6 years, there must be elected, at a general municipal election held for that purpose, Municipal Judges for Departments 2, 3 and 5 who shall hold office for a period of 6 years and until their successors have been elected and qualified.

6. All candidates for elective office, except the office of Council Member, must be voted upon by the registered voters of the City at large.

Sec. 39. The Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1210, is hereby amended by adding thereto a new section to be designated as section 5.100, immediately following section 5.090, to read as follows:

Sec. 5.100 Continuation of certain officers.

1. The Municipal Judge elected at the general municipal election held in June 2015 shall continue in office until the election, and qualification thereafter, of his or her successor pursuant to subsection 3 of section 5.010.

2. The Mayor and two Council Members elected at the general municipal election held in June 2017 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 40. Section 1.060 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 515, Statutes of Nevada 1997, at page 2451, is hereby amended to read as follows:

Sec. 1.060 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the City Council or in the office of Mayor or Municipal Judge must be filled by a majority vote of the members of the City Council within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the City Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official.

2. No such appointment extends beyond the first day of ~~[July after]~~ *the month following* the next *general* municipal election, at which election the office must be filled for the remaining unexpired term.

Sec. 41. Section 2.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 218, Statutes of Nevada 2011, at page 961, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members and a Mayor.

2. The Mayor must be:

(a) A bona fide resident of the City for at least 6 months immediately preceding his or her election.

(b) A qualified elector within the City.

3. Each Council Member:

(a) Must be a qualified elector who has resided in the ward which he or she represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for his or her office.

(b) Must continue to live in the ward he or she represents, except that changes in ward boundaries made pursuant to section 1.045 will not affect the right of any elected Council Member to continue in office for the term for which he or she was elected.

4. At the time of filing, if so required by an ordinance duly enacted, candidates for the office of Mayor and Council Member shall produce evidence in satisfaction of any or all of the qualifications provided in subsection 2 or 3, whichever is applicable.

5. Each Council Member must be voted upon only by the registered voters of the ward that he or she seeks to represent, and except as otherwise provided in sections 5.010 and ~~[5.025,]~~ *5.100,* his or her term of office is 4 years.

6. The Mayor must be voted upon by the registered voters of the City at large, and except as otherwise provided in sections 5.010 and ~~[5.025,]~~ *5.100,* his or her term of office is 4 years.

7. The Mayor and Council Members are entitled to receive a salary in an amount fixed by the City Council.

Sec. 42. Section 4.005 of the Charter of the City of North Las Vegas, being chapter 215, Statutes of Nevada 1997, as last amended by chapter 218, Statutes of Nevada 2011, at page 962, is hereby amended to read as follows:

Sec. 4.005 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may, from time to time, by ordinance, establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each additional department.

3. At the first primary or general municipal election that follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for an initial term of not more than 6 years, as

determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. Except as otherwise provided by the ordinance establishing an additional department, each Municipal Judge must be voted upon by the registered voters of the City at large and, except as otherwise provided in sections 5.010 and ~~[5.025,]~~ *5.100,* holds office for a period of 6 years and until his or her successor has been elected and qualified.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic numeral, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

Sec. 43. Section 5.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 336, Statutes of Nevada 2015, at page 1892, is hereby amended to read as follows:

Sec. 5.010 General municipal elections.

1. ~~[Except as otherwise provided in section 5.025:~~

~~(a)]~~ On the second Tuesday after the first Monday in June ~~[2017, and at each successive interval of 4 years thereafter,]~~ *2019,* there must be elected, at a general municipal election to be held for that purpose, ~~[a Mayor and]~~ two Council Members, who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~[.~~

~~(b)]~~ *pursuant to subsection 4.*

2. On the ~~[second]~~ *first* Tuesday after the first Monday in ~~[June 2019,]~~ *November 2022,* and at each successive interval of 4 years thereafter, there must be elected, at a general municipal election to be held for that purpose, *a Mayor and* two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~[2.]~~ *3. On the first Tuesday after the first Monday in November 2022, and at each successive interval of 6 years, there must be elected, at a general municipal election to be held for that purpose, a Municipal Judge who shall hold office for a period of 6 years and until his or her successor has been elected and qualified.*

4. On the first Tuesday after the first Monday in November 2024, and at each successive interval of 4 years thereafter, there must be elected, at a general municipal election to be held for that purpose, two Council Members who shall hold office for a period of 4 years and until their successors have been elected and qualified.

5. In a general municipal election:

(a) A candidate for the office of City Council Member must be elected only by the registered voters of the ward that he or she seeks to represent.

(b) Candidates for all other elective offices must be elected by the registered voters of the City at large.

Sec. 44. Section 5.020 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 218, Statutes of Nevada 2011, at page 963, is hereby amended to read as follows:

Sec. 5.020 Primary municipal elections; declaration of candidacy.

1. The City Council shall provide by ordinance for candidates for elective office to declare their candidacy and file the necessary documents. The seats for City Council Members must be designated by the numbers one through four, which numbers must correspond with the wards the candidates for City Council Members will seek to represent. A candidate for the office of City Council Member shall include in his or her declaration of candidacy the number of the ward which he or she seeks to represent. Each candidate for City Council must be designated as a candidate for the City Council seat that corresponds with the ward that he or she seeks to represent.

2. ~~[Except as otherwise provided in section 5.025, a]~~ *A* primary municipal election must be held ~~[on]~~ *:*

(a) On the Tuesday following the first Monday in April ~~[preceding the general municipal election, at which time there must be nominated candidates for offices to be voted for at the next general municipal election.]~~ *2019; and*

(b) Beginning in 2022, on the second Tuesday in June of each even-numbered year.

3. In the primary municipal election:

(a) A candidate for the office of City Council Member must be voted upon only by the registered voters of the ward that he or she seeks to represent.

(b) Candidates for all other elective offices must be voted upon by the registered voters of the City at large.

~~[3.]~~ *4.* Except as otherwise provided in subsection ~~[4,]~~ *5,* after the primary municipal election, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general municipal election.

~~[4.]~~ *5.* If, regardless of the number of candidates for an office, one candidate receives a majority of the total votes cast for that office in the primary municipal election, he or she must be declared elected to that office and no general municipal election need be held for that office.

Sec. 45. Section 5.080 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 465, Statutes of Nevada 1985, at page 1440, is hereby amended to read as follows:

Sec. 5.080 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any special, primary or general municipal election shall be filed with the City Clerk, who shall immediately place the returns in a safe or vault, and no person may be

permitted to handle, inspect or in any manner interfere with the returns until canvassed by the City Council.

2. The City Council shall meet at any time within 16 days after any election and shall canvass the returns and declare the result. The election returns must then be sealed and kept by the City Clerk for 6 months, and no person may have access thereto except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his or her hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the 1st day of ~~[July]~~ *the month* next following their election.

4. If any election should result in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

Sec. 46. The Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 901, is hereby amended by adding thereto a new section to be designated as section 5.110, immediately following section 5.100, to read as follows:

Sec. 5.110 Continuation of certain officers.

The two Council Members elected at the general municipal election held in June 2017 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 47. Section 1.060 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as amended by chapter 515, Statutes of Nevada 1997, at page 2453, is hereby amended to read as follows:

Sec. 1.060 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the City Council or in the office of Mayor must be filled by a majority vote of the members of the City Council, or the remaining members, in the case of a vacancy in the City Council, within 30 days after the occurrence of the vacancy. The appointee must have the same qualifications as are required of the elective official.

2. No such appointment extends beyond the first Monday ~~[in July after]~~ *of the month following* the next municipal election, at which election the office must be filled.

Sec. 48. Section 2.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as last amended by chapter 218, Statutes of Nevada 2011, at page 963, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members.

2. The Council Members must be:

(a) Bona fide residents of the City for at least 6 months immediately preceding their election.

(b) Qualified electors in the City.

3. All Council Members must be voted upon by the registered voters of the City at large and, except as otherwise provided in ~~[section]~~ *sections* 5.010 ~~[,]~~ *and 5.110,* shall serve for terms of 4 years.

4. The Council Members shall receive a salary in an amount fixed by the City Council.

Sec. 49. Section 5.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as last amended by chapter 336, Statutes of Nevada 2015, at page 1893, is hereby amended to read as follows:

Sec. 5.010 Municipal elections.

1. ~~[Except as otherwise provided in subsection 2:~~

~~(a)]~~ On the second Tuesday after the first Monday in June 2019, ~~[and at each successive interval of 4 years,]~~ there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members, who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~[.~~

~~(b)]~~ *pursuant to subsection 3.*

2. On the ~~[second]~~ *first* Tuesday after the first Monday in ~~[June 2017,]~~ *November 2022,* and at each successive interval of 4 years , ~~[thereafter,]~~ there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~[2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.~~

~~3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.~~

~~4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.]~~

3. On the first Tuesday after the first Monday in November 2024, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members who shall hold office for a period of 4 years and until their successors have been elected and qualified.

Sec. 50. Section 5.090 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 913, is hereby amended to read as follows:

Sec. 5.090 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election shall be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person shall be permitted to handle, inspect or in any manner interfere with such returns until canvassed by the City Council.

2. The City Council shall meet within 10 days after any election and canvass the returns and declare the results. The election returns shall then be sealed and kept by the City Clerk for 6 months, and no person shall have access thereto except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his or her hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the 1st Monday ~~[in July next]~~ *of the month* following their election.

4. If any election should result in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

Sec. 51. Notwithstanding any other provision of law to the contrary, if a city incorporated pursuant to general law ~~[holds]~~ held a general city election in:

1. June ~~[2019,]~~ 2017, the elective city officers ~~[who are]~~ elected at such general city election shall continue in office until the election, and qualification thereafter, of their successors in the general city election to be held on the first Tuesday after the first Monday in November 2022.

2. June ~~[2021,]~~ 2019, the elective city officers ~~[who are]~~ elected at such general city election shall continue in office until the election, and qualification thereafter, of their successors in the general city election to be held on the first Tuesday after the first Monday in November 2024.

Sec. 52. Except as otherwise provided in section 52.5 of this act, notwithstanding any other provision of law to the contrary, if the term of any elective city officer whose term of office expires in 2021, 2023 or 2025 is not otherwise extended or shortened pursuant to sections 1 to 51, inclusive, of this act, the person or entity designated by law to fill vacancies that occur on the city council of the city shall appoint the incumbent elective city officer to serve as city council member, mayor, municipal judge or other elective city officer, as applicable, in that office until his or her successor is elected and qualified at the general city election in 2022, 2024 or 2026, as applicable, if that person is willing to serve in that capacity. If the person is not willing to serve in that capacity, the position must be filled in the same manner as if a vacancy occurred in the position.

Sec. 52.5. 1. Notwithstanding any other provision of this act, Boulder City shall transition to the statewide election cycle pursuant to Ordinance No. 1613, effective on November 1, 2018, and any amendments consistent thereto, passed by the City Council of Boulder City.

2. To carry out and accomplish this purpose, Ordinance No. 1613, and any amendments consistent thereto, are not preempted or repealed, either expressly or by implication, by the provisions of this act and must remain in effect until Boulder City has completed its transition to the statewide election cycle and is conducting elections in a manner consistent with the provisions of this act.

3. Any person elected to the office of Mayor or Council Member in Boulder City in June 2019 or June 2021 under Ordinance No. 1613, and any amendments consistent thereto, shall serve a shortened term in office pursuant to Ordinance No. 1613, and any amendments consistent thereto, until their successors are elected and qualified at the general city election in November 2022 or November 2024, as applicable.

Sec. 52.7. The amendatory provisions of this act do not abrogate, alter or affect the results of any election conducted before July 1, 2019.

Sec. 53. Section 5.025 of the Charter of the City of North Las Vegas, being chapter 218, Statutes of Nevada 2011, at page 961, is hereby repealed.

Sec. 54. 1. This section and sections ~~[7,]~~ 3.8, 6.2, 7.2, 7.7, 8, 17, 18 and 20 to 53, inclusive, of this act become effective ~~[upon passage and approval.]~~ on July 1, 2019.

2. Sections 1 ~~[to 6, inclusive, 7.3,]~~ , 2, 3, 4, 5, 6.4, 7.4, 9 to 16, inclusive, and 19 of this act become effective on July 1, 2021.

TEXT OF REPEALED SECTION

Sec. 5.025 City Council authorized to provide for primary and general municipal elections in even-numbered years.

1. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

2. If the City Council adopts an ordinance pursuant to subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

3. If the City Council adopts an ordinance pursuant to subsection 1, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.

Senator Ohrenschall moved the adoption of the amendment.

Remarks by Senator Ohrenschall.

Amendment No. 835 to Assembly Bill No. 50 ensures, for cities currently holding their city elections in even-numbered years, judicial candidates for municipal courts file their declarations

of candidacy in January. All other city candidates would file their declarations of candidacy in March, as provided under the existing Statewide election cycle.

It also provides, for cities that currently hold their city elections in odd-numbered years and are being transitioned to the Statewide election cycle by Assembly Bill No. 50, that judicial candidates for municipal courts would also file their declarations of candidacy in January, and extends the terms of city officers elected in Ely and Fallon in 2017 and 2019 in order to transition those cities to the Statewide election cycle beginning in 2022. This extension of terms is comparable to other provisions of Assembly Bill No. 50 that extend the terms of elected city offices.

Amendment adopted.

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

Assembly Bill No. 60.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 726.

SUMMARY—Revises provisions related to criminal justice. (BDR 3-425)

AN ACT relating to criminal justice; revising the definition of domestic violence; increasing certain penalties relating to a battery which constitutes domestic violence; revising provisions relating to the procedure for arresting a person suspected of committing a battery which constitutes domestic violence; enacting provisions relating to the procedure for arresting a person suspected of committing a battery against certain persons; imposing a fee on certain unlawful acts that constitute domestic violence; requiring such fees to be deposited into the Account for Programs Related to Domestic Violence; revising the definition of stalking; increasing certain penalties related to stalking; revising provisions relating to the crime of facilitating sex trafficking; revising provisions relating to the crime of assault; revising provisions relating to the crime of battery; revising ~~[the duties and quorum requirements of]~~ provisions relating to the Committee on Domestic Violence; revising provisions relating to the Office of Advocate for Missing or Exploited Children; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth certain unlawful acts that constitute domestic violence when committed against certain persons. (NRS 33.018) Section 1 of this bill revises the unlawful acts that constitute domestic violence to include coercion, burglary, home invasion and pandering. Section 1 also provides that such acts if committed by siblings against each other, unless those siblings are in a custodial or guardianship relationship, or such acts if committed by cousins against each other, unless those cousins are in a custodial or guardianship relationship, do not constitute domestic violence. Section ~~[22]~~ 1.5 of this bill makes a conforming change.

Existing law requires a peace officer, under certain circumstances, to arrest a person when the officer has probable cause to believe that the person has committed a battery upon: (1) a spouse; (2) a former spouse; (3) a person to whom he or she is related by blood or marriage; (4) a person with whom he or

she is or was actually residing; (5) a person to whom he or she is in a dating relationship; (6) a person with whom he or she has a child; (7) the minor child of any such person; or (8) his or her minor child. (NRS 171.137) Section 1.5 additionally requires a peace officer to make such an arrest if the person committed such a battery upon the custodian or guardian of the person's minor child. Section 1.5 also removes the requirement that the officer make such an arrest for a battery committed upon a person with whom he or she is or was actually residing.

Section 1.1 of this bill authorizes a peace officer, under certain circumstances, to arrest a person when the officer has probable cause to believe that the person has committed a battery within the preceding 24 hours upon: (1) a person with whom he or she is actually residing; (2) a sibling, if the person is not the custodian or guardian of the sibling; or (3) a cousin, if the person is not the custodian or guardian of the cousin. Sections 1.1 and 1.5 also provide that liability cannot be imposed against a peace officer or his or her employer for a determination made in good faith not to arrest a person suspected of committing such a battery or a battery which constitutes domestic violence, as applicable. Section 1.3 makes a conforming change.

Existing law authorizes a court to order the videotaping of a deposition under certain circumstances. (NRS 174.227) Existing law also authorizes, under certain circumstances, the use of such a videotaped deposition instead of the deponent's testimony at trial. (NRS 174.228) Section 2 of this bill authorizes the court to order the videotaping of a deposition of a victim of facilitating sex trafficking. Section 3 of this bill makes a conforming change to allow such a videotaped deposition to be used instead of the deponent's testimony at trial.

When a person is convicted of a battery which constitutes domestic violence, existing law requires the court to order the person to pay an administrative assessment of $35 to be deposited in the Account for Programs Related to Domestic Violence. (NRS 200.485) Section 3.5 of this bill requires the court to order a $35 fee to be paid and deposited into the Account for Programs Related to Domestic Violence if a person is convicted of certain unlawful acts which constitute domestic violence. Section 3.5 requires the court to enter a finding of fact that a person has committed an act which constitutes domestic violence in such a person's judgment of conviction. Section 3.5 also requires the court to order such a person to attend such counseling sessions relating to the treatment of persons who commit domestic violence under certain circumstances. Section 40 of this bill requires such fees to be deposited with the State Controller for credit to the Account.

Under existing law, a person convicted of a battery which constitutes domestic violence, for the first offense, is guilty of a misdemeanor and shall be punished by: (1) imprisonment in a city or county jail or detention center for not less than 2 days, but not more than 6 months; (2) community service; and (3) a fine of not less than $200 and not more than $1,000. Existing law authorizes a court to impose the term of imprisonment intermittently, except

that each period of confinement cannot last less than 4 consecutive hours and cannot be served when the person is required to be at his or her place of employment. (NRS 200.485) Section 15 of this bill requires the court to impose intermittent confinement of not less than 12 consecutive hours for the first offense of such an act.

Additionally, under existing law, a person convicted for his or her second offense of a battery which constitutes domestic violence is guilty of a misdemeanor and is required to be imprisoned in a city or county jail or detention facility for not less than 10 days and not more than 6 months and pay a fine of not less than $500 or more than $1,000. (NRS 200.485) Section 15 increases the minimum term of imprisonment to 20 days.

Under existing law, a person convicted for his or her third or any subsequent offense of a battery which constitutes domestic violence is guilty of a category C felony. (NRS 200.485) Section 15 increases the penalty for such an act to a category B felony.

Existing law provides that any person who has previously been convicted of a battery which constitutes domestic violence that is punishable as a felony or a conviction for a similar felony of another state and who commits a battery that constitutes domestic violence is guilty of a category B felony. (NRS 200.485) Section 15 instead provides that a person who has previously been convicted of any felony that constitutes domestic violence or a similar offense in another state and who commits a battery which constitutes domestic violence is guilty of a category B felony.

Section 15 also provides a penalty for a battery which constitutes domestic violence where the act was committed against a victim who was pregnant at the time of such a battery. Under section 15, a person who commits such a battery: (1) for the first offense is guilty of a gross misdemeanor; and (2) for the second or any subsequent offense is guilty of a category B felony and authorizes the court to impose a minimum fine of not less than $1,000 and not more than $5,000.

Section 15 also provides that if a person is convicted of a battery which constitutes domestic violence, where such a battery causes substantial bodily harm to the victim, the person: (1) is guilty of a category B felony; and (2) the court is authorized to impose a fine of $1,000 to $15,000.

Existing law provides that a person is guilty of: (1) a category D felony if the person commits an assault upon an officer; and (2) a category B felony if the person commits an assault upon an officer with the use of a deadly weapon or the present ability to use a deadly weapon. (NRS 200.471) Existing law also provides that a person is guilty of: (1) a category B felony if the person commits a battery upon an officer which causes substantial bodily harm or is committed by strangulation; and (2) a gross misdemeanor if the person commits a battery upon an officer and the person knew or should have known that the victim was an officer. (NRS 200.481) Sections 14 and 14.5 of this bill revise the definition of "officer" for such purposes to include a prosecuting

attorney of an agency or political subdivision of the United States or of this State.

Existing law provides that a person who, without lawful authority, willfully or maliciously engages in conduct that would cause a reasonable person to feel terrorized, frightened, intimidated, harassed or fearful for the immediate safety of a family or household member, and the conduct actually causes the victim to feel such emotions, is guilty of the crime of stalking. Existing law makes such a crime punishable as a misdemeanor for the first offense, and as a gross misdemeanor for any subsequent offense. (NRS 200.575) Section 17 of this bill revises the definition of stalking to: (1) provide that the course of conduct must be directed at the victim; and (2) clarify that the conduct would cause the victim to be fearful for his or her immediate safety. Section 17 also increases the penalty for a third or any subsequent offense of stalking to a category C felony and authorizes a court to impose a fine of not more than $5,000. Section 17 also provides that if the crime of stalking is committed against a victim who is under the age of 16 and the person is 5 or more years older than the victim: (1) for the first offense, the person is guilty of a gross misdemeanor; (2) for the second offense, the person is guilty of a category C felony and may be further punished by a fine of not more than $5,000; and (3) for a third or any subsequent offense, the person is guilty of a category B felony and may be further punished by a fine of not more than $5,000.

Existing law authorizes a court to impose an additional fine of $500,000 on certain persons who are convicted of sex trafficking or living from earnings of a prostitute. (NRS 201.352) Section 21 of this bill similarly authorizes a court to impose an additional fine of $500,000 on a person convicted of facilitating sex trafficking.

Existing law provides for the compensation of certain victims of crime. (NRS 217.010-217.270) Section 38 and 39 of this bill expand the definition of "victim" to include victims of the crime of facilitating sex trafficking so that such persons may be compensated under certain circumstances.

Existing law requires the Attorney General to appoint a Committee on Domestic Violence whose duties include, among other things: (1) increasing awareness of domestic violence within the State; and (2) reviewing certain programs related to the treatment of persons who commit domestic violence and making recommendations concerning those programs to the Division of Public and Behavioral Health of the Department of Health and Human Services. Existing law also requires a quorum of six members of the Committee for voting purposes. (NRS 228.470) Section 41 of this bill: (1) ~~[eliminates the]~~ authorizes the Attorney General to appoint a subcommittee to carry out the Committee's duty to review and make recommendations concerning such treatment programs; (2) requires a quorum of six members for all purposes; and (3) authorizes the Committee to adopt regulations necessary to carry out its duties.

Under existing law, the duties of the Office of Advocate for Missing or Exploited Children of the Office of the Attorney General include investigating and prosecuting any alleged crime involving the exploitation of children. (NRS 432.157) Section 42 of this bill expands the Office's duties to include investigating and prosecuting the crime of facilitating sex trafficking involving children.

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

Section 1. NRS 33.018 is hereby amended to read as follows:

33.018 1. Domestic violence occurs when a person commits one of the following acts against or upon the person's spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child:

(a) A battery.

(b) An assault.

(c) ~~[Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain or to refrain from an act which the other person has the right to perform.]~~ *Coercion pursuant to NRS 207.190.*

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.

(3) Trespassing.

(4) Larceny.

(5) Destruction of private property.

(6) Carrying a concealed weapon without a permit.

(7) Injuring or killing an animal.

(8) Burglary.

(9) An invasion of the home.

(f) A false imprisonment.

(g) ~~[Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonably foreseeable risk of harm to the other person from the entry.]~~ *Pandering.*

2. *The provisions of this section do not apply to:*

(a) Siblings, except those siblings who are in a custodial or guardianship relationship with each other; or

(b) Cousins, except those cousins who are in a custodial or guardianship relationship with each other.

3. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

Sec. 1.1. Chapter 171 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Whether or not a warrant has been issued, a peace officer may arrest a person when the peace officer has probable cause to believe that the person to be arrested has, within the preceding 24 hours, committed a battery upon:

(a) A person with whom he or she is actually residing;

(b) A sibling, if the person is not the custodian or guardian of the sibling; or

(c) A cousin, if the person is not the custodian or guardian of the cousin.

2. Nothing in this section shall be construed to impose liability upon a peace officer or his or her employer for a determination made in good faith by the peace officer not to arrest a person pursuant to this section.

Sec. 1.3. NRS 171.136 is hereby amended to read as follows:

171.136 1. If the offense charged is a felony or gross misdemeanor, the arrest may be made on any day, and at any time of day or night.

2. If it is a misdemeanor, the arrest cannot be made between the hours of 7 p.m. and 7 a.m., except:

(a) Upon the direction of a magistrate, endorsed upon the warrant;

(b) When the offense is committed in the presence of the arresting officer;

(c) When the person is found and the arrest is made in a public place or a place that is open to the public and:

(1) There is a warrant of arrest against the person; and

(2) The misdemeanor is discovered because there was probable cause for the arresting officer to stop, detain or arrest the person for another alleged violation or offense;

(d) When the offense is committed in the presence of a private person and the person makes an arrest immediately after the offense is committed;

(e) When the arrest is made in the manner provided in NRS 171.137 ~~[,]~~ *or section 1.1 of this act;*

(f) When the offense charged is a violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive;

(g) When the person is already in custody as a result of another lawful arrest; or

(h) When the person voluntarily surrenders himself or herself in response to an outstanding warrant of arrest.

Sec. 1.5. NRS 171.137 is hereby amended to read as follows:

171.137 1. Except as otherwise provided in subsection 2, whether or not a warrant has been issued, a peace officer shall, unless mitigating circumstances exist, arrest a person when the peace officer has probable cause to believe that the person to be arrested has, within the preceding 24 hours,

committed a battery upon his or her spouse, former spouse, any other person to whom he or she is related by blood or marriage, ~~[a person with whom he or she is or was actually residing,]~~ a person with whom he or she has had or is having a dating relationship, a person with whom he or she has a child in common, the minor child of any of those persons ~~[or]~~ , his or her minor child ~~[.]~~ *or a person who is the custodian or guardian of his or her minor child.*

2. If the peace officer has probable cause to believe that a battery described in subsection 1 was a mutual battery, the peace officer shall attempt to determine which person was the primary physical aggressor. If the peace officer determines that one of the persons who allegedly committed a battery was the primary physical aggressor involved in the incident, the peace officer is not required to arrest any other person believed to have committed a battery during the incident. In determining whether a person is a primary physical aggressor for the purposes of this subsection, the peace officer shall consider:

(a) Prior domestic violence involving either person;

(b) The relative severity of the injuries inflicted upon the persons involved;

(c) The potential for future injury;

(d) Whether one of the alleged batteries was committed in self-defense; and

(e) Any other factor that may help the peace officer decide which person was the primary physical aggressor.

3. A peace officer shall not base a decision regarding whether to arrest a person pursuant to this section on the peace officer's perception of the willingness of a victim or a witness to the incident to testify or otherwise participate in related judicial proceedings.

4. *Nothing in this section shall be construed to impose liability upon a peace officer or his or her employer for a determination made in good faith by the peace officer not to arrest a person pursuant to this section.*

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

(a) Siblings, except those siblings who are in a custodial or guardianship relationship with each other; or

(b) Cousins, except those cousins who are in a custodial or guardianship relationship with each other.

6. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

Sec. 2. NRS 174.227 is hereby amended to read as follows:

174.227 1. A court on its own motion or on the motion of the district attorney may, for good cause shown, order the taking of a videotaped deposition of:

(a) A victim of sexual abuse as that term is defined in NRS 432B.100;

(b) A prospective witness in any criminal prosecution if the witness is less than 14 years of age; ~~[or]~~

(c) A victim of sex trafficking as that term is defined in subsection 2 of NRS 201.300 ~~[.]~~ *; or*

(d) A victim of facilitating sex trafficking as that term is defined in subsection 1 of NRS 201.301. There is a rebuttable presumption that good cause exists where the district attorney seeks to take the deposition of a person alleged to be the victim of sex trafficking.

➥ The court may specify the time and place for taking the deposition and the persons who may be present when it is taken.

2. The district attorney shall give every other party reasonable written notice of the time and place for taking the deposition. The notice must include the name of the person to be examined. On the motion of a party upon whom the notice is served, the court:

(a) For good cause shown may release the address of the person to be examined; and

(b) For cause shown may extend or shorten the time.

3. If at the time such a deposition is taken, the district attorney anticipates using the deposition at trial, the court shall so state in the order for the deposition and the accused must be given the opportunity to cross-examine the deponent in the same manner as permitted at trial.

4. Except as limited by NRS 174.228, the court may allow the videotaped deposition to be used at any proceeding in addition to or in lieu of the direct testimony of the deponent. It may also be used by any party to contradict or impeach the testimony of the deponent as a witness. If only a part of the deposition is offered in evidence by a party, an adverse party may require the party to offer all of it which is relevant to the part offered and any party may offer other parts.

Sec. 3. NRS 174.228 is hereby amended to read as follows:

174.228 A court may allow a videotaped deposition to be used instead of the deponent's testimony at trial only if:

1. In the case of a victim of sexual abuse, as that term is defined in NRS 432B.100:

(a) Before the deposition is taken, a hearing is held by a justice of the peace or district judge who finds that:

(1) The use of the videotaped deposition in lieu of testimony at trial is necessary to protect the welfare of the victim; and

(2) The presence of the accused at trial would inflict trauma, more than minimal in degree, upon the victim; and

(b) At the time a party seeks to use the deposition, the court determines that the conditions set forth in subparagraphs (1) and (2) of paragraph (a) continue to exist. The court may hold a hearing before the use of the deposition to make its determination.

2. In the case of a victim of sex trafficking as that term is defined in subsection 2 of NRS 201.300 ~~[.]~~ *or a victim of facilitating sex trafficking as that term is defined in subsection 1 of NRS 201.301:*

(a) Before the deposition is taken, a hearing is held by a justice of the peace or district judge and the justice or judge finds that cause exists pursuant to paragraph (c) of subsection 1 of NRS 174.227; and

(b) Before allowing the videotaped deposition to be used at trial, the court finds that the victim is unavailable as a witness.

3. In all cases:

(a) A justice of the peace or district judge presides over the taking of the deposition;

(b) The accused is able to hear and see the proceedings;

(c) The accused is represented by counsel who, if physically separated from the accused, is able to communicate orally with the accused by electronic means;

(d) The accused is given an adequate opportunity to cross-examine the deponent subject to the protection of the deponent deemed necessary by the court; and

(e) The deponent testifies under oath.

Sec. 3.5. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

In addition to any other fine or penalty, if the court finds that a person is guilty of committing an act which constitutes domestic violence pursuant to NRS 33.018, the court shall:

1. Enter a finding of fact in the judgment of conviction.

2. Order the person to pay a fee of $35. Any money so collected ~~[pursuant to subsection 1]~~ must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

3. Require for the:

(a) First offense within 7 years of any act which constitutes domestic violence, the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258; or

(b) Second offense within 7 years of any act which constitutes domestic violence, the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

Sec. 4. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site, electronic mail, text messaging or any other similar means of communication pursuant to subsection ~~[3]~~ *4* of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or

luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.5. NRS 199.480 is hereby amended to read as follows:

199.480 1. Except as otherwise provided in subsection 2, whenever two or more persons conspire to commit murder, robbery, sexual assault, kidnapping in the first or second degree, arson in the first or second degree, involuntary servitude in violation of NRS 200.463 or 200.464, a violation of any provision of NRS 200.465, trafficking in persons in violation of NRS 200.467 or 200.468, sex trafficking in violation of NRS 201.300 , *facilitating sex trafficking in violation of NRS 201.301* or a violation of NRS 205.463, each person is guilty of a category B felony and shall be punished:

(a) If the conspiracy was to commit robbery, sexual assault, kidnapping in the first or second degree, arson in the first or second degree, involuntary servitude in violation of NRS 200.463 or 200.464, a violation of any provision of NRS 200.465, trafficking in persons in violation of NRS 200.467 or

200.468, sex trafficking in violation of NRS 201.300 , *facilitating sex trafficking in violation of NRS 201.301* or a violation of NRS 205.463, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years; or

(b) If the conspiracy was to commit murder, by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years,

➥ and may be further punished by a fine of not more than $5,000.

2. If the conspiracy subjects the conspirators to criminal liability under NRS 207.400, they shall be punished in the manner provided in NRS 207.400.

3. Whenever two or more persons conspire:

(a) To commit any crime other than those set forth in subsections 1 and 2, and no punishment is otherwise prescribed by law;

(b) Falsely and maliciously to procure another to be arrested or proceeded against for a crime;

(c) Falsely to institute or maintain any action or proceeding;

(d) To cheat or defraud another out of any property by unlawful or fraudulent means;

(e) To prevent another from exercising any lawful trade or calling, or from doing any other lawful act, by force, threats or intimidation, or by interfering or threatening to interfere with any tools, implements or property belonging to or used by another, or with the use or employment thereof;

(f) To commit any act injurious to the public health, public morals, trade or commerce, or for the perversion or corruption of public justice or the due administration of the law; or

(g) To accomplish any criminal or unlawful purpose, or to accomplish a purpose, not in itself criminal or unlawful, by criminal or unlawful means,

➥ each person is guilty of a gross misdemeanor.

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. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means:

(1) Unlawfully attempting to use physical force against another person; or

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Fire-fighting agency" has the meaning ascribed to it in NRS 239B.020.

(c) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) *A prosecuting attorney of an agency or political subdivision of the United States or of this State;*

(6) A justice of the Supreme Court, judge of the Court of Appeals, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph;

~~[(6)]~~ *(7)* An employee of this State or a political subdivision of this State whose official duties require the employee to make home visits;

~~[(7)]~~ *(8)* A civilian employee or a volunteer of a law enforcement agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to law enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the law enforcement agency;

~~[(8)]~~ *(9)* A civilian employee or a volunteer of a fire-fighting agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to fire fighting or fire prevention; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the fire-fighting agency; or

~~[(9)]~~ *(10)* A civilian employee or volunteer of this State or a political subdivision of this State whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for this State or a political subdivision of this State.

(d) "Provider of health care" means a physician, a medical student, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a medication aide - certified, a dentist, a dental student, a dental hygienist, a dental hygienist student, a pharmacist, a pharmacy student, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a

clinical professional counselor intern, a licensed dietitian, an emergency medical technician, an advanced emergency medical technician and a paramedic.

(e) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100 or 391.281.

(f) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(g) "Sports official" has the meaning ascribed to it in NRS 41.630.

(h) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(i) "Taxicab driver" means a person who operates a taxicab.

(j) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 14.5. NRS 200.481 is hereby amended to read as follows:

200.481 1. As used in this section:

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Child" means a person less than 18 years of age.

(c) "Fire-fighting agency" has the meaning ascribed to it in NRS 239B.020.

(d) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail or detention facility;

(5) *A prosecuting attorney of an agency or political subdivision of the United States or of this State;*

(6) A justice of the Supreme Court, judge of the Court of Appeals, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including, without limitation, a person acting pro tempore in a capacity listed in this subparagraph;

~~[(6)]~~ *(7)* An employee of this State or a political subdivision of this State whose official duties require the employee to make home visits;

~~[(7)]~~ *(8)* A civilian employee or a volunteer of a law enforcement agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to law enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the law enforcement agency;

~~[(8)]~~ *(9)* A civilian employee or a volunteer of a fire-fighting agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to fire fighting or fire prevention; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the fire-fighting agency; or

~~[(9)]~~ *(10)* A civilian employee or volunteer of this State or a political subdivision of this State whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for this State or a political subdivision of this State.

(e) "Provider of health care" has the meaning ascribed to it in NRS 200.471.

(f) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100 or 391.281.

(g) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(h) "Sports official" has the meaning ascribed to it in NRS 41.630.

(i) "Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person in a manner that creates a risk of death or substantial bodily harm.

(j) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(k) "Taxicab driver" means a person who operates a taxicab.

(l) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. Except as otherwise provided in NRS 200.485, a person convicted of a battery, other than a battery committed by an adult upon a child which constitutes child abuse, shall be punished:

(a) If the battery is not committed with a deadly weapon, and no substantial bodily harm to the victim results, except under circumstances where a greater penalty is provided in this section or NRS 197.090, for a misdemeanor.

(b) If the battery is not committed with a deadly weapon, and either substantial bodily harm to the victim results or the battery is committed by strangulation, for a category C felony as provided in NRS 193.130.

(c) If:

(1) The battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who was performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event;

(2) The officer, provider of health care, school employee, taxicab driver, transit operator or sports official suffers substantial bodily harm or the battery is committed by strangulation; and

(3) The person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official,

➥ for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than $10,000, or by both fine and imprisonment.

(d) If the battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official, for a gross misdemeanor, except under circumstances where a greater penalty is provided in this section.

(e) If the battery is committed with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

(2) Substantial bodily harm to the victim results or the battery is committed by strangulation, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $10,000.

(f) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, without the use of a deadly weapon, whether or not substantial bodily harm results and whether or not the battery is committed by strangulation, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

(g) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.

(2) Substantial bodily harm to the victim results or the battery is committed by strangulation, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years.

Sec. 15. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to ~~[subsection]~~ *subsections* 2 ~~[or 3]~~ *to 5, inclusive,* or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than ~~[4]~~ *12* consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than ~~[10]~~ *20* days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➥ The person shall be further punished by a fine of not less than $500, but not more than $1,000. *A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must not be less than 12 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.*

(c) For the third offense within 7 years, is guilty of a category ~~[C]~~ *B* felony and shall be punished ~~[as provided in NRS 193.130.]~~ *by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not less than $1,000, but not more than $5,000.*

2. Unless a greater penalty is provided pursuant to subsection 3 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 . ~~[and by a fine of not more than $15,000.]~~

3. Unless a greater penalty is provided pursuant to NRS 200.481, a person who has been previously convicted of:

(a) ~~[A battery which]~~ *A felony that* constitutes domestic violence pursuant to NRS 33.018 *;* ~~[that is punishable as a felony pursuant to paragraph (c) of subsection 1 or subsection 2;]~~ or

(b) A violation of the law of any other jurisdiction that prohibits the same or similar conduct set forth in paragraph (a),

➥ and who commits a battery which constitutes domestic violence pursuant to NRS 33.018 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 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than $2,000, but not more than $5,000.

4. *Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to* NRS 33.*018, if the battery is committed against a victim who was pregnant at the time of the battery and the person knew or should have known that the victim was pregnant:*

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

(b) For the second or any subsequent offense, is guilty of a category B felony and shall be punished by imprisonment in the state prison of a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not less than $1,000, but not more than $5,000.

5. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery causes substantial bodily harm, is guilty of a

category B felony and shall be punished by imprisonment in the state prison of a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not less than $1,000, but not more than $5,000.

6. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) For the first offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

(b) For the second offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

➥ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

~~[5.]~~ *7.* Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section:

(a) When evidenced by a conviction; or

(b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

➥ without regard to the sequence of the offenses and convictions. An offense which is listed in paragraph (a) or (b) of subsection 3 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

~~[6. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of $35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.~~

~~7.~~ *8.* In addition to any other penalty, the court may require such a person to participate, at his or her expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

~~[8.]~~ *9.* If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.

~~[9.]~~ *10.* If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. Except as otherwise provided in this subsection, a court shall not grant probation to or suspend the sentence of such a person. A court may grant probation to or suspend the sentence of such a person:

(a) As set forth in NRS 4.373 and 5.055; or

(b) To assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

~~[10.]~~ *11.* In every judgment of conviction or admonishment of rights issued pursuant to this section, the court shall:

(a) Inform the person convicted that he or she is prohibited from owning, possessing or having under his or her custody or control any firearm pursuant to NRS 202.360; and

(b) Order the person convicted to permanently surrender, sell or transfer any firearm that he or she owns or that is in his or her possession or under his or her custody or control in the manner set forth in NRS 202.361.

~~[11.]~~ *12.* A person who violates any provision included in a judgment of conviction or admonishment of rights issued pursuant to this section concerning the surrender, sale, transfer, ownership, possession, custody or control of a firearm is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000. The court must include in the judgment of conviction or admonishment of rights a statement that a violation of such a provision in the judgment or admonishment is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not

less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

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

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 16. NRS 200.571 is hereby amended to read as follows:

200.571 1. A person is guilty of harassment if:

(a) Without lawful authority, the person knowingly threatens:

(1) To cause bodily injury in the future to the person threatened or to any other person;

(2) To cause physical damage to the property of another person;

(3) To subject the person threatened or any other person to physical confinement or restraint; or

(4) To do any act which is intended to substantially harm the person threatened or any other person with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person receiving the threat in reasonable fear that the threat will be carried out.

2. Except where the provisions of subsection 2 , ~~[or]~~ 3 *or 4* of NRS 200.575 are applicable, a person who is guilty of harassment:

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

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

3. The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

Sec. 17. NRS 200.575 is hereby amended to read as follows:

200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct *directed towards a victim* that would cause a reasonable person *under similar circumstances* to feel terrorized, frightened, intimidated, harassed or fearful for *his or her immediate safety or* the immediate safety of a family or household member, and that actually causes the victim to feel terrorized, frightened, intimidated, harassed or fearful for *his or her immediate safety or* the immediate safety of a family or household member, commits the crime of stalking. Except where the provisions of subsection 2 , ~~[or]~~ 3 *or 4* are applicable, a person who commits the crime of stalking:

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

(b) For ~~[any subsequent]~~ *the second* offense, is guilty of a gross misdemeanor.

(c) For the third or any subsequent offense, is guilty of a category C 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 5 years, and may be further punished by a fine of not more than $5,000.

2. *Except as otherwise provided in subsection 3 or 4 and unless a more severe penalty is prescribed by law, a person who commits the crime of stalking where the victim is under the age of 16 and the person is 5 or more years older than the victim:*

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

(b) For the second offense, is guilty of a category C felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 5 years, and may be further punished by a fine of not more than $5,000.

(c) For the third or any subsequent offense, 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 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $5,000.

3. A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause the person to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $5,000.

~~[3.]~~ *4.* A person who commits the crime of stalking with the use of an Internet or network site, electronic mail, text messaging or any other similar means of communication to publish, display or distribute information in a manner that substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in NRS 193.130.

5. If any act engaged in by a person was part of the course of conduct that constitutes the crime of stalking and was initiated or had an effect on the victim in this State, the person may be prosecuted in this State.

~~[4.]~~ *6.* Except as otherwise provided in subsection 2 of NRS 200.571, a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

~~[5.]~~ *7.* If the court finds that a person convicted of stalking pursuant to this section committed the crime against a person listed in subsection 1 of NRS 33.018 and that the victim has an ongoing, reasonable fear of physical harm, the court shall enter the finding in its judgment of conviction or admonishment of rights.

~~[6.]~~ *8.* If the court includes such a finding in a judgment of conviction or admonishment of rights issued pursuant to this section, the court shall:

(a) Inform the person convicted that he or she is prohibited from owning, possessing or having under his or her control or custody any firearm pursuant to NRS 202.360; and

(b) Order the person convicted to permanently surrender, sell or transfer any firearm that he or she owns or that is in his or her possession or under his or her custody or control in the manner set forth in NRS 202.361.

~~[7.]~~ *9.* A person who violates any provision included in a judgment of conviction or admonishment of rights issued pursuant to this section concerning the surrender, sale, transfer, ownership, possession, custody or control of a firearm is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000. The court must include in the judgment of conviction or admonishment of rights a statement that a violation of such a provision in the judgment or admonishment is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

~~[8.]~~ *10.* The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

~~[9.]~~ *11.* As used in this section:

(a) "Course of conduct" means a pattern of conduct which consists of ~~[a series of]~~ *two or more* acts over *a period of* time that evidences a continuity of purpose directed at a specific person.

(b) "Family or household member" means a spouse, a former spouse, a parent or other person who is related by blood or marriage or is or was actually residing with the person.

(c) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

(d) "Network" has the meaning ascribed to it in NRS 205.4745.

(e) *"Offense" includes, without limitation, a violation of the law of any other jurisdiction that prohibits the same or similar conduct set forth in this section.*

(f) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.

~~[(f)]~~ *(g)* "Without lawful authority" includes acts which are initiated or continued without the victim's consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, camera operator or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his or her lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 201.352 is hereby amended to read as follows:

201.352 1. If a person is convicted of a violation of subsection 2 of NRS 201.300 , *subsection 1 of NRS 201.301* or NRS 201.320, the victim of the violation is a child when the offense is committed and physical force or violence or the immediate threat of physical force or violence is used upon the child, the court may, in addition to the term of imprisonment prescribed by statute for the offense and any fine imposed pursuant to subsection 2, impose a fine of not more than $500,000.

2. If a person is convicted of a violation of subsection 2 of NRS 201.300 , *subsection 1 of NRS 201.301* or NRS 201.320, the victim of the offense is a child when the offense is committed and the offense also involves a conspiracy to commit a violation of subsection 2 of NRS 201.300 , *subsection 1 of NRS 201.301* or NRS 201.320, the court may, in addition to the punishment prescribed by statute for the offense of a provision of subsection 2 of NRS 201.300 , *NRS 201.301* or ~~[NRS]~~ 201.320 and any fine imposed pursuant to subsection 1, impose a fine of not more than $500,000.

3. The provisions of subsections 1 and 2 do not create a separate offense but provide an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

Sec. 22. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been convicted in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33);

(b) Has been convicted of a felony in this State or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;

(c) Has been convicted of a violation of NRS 200.575 or a law of any other state that prohibits the same or substantially similar conduct and the court

entered a finding in the judgment of conviction or admonishment of rights pursuant to subsection ~~[5]~~ *7* of NRS 200.575;

(d) Except as otherwise provided in NRS 33.031, is currently subject to:

(1) An extended order for protection against domestic violence pursuant to NRS 33.017 to 33.100, inclusive, which includes a statement that the adverse party is prohibited from possessing or having under his or her custody or control any firearm while the order is in effect; or

(2) An equivalent order in any other state;

(e) Is a fugitive from justice;

(f) Is an unlawful user of, or addicted to, any controlled substance; or

(g) Is otherwise prohibited by federal law from having a firearm in his or her possession or under his or her custody or control.

➥ A person who violates the provisions of this subsection is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been adjudicated as mentally ill or has been committed to any mental health facility by a court of this State, any other state or the United States;

(b) Has entered a plea of guilty but mentally ill in a court of this State, any other state or the United States;

(c) Has been found guilty but mentally ill in a court of this State, any other state or the United States;

(d) Has been acquitted by reason of insanity in a court of this State, any other state or the United States; or

(e) Is illegally or unlawfully in the United States.

➥ A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section:

(a) "Controlled substance" has the meaning ascribed to it in 21 U.S.C. § 802(6).

(b) "Firearm" includes any firearm that is loaded or unloaded and operable or inoperable.

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. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site, electronic mail, text messaging or any other similar means of communication pursuant to subsection ~~[3]~~ *4* of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the parolee will assist companies that require the use of the specific technological knowledge of the parolee that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if the Board releases on parole a prisoner convicted of an offense that involved the use of a computer, system or network, the Board may, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 38. NRS 217.070 is hereby amended to read as follows:

217.070 1. "Victim" means:

(a) A person who is physically injured or killed as the direct result of a criminal act;

(b) A minor who was involved in the production of pornography in violation of NRS 200.710, 200.720, 200.725 or 200.730;

(c) A minor who was sexually abused, as "sexual abuse" is defined in NRS 432B.100;

(d) A person who is physically injured or killed as the direct result of a violation of NRS 484C.110 or any act or neglect of duty punishable pursuant to NRS 484C.430 or 484C.440;

(e) A pedestrian who is physically injured or killed as the direct result of a driver of a motor vehicle who failed to stop at the scene of a crash involving the driver and the pedestrian in violation of NRS 484E.010;

(f) An older person who is abused, neglected, exploited, isolated or abandoned in violation of NRS 200.5099 or 200.50995;

(g) A person who is physically injured or killed as the direct result of an act of international terrorism as defined in 18 U.S.C. § 2331(1); ~~[or]~~

(h) A person who is trafficked in violation of subsection 2 of NRS 201.300 ~~[.]~~ *; or*

(i) A person who is subjected to facilitating sex trafficking in violation of subsection 1 of NRS 201.301.

2. The term includes any person who was harmed by an act listed in subsection 1, regardless of whether:

(a) The person is a resident of this State, a citizen of the United States or is lawfully entitled to reside in the United States; or

(b) The act was committed by an adult or a minor.

Sec. 39. NRS 217.180 is hereby amended to read as follows:

217.180 1. Except as otherwise provided in subsection 2, in determining whether to make an order for compensation, the compensation officer shall consider the provocation, consent or any other behavior of the victim that directly or indirectly contributed to the injury or death of the victim, the prior case or social history, if any, of the victim, the need of the victim or the dependents of the victim for financial aid and other relevant matters.

2. If the case involves a victim of domestic violence, sexual assault , *facilitating sex trafficking* or sex trafficking, the compensation officer shall not consider the provocation, consent or any other behavior of the victim that directly or indirectly contributed to the injury or death of the victim.

3. If the applicant has received or is likely to receive an amount on account of the applicant's injury or the death of another from:

(a) The person who committed the crime that caused the victim's injury or from anyone paying on behalf of the offender;

(b) Insurance;

(c) The employer of the victim; or

(d) Another private or public source or program of assistance,

➥ the applicant shall report the amount received or that the applicant is likely to receive to the compensation officer. Any of those sources that are obligated to pay an amount after the award of compensation shall pay the Board the amount of compensation that has been paid to the applicant and pay the remainder of the amount due to the applicant. The compensation officer shall deduct the amounts that the applicant has received or is likely to receive from those sources from the applicant's total expenses.

4. An order for compensation may be made whether or not a person is prosecuted or convicted of an offense arising from the act on which the claim for compensation is based.

5. As used in this section:

(a) "Domestic violence" means an act described in NRS 33.018.

(b) *"Facilitating sex trafficking" means a violation of NRS 201.301.*

(c) "Public source or program of assistance" means:

(1) Public assistance, as defined in NRS 422A.065;

(2) Social services provided by a social service agency, as defined in NRS 430A.080; or

(3) Other assistance provided by a public entity.

~~[(c)]~~ *(d)* "Sex trafficking" means a violation of subsection 2 of NRS 201.300.

~~[(d)]~~ *(e)* "Sexual assault" has the meaning ascribed to it in NRS 200.366.

Sec. 40. NRS 228.460 is hereby amended to read as follows:

228.460 1. The Account for Programs Related to Domestic Violence is hereby created in the State General Fund. Any ~~[administrative assessment]~~ *fee* imposed and collected pursuant to ~~[NRS 200.485]~~ *section 3.5 of this act* must be deposited with the State Controller for credit to the Account.

2. The Ombudsman for Victims of Domestic Violence:

(a) Shall administer the Account for Programs Related to Domestic Violence; and

(b) May expend money in the Account only to pay for expenses related to:

(1) The Committee;

(2) Training law enforcement officers, attorneys and members of the judicial system about domestic violence;

(3) Assisting victims of domestic violence and educating the public concerning domestic violence; and

(4) Carrying out the duties and functions of his or her office.

3. All claims against the Account for Programs Related to Domestic Violence must be paid as other claims against the State are paid.

Sec. 41. NRS 228.470 is hereby amended to read as follows:

228.470 1. The Attorney General shall appoint a Committee on Domestic Violence comprised of the Attorney General or a designee of the Attorney General and:

(a) One staff member of a program for victims of domestic violence;

(b) One staff member of a program for the treatment of persons who commit domestic violence;

(c) One representative from an office of the district attorney with experience in prosecuting criminal offenses;

(d) One representative from an office of the city attorney with experience in prosecuting criminal offenses;

(e) One law enforcement officer;

(f) One provider of mental health care;

(g) Two victims of domestic violence;

(h) One justice of the peace or municipal judge; and

(i) Any other person appointed by the Attorney General.

➥ Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years. At least two members of the Committee must be residents of a county whose population is less than 100,000.

2. The Committee shall:

(a) Increase awareness of the existence and unacceptability of domestic violence in this State;

(b) Review programs for the treatment of persons who commit domestic violence and make recommendations to the Division of Public and Behavioral Health of the Department of Health and Human Services for the certification of such programs pursuant to NRS 439.258;

(c) Review and evaluate existing programs provided to peace officers for training related to domestic violence and make recommendations to the Peace Officers' Standards and Training Commission regarding such training;

(d) ~~*[(c)]*~~ To the extent that money is available, provide financial support to programs for the prevention of domestic violence in this State;

(e) ~~*[(d)]*~~ Study and review all appropriate issues related to the administration of the criminal justice system in rural Nevada with respect to offenses involving domestic violence, including, without limitation, the availability of counseling services; and

(f) ~~*[(e)]*~~ Submit on or before March 1 of each odd-numbered year a report to the Director of the Legislative Counsel Bureau for distribution to the regular session of the Legislature. In preparing the report, the Committee shall solicit comments and recommendations from district judges, municipal judges and justices of the peace in rural Nevada. The report must include, without limitation:

(1) A summary of the work of the Committee and recommendations for any necessary legislation concerning domestic violence; and

(2) All comments and recommendations received by the Committee.

3. *The Attorney General shall appoint a subcommittee of members of the Committee to carry out the duties prescribed in paragraph (b) of subsection 2.*

4. The Attorney General or the designee of the Attorney General is the Chair of the Committee.

~~[4.]~~ *5.* The Committee shall annually elect a Vice Chair, Secretary and Treasurer from among its members.

~~[5.]~~ *6.* The Committee shall meet regularly at least three times in each calendar year and may meet at other times upon the call of the Chair. Any six members of the Committee constitute a quorum . ~~[for the purpose of voting.]~~ A majority vote of the quorum is required to take action with respect to any matter.

~~[6.]~~ *7.* At least one meeting in each calendar year must be held at a location within the Fourth Judicial District, Fifth Judicial District, Sixth Judicial District, Seventh Judicial District or Eleventh Judicial District.

~~[7.]~~ *8.* The Attorney General shall provide the Committee with such staff as is necessary to carry out the duties of the Committee.

~~[8.]~~ *9.* While engaged in the business of the Committee, each member and employee of the Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

10. The Committee may adopt regulations necessary to carry out its duties pursuant to NRS 228.470 to 228.497, inclusive.

Sec. 42. NRS 432.157 is hereby amended to read as follows:

432.157 1. The Office of Advocate for Missing or Exploited Children is hereby created within the Office of the Attorney General. The Advocate for Missing or Exploited Children may be known as the Children's Advocate.

2. The Attorney General shall appoint the Children's Advocate. The Children's Advocate is in the unclassified service of the State.

3. The Children's Advocate:

(a) Must be an attorney licensed to practice law in this state;

(b) Shall advise and represent the Clearinghouse on all matters concerning missing or exploited children in this state; and

(c) Shall advocate the best interests of missing or exploited children before any public or private body.

4. The Children's Advocate may:

(a) Appear as an amicus curiae on behalf of missing or exploited children in any court in this state;

(b) If requested, advise a political subdivision of this state concerning its duty to protect missing or exploited children;

(c) Recommend legislation concerning missing or exploited children; and

(d) Investigate and prosecute any alleged crime involving the exploitation of children, including, without limitation, sex trafficking in violation of subsection 2 of NRS 201.300 *, a violation of subsection 1 of NRS 201.301* or a violation of NRS 201.320.

5. Upon request by the Children's Advocate, a district attorney or local law enforcement agency in this state shall provide all information and assistance necessary to assist the Children's Advocate in carrying out the provisions of this section.

6. The Children's Advocate may apply for any available grants and accept gifts, grants, bequests, appropriations or donations to assist the Children's Advocate in carrying out his or her duties pursuant to this section. Any money received by the Children's Advocate must be deposited in the Special Account for the Support of the Office of Advocate for Missing or Exploited Children, which is hereby created in the State General Fund.

7. Interest and income earned on money in the Special Account must be credited to the Special Account.

8. Money in the Special Account may only be used for the support of the Office of Advocate for Missing or Exploited Children and its activities pursuant to subsection 2 of NRS 201.300, *subsection 1 of NRS 201.301,* NRS 201.320 and 432.150 to 432.220, inclusive.

9. Money in the Special Account must remain in the Special Account and must not revert to the State General Fund at the end of any fiscal year.

Sec. 43. NRS 432B.640 is hereby amended to read as follows:

432B.640 1. Upon receiving a referral from a court pursuant to subsection ~~[8]~~ *9* of NRS 200.485, an agency which provides child welfare services may, as appropriate, conduct an assessment to determine whether a psychological evaluation or counseling is needed by a child.

2. If an agency which provides child welfare services conducts an assessment pursuant to subsection 1 and determines that a psychological evaluation or counseling would benefit the child, the agency may, with the approval of the parent or legal guardian of the child:

(a) Conduct the evaluation or counseling; or

(b) Refer the child to a person that has entered into an agreement with the agency to provide those services.

Sec. 43.5. NRS 481.091 is hereby amended to read as follows:

481.091 1. The following persons may request that the Department display an alternate address on the person's driver's license, commercial driver's license or identification card:

(a) Any justice or judge in this State.

(b) Any senior justice or senior judge in this State.

(c) Any court-appointed master in this State.

(d) Any clerk of the court, court administrator or court executive officer in this State.

(e) Any ~~[district attorney or attorney employed by the district attorney]~~ *prosecutor* who as part of his or her normal job responsibilities prosecutes persons for:

(1) Crimes that are punishable as category A felonies; or

(2) Domestic violence.

(f) Any state or county public defender who as part of his or her normal job responsibilities defends persons for:

(1) Crimes that are punishable as category A felonies; or

(2) Domestic violence.

(g) The spouse, domestic partner or minor child of a person described in paragraphs (a) to (f), inclusive.

(h) The surviving spouse, domestic partner or minor child of a person described in paragraphs (a) to (f), inclusive, who was killed in the performance of his or her duties.

2. A person who wishes to have an alternate address displayed on his or her driver's license, commercial driver's license or identification card pursuant to this section must submit to the Department satisfactory proof:

(a) That he or she is a person described in subsection 1; and

(b) Of the person's address of principal residence and mailing address, if different from the address of principal residence.

3. A person who obtains a driver's license, commercial driver's license or identification card that displays an alternate address pursuant to this section may subsequently submit a request to the Department to have his or her address

of principal residence displayed on his or her driver's license, commercial driver's license or identification card instead of the alternate address.

4. The Department may adopt regulations to carry out the provisions of this section.

Sec. 44. (Deleted by amendment.)

Sec. 45. (Deleted by amendment.)

Sec. 46. This act becomes effective on July 1, 2019.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senators Cannizzaro and Kieckhefer.

SENATOR CANNIZZARO:

Amendment No. 726 to Assembly Bill No. 60 adds a requirement that a peace officer arrest a person if he or she suspects the person has committed battery upon a guardian or custodian of the person's minor child. It removes a requirement regarding arresting "a person with whom the person is or was residing" to avoid catching roommates or similarly situated persons in domestic battery arrests. It adds language regarding circumstances under which a peace officer may arrest a person if the peace officer has probable cause to believe the person has committed a battery within the last 24 hours upon certain persons, including a person with whom he or she is actually residing; a sibling, if the person is not the guardian or custodian of the sibling, and a cousin, if the person is not the guardian or custodian of the cousin. It also provides liability cannot be imposed on a peace officer or his or her employer for a good-faith determination not to arrest a person under these circumstances.

Finally, it authorizes the Attorney General to appoint a subcommittee to review and make recommendations concerning treatment programs for those who commit domestic violence.

SENATOR KIECKHEFER:

The digest in section 1.5 of Assembly Bill No. 60 makes it look like we are removing a requirement that an officer arrest someone for battery if they are living with the person. I want to make sure there is some other vehicle by which they can make an arrest.

SENATOR CANNIZZARO:

Amendment No. 726 addresses that situation in Assembly Bill No. 60. One of the concerns raised by law enforcement was if they were to arrive in a domestic situation that would not rise to an arrest for domestic battery, they would be unable to arrest anyone. This would leave the precarious situation between the individuals who are there, because the behavior was a misdemeanor. The amendment puts that language back into the statute so a law enforcement officer would have the discretion to make an arrest for misdemeanor battery, despite the fact that it is not domestic battery, if someone is in danger.

Amendment adopted.

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

Assembly Bill No. 64.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 866.

SUMMARY—Revises provisions governing the funding provided to school districts for pupils enrolled in full-time programs of distance education. (BDR 34-455)

AN ACT relating to education; revising provisions governing the calculation of apportionments to charter schools for pupils enrolled full-time

in programs of distance education; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Superintendent of Public Instruction is required to apportion the State Distributive School Account in the State General Fund among the school districts, charter schools and university schools for profoundly gifted pupils. (NRS 387.124) Existing law provides various formulas for the calculation of the apportionment of funding to certain charter schools. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district, existing law requires a school district to pay the difference directly to a charter school. (NRS 387.1241) Section 1 of this bill instead requires that a school district pay this amount to the Department of Education, which shall then distribute the apportionment to a charter school. Section 1 also creates formulas for the calculation of the apportionment to charter schools for pupils who are enrolled full-time in a program of distance education, depending on the county in which each such pupil resides.

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

Section 1. NRS 387.1241 is hereby amended to read as follows:

387.1241 Except as otherwise provided in this section and NRS 387.124, 387.1242, 387.1244 and 387.528:

1. The apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.163 and all other funds available for public schools in the county in which the pupil resides minus the sponsorship fee prescribed by NRS 388A.414 and minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference ~~[directly]~~ *to the Department for distribution* to the charter school.

2. The apportionment to a charter school that is sponsored by the State Public Charter School Authority or by a college or university within the Nevada System of Higher Education, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.163 and all other funds available for public schools in the county in which the pupil resides, minus the sponsorship fee prescribed by NRS 388A.414 and minus all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school.

3. *The apportionment to a charter school, for pupils who are enrolled full-time in a program of distance education and reside in a county school district in which 5,000 or fewer pupils are enrolled, computed on a yearly basis, is equal to the estimated weighted average per pupil basic support guarantee calculated as described in NRS 387.122 and established by law for all the school districts and charter schools within this State plus the amount of local funds available per pupil pursuant to NRS 387.163 and all other funds available for public schools in the county in which the pupil resides, minus the sponsorship fee prescribed by NRS 388A.414 and minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to such a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference to the Department for distribution to the charter school.*

4. The apportionment to a charter school, for pupils who are enrolled full-time in a program of distance education and reside in a county school district in which more than 5,000 pupils are enrolled, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.163 and all other funds available for public schools in the county in which the pupil resides, minus the sponsorship fee prescribed by NRS 388A.414 and minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to such a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference to the Department for distribution to the charter school.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to NRS 387.124. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

Sec. 2. NRS 387.185 is hereby amended to read as follows:

387.185 1. Except as otherwise provided in subsection 2 and NRS 387.528, unless the Superintendent of Public Instruction authorizes a withholding pursuant to NRS 387.1244, all school money due each county school district must be paid over by the State Treasurer to the county treasurer on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the county treasurer may apply for it, upon the warrant of the State

Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124.

2. Except as otherwise provided in NRS 387.528, unless the Superintendent of Public Instruction authorizes a withholding pursuant to NRS 387.1244, if the board of trustees of a school district establishes and administers a separate account pursuant to the provisions of NRS 354.603, all school money due that school district must be paid over by the State Treasurer to the school district on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the school district may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124.

3. No county school district may receive any portion of the public school money unless that school district has complied with the provisions of this title and regulations adopted pursuant thereto.

4. Except as otherwise provided in this subsection, unless the Superintendent of Public Instruction authorizes a withholding pursuant to NRS 387.1244, all school money due each charter school must be paid over by the State Treasurer to the governing body of the charter school on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the governing body may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124. If the Superintendent of Public Instruction has approved, pursuant to subsection ~~[3]~~ *5* of NRS 387.1241, a request for payment of an apportionment 30 days before the apportionment is otherwise required to be made, the money due to the charter school must be paid by the State Treasurer to the governing body of the charter school on July 1, October 1, January 1 or April 1, as applicable.

5. Except as otherwise provided in this subsection, unless the Superintendent of Public Instruction authorizes a withholding pursuant to NRS 387.1244, all school money due each university school for profoundly gifted pupils must be paid over by the State Treasurer to the governing body of the university school on August 1, November 1, February 1 and May 1 of each year or as soon thereafter as the governing body may apply for it, upon the warrant of the State Controller drawn in conformity with the apportionment of the Superintendent of Public Instruction as provided in NRS 387.124. If the Superintendent of Public Instruction has approved, pursuant to NRS 387.1242, a request for payment of an apportionment 30 days before the apportionment is otherwise required to be made, the money due to the university school must be paid by the State Treasurer to the governing body of the university school on July 1, October 1, January 1 or April 1, as applicable.

Sec. 3. NRS 388A.417 is hereby amended to read as follows:

388A.417 1. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning

of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school.

2. The count of pupils who are enrolled in the charter school must be revised each quarter based on the average daily enrollment of pupils in the charter school that is reported for that quarter pursuant to NRS 387.1223.

3. Pursuant to subsection ~~[3]~~ *5* of NRS 387.1241, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

4. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 and 387.1241 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

Sec. 4. This act becomes effective on July 1, 2019.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 866 makes a change to section 1 of Assembly Bill No. 64 to clarify if the apportionment to a charter school for pupils who are enrolled full time in a program of distance education is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district shall pay the difference to the Department of Education for distribution to the charter school.

Amendment adopted.

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

Assembly Bill No. 70.

Bill read second time.

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

Amendment No. 878.

SUMMARY—Revises provisions governing the Open Meeting Law. (BDR 19-421)

AN ACT relating to meetings of public bodies; making various changes relating to meetings of public bodies; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Open Meeting Law requires a public body to ensure that members of the public body and the public present at a meeting can hear or observe and participate in the meeting if any member of the public body is present by means of teleconference or videoconference. (NRS 241.010) Section 2 of this bill provides instead that if a member of the public body attends a meeting of the public body by means of teleconference or videoconference, the chair of the public body must make reasonable efforts to ensure that members of the public body and the public can hear or observe each member attending by teleconference or videoconference. Section 4 of this bill makes a conforming change.

Section 2 authorizes a public body, under certain circumstances, to conduct a public meeting by teleconference or videoconference.

Section 6.2 of this bill requires the public officers and employees responsible for a public meeting to make reasonable efforts to ensure the facilities for that meeting are large enough to accommodate the anticipated number of attendees.

Section 2.5 of this bill provides a public body may delegate authority to the chair or the executive director, or an equivalent position, to make any decision regarding litigation concerning any action or proceeding in which the public body or any member or employee of the public body is a party in an official capacity or participates or intervenes in an official capacity.

Existing law sets forth the circumstances when a public body is required to comply with the Open Meeting Law. Under existing law, a public body may gather to receive information from an attorney employed or retained by the public body regarding certain matters without complying with the Open Meeting Law. (NRS 241.015)

Section 5 of this bill authorizes, under certain circumstances, a public body to gather to receive training regarding its legal obligations without complying with the Open Meeting Law.

Section 5 requires, under certain circumstances, a subcommittee or working group of a public body to comply with the provisions of the Open Meeting Law.

The Open Meeting Law requires a public body to make supporting material for a meeting of the public body available to the public upon request. (NRS 241.020) Section 5 defines the term "supporting material."

Existing law requires a public body to have a meeting recorded on audiotape or transcribed by a court reporter and provide a copy of the audio recording or transcript to a member of the public upon request at no charge. Existing law also provides this requirement does not prohibit a court reporter from charging a fee to the public body for any services relating to the transcription of a meeting. (NRS 241.035) Section 7 of this bill clarifies that a court reporter who transcribes a meeting is: (1) not prohibited from charging a fee to the public body for the transcription; and (2) not required to provide a copy of any transcript, minutes or audio recording of a meeting directly to a member of the public at no charge.

Under existing law, the Attorney General is required to investigate and prosecute any violation of the Open Meeting Law. (NRS 241.039) Section 10 of this bill: (1) requires, with limited exception, the Attorney General to investigate and prosecute a violation of the Open Meeting Law if a complaint is filed not later than 120 days after the alleged violation; and (2) gives the Attorney General discretion to investigate and prosecute a violation of the Open Meeting Law if a complaint is filed more than 120 days after the alleged violation.

Section 10 further requires: (1) the Attorney General to issue certain findings upon completion of an investigation; and (2) a public body to submit a response to the findings of the Attorney General not later than 30 days after receipt of the Attorney General's findings.

Existing law makes each member of a public body who attends a meeting where action is taken in violation of the Open Meeting Law with knowledge of the fact that the meeting is in violation guilty of a misdemeanor and subject to a civil penalty of $500. (NRS 241.040) Section 12 of this bill provides instead that each member of a public body who: (1) attends a meeting where any violation of the Open Meeting Law occurs; (2) has knowledge of the violation; and (3) participates in the violation, is guilty of a misdemeanor and subject to an administrative fine, the amount of which is graduated for multiple offenses. Section 12 also creates an exception to these penalties and fines where the member violated the Open Meeting Law based on legal advice provided by an attorney employed or retained by the public body.

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

Section 1. Chapter 241 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 2.5 of this act.

Sec. 2. *1. A public body may conduct a meeting by means of teleconference or videoconference if:*

(a) A quorum is actually or collectively present, whether in person or by means of electronic communication; and

(b) There is a physical location designated for the meeting where members of the public are permitted to attend and participate.

2. If any member of a public body attends a meeting by means of teleconference or videoconference, the chair of the public body, or his or her designee, must make reasonable efforts to ensure that:

(a) Members of the public body and members of the public present at the physical location of the meeting can hear or observe each member attending by teleconference or videoconference; and

(b) Each member of the public body in attendance can participate in the meeting.

Sec. 2.5. *A public body may delegate authority to the chair or the executive director of the public body, or an equivalent position, to make any decision regarding litigation concerning any action or proceeding in which the public body or any member or employee of the public body is a party in an official capacity or participates or intervenes in an official capacity.*

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 241.010 is hereby amended to read as follows:

241.010 ~~[1.]~~ In enacting this chapter, the Legislature finds and declares that all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

~~[2. If any member of a public body is present by means of teleconference or videoconference at any meeting of the public body, the public body shall ensure that all the members of the public body and the members of the public who are present at the meeting can hear or observe and participate in the meeting.]~~

Sec. 5. NRS 241.015 is hereby amended to read as follows:

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

1. "Action" means:

(a) A decision made by a majority of the members present, whether in person or by means of electronic communication, during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present, whether in person or by means of electronic communication, during a meeting of a public body;

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

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

2. "Deliberate" means collectively to examine, weigh and reflect upon the reasons for or against the action. The term includes, without limitation, the collective discussion or exchange of facts preliminary to the ultimate decision.

3. "Meeting":

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

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

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

(I) Less than a quorum is present, whether in person or by means of electronic communication, at any individual gathering;

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

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

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

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

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

(3) To receive training regarding the legal obligations of the public body, including, without limitation, training conducted by an attorney employed or retained by the public body, the Office of the Attorney General or the Commission on Ethics, if at the gathering the members do not deliberate toward a decision or action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

4. Except as otherwise provided in NRS 241.016, "public body" means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government consisting of at least two persons which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes a library foundation as defined in NRS 379.0056, an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405, if the administrative, advisory, executive or legislative body is created by:

(1) The Constitution of this State;

(2) Any statute of this State;

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

(4) The Nevada Administrative Code;

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

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

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

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

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

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

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

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

(d) A subcommittee or working group consisting of at least two persons who are appointed by a public body described in paragraph (a), (b) or (c) if:

(1) A majority of the membership of the subcommittee or working group are members or staff members of the public body that appointed the subcommittee; or

(2) The subcommittee or working group is authorized by the public body ~~[or working group]~~ to make a recommendation to the public body for the public body to take any action.

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

6. *"Supporting material" means material that is provided to at least a quorum of the members of a public body by a member of or staff to the public body and that the members of the public body would reasonably rely on to deliberate or take action on a matter contained in a published agenda. The term includes, without limitation, written records, audio recordings, video recordings, photographs and digital data.*

7. "Working day" means every day of the week except Saturday, Sunday and any day declared to be a legal holiday pursuant to NRS 236.015.

Sec. 6. (Deleted by amendment.)

Sec. 6.2. NRS 241.020 is hereby amended to read as follows:

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

2. *If any portion of a meeting is open to the public, the public officers and employees responsible for the meeting must make reasonable efforts to ensure the facilities for the meeting are large enough to accommodate the anticipated number of attendees. No violation of this chapter occurs if a member of the public is not permitted to attend a public meeting because the facilities for the meeting have reached maximum capacity if reasonable efforts were taken to accommodate the anticipated number of attendees. Nothing in this subsection requires a public body to incur any costs to secure a facility outside the control or jurisdiction of the public body or to upgrade, improve or otherwise modify an existing facility to accommodate the anticipated number of attendees.*

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

(a) The time, place and location of the meeting.

(b) A list of the locations where the notice has been posted.

(c) The name and contact information for the person designated by the public body from whom a member of the public may request the supporting material for the meeting described in subsection ~~[6]~~ *7* and a list of the locations where the supporting material is available to the public.

(d) An agenda consisting of:

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

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items by placing the term "for possible action" next to the appropriate item or, if the item is placed on the agenda pursuant to NRS 241.0365, by placing the term "for possible corrective action" next to the appropriate item.

(3) Periods devoted to comments by the general public, if any, and discussion of those comments. Comments by the general public must be taken:

(I) At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting; or

(II) After each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.

➥ The provisions of this subparagraph do not prohibit a public body from taking comments by the general public in addition to what is required pursuant to sub-subparagraph (I) or (II). Regardless of whether a public body takes comments from the general public pursuant to sub-subparagraph (I) or (II), the public body must allow the general public to comment on any matter that is not specifically included on the agenda as an action item at some time before adjournment of the meeting. No action may be taken upon a matter raised during a period devoted to comments by the general public until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

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

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action regarding a person, the name of that person.

(6) Notification that:

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

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

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

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

~~[3.]~~ *4.* Minimum public notice is:

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

(b) Posting the notice on the official website of the State pursuant to NRS 232.2175 not later than 9 a.m. of the third working day before the meeting is to be held, unless the public body is unable to do so because of technical problems relating to the operation or maintenance of the official website of the State; and

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

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

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

~~[4.]~~ *5.* For each of its meetings, a public body shall document in writing that the public body complied with the minimum public notice required by paragraph (a) of subsection ~~[3.]~~ *4.* The documentation must be prepared by every person who posted a copy of the public notice and include, without limitation:

(a) The date and time when the person posted the copy of the public notice;

(b) The address of the location where the person posted the copy of the public notice; and

(c) The name, title and signature of the person who posted the copy of the notice.

~~[5.]~~ *6.* If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection ~~[3.]~~ *4.* The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical

problems with its website shall not be deemed to be a violation of the provisions of this chapter.

~~[6.]~~ *7.* Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

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

(c) Subject to the provisions of subsection ~~[7 or 8,]~~ *8 or 9,* as applicable, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

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

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

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

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

~~[7.]~~ *8.* Unless it must be made available at an earlier time pursuant to NRS 288.153, a copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection ~~[6]~~ *7* must be:

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

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

➥ If the requester has agreed to receive the information and material set forth in subsection ~~[6]~~ *7* by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

~~[8.]~~ *9.* Unless the supporting material must be posted at an earlier time pursuant to NRS 288.153, the governing body of a county or city whose population is 45,000 or more shall post the supporting material described in paragraph (c) of subsection ~~[6]~~ *7* to its website not later than the time the material is provided to the members of the governing body or, if the supporting material is provided to the members of the governing body at a meeting, not later than 24 hours after the conclusion of the meeting. Such posting is supplemental to the right of the public to request the supporting material pursuant to subsection ~~[6.]~~ *7.* The inability of the governing body, as a result of technical problems with its website, to post supporting material pursuant to this subsection shall not be deemed to be a violation of the provisions of this chapter.

~~[9.]~~ *10.* A public body may provide the public notice, information or supporting material required by this section by electronic mail. Except as otherwise provided in this subsection, if a public body makes such notice, information or supporting material available by electronic mail, the public body shall inquire of a person who requests the notice, information or supporting material if the person will accept receipt by electronic mail. If a public body is required to post the public notice, information or supporting material on its website pursuant to this section, the public body shall inquire of a person who requests the notice, information or supporting material if the person will accept by electronic mail a link to the posting on the website when the documents are made available. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or supporting material or a link to a website required by this section to a person who has agreed to receive such notice, information, supporting material or link by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

~~[10.]~~ *11.* As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

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

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

Sec. 6.5. NRS 241.033 is hereby amended to read as follows:

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

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

(b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

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

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

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

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

(c) Must include:

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

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

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

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

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

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

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

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

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

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

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

7. For the purposes of this section:

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

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

(c) A meeting held to recognize or award positive achievements of a person, including, without limitation, honors, awards, tenure and commendations, is not subject to the notice requirements otherwise imposed by this section.

Sec. 7. NRS 241.035 is hereby amended to read as follows:

241.035 1. Each public body shall keep written minutes of each of its meetings, including:

(a) The date, time and place of the meeting.

(b) Those members of the public body who were present, whether in person or by means of electronic communication, and those who were absent.

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.

(d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.

(e) Any other information which any member of the public body requests to be included or reflected in the minutes.

➥ Unless good cause is shown, a public body shall approve the minutes of a meeting within 45 days after the meeting or at the next meeting of the public body, whichever occurs later.

2. Minutes of public meetings are public records. Minutes or an audio recording of a meeting made in accordance with subsection 4 must be made available for inspection by the public within 30 working days after adjournment of the meeting. A copy of the minutes or audio recording must be made available to a member of the public upon request at no charge. The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Thereafter, the minutes may be transferred for archival preservation in accordance with NRS 239.080 to 239.125, inclusive. Minutes of meetings closed pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality and the person whose character, conduct, competence or health was considered has consented to their disclosure. That person is entitled to a copy of the minutes upon request whether or not they become public records.

(b) Paragraph (b) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality.

(c) Paragraph (c) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters considered no longer require confidentiality and the person who appealed the results of the examination has consented to their disclosure, except that the public body shall remove from the minutes any references to the real name of the person who appealed the results of the examination. That person is entitled to a copy of the minutes upon request whether or not they become public records.

3. All or part of any meeting of a public body may be recorded on audiotape or any other means of sound or video reproduction by a member of

the general public if it is a public meeting so long as this in no way interferes with the conduct of the meeting.

4. Except as otherwise provided in subsection ~~[7,]~~ *8,* a public body shall, for each of its meetings, whether public or closed, record the meeting on audiotape or another means of sound reproduction or cause the meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS. If a public body makes an audio recording of a meeting or causes a meeting to be transcribed pursuant to this subsection, the audio recording or transcript:

(a) Must be retained by the public body for at least ~~[1 year]~~ *3 years* after the adjournment of the meeting at which it was recorded or transcribed;

(b) Except as otherwise provided in this section, is a public record and must be made available for inspection by the public during the time the recording or transcript is retained; and

(c) Must be made available to the Attorney General upon request.

5. The requirement set forth in subsection 2 that a public body make available a copy of the minutes or audio recording of a meeting to a member of the public upon request at no charge does not ~~[:~~

~~(a) Prohibit]~~ *prohibit* a court reporter who is certified pursuant to chapter 656 of NRS from charging a fee to the public body for any services relating to the transcription of a meeting . ~~[; or~~

~~(b) Require a]~~

6. A court reporter who transcribes a meeting *is not required* to provide a copy of any transcript, minutes or audio recording of the meeting prepared by the court reporter *directly* to a member of the public at no charge.

~~[6.]~~ *7.* Except as otherwise provided in subsection ~~[7,]~~ *8,* any portion of a public meeting which is closed must also be recorded or transcribed and the recording or transcript must be retained and made available for inspection pursuant to the provisions of subsection 2 relating to records of closed meetings. Any recording or transcript made pursuant to this subsection must be made available to the Attorney General upon request.

~~[7.]~~ *8.* If a public body makes a good faith effort to comply with the provisions of subsections 4 and ~~[6]~~ *7* but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event, such failure does not constitute a violation of the provisions of this chapter.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 241.039 is hereby amended to read as follows:

241.039 1. A complaint that alleges a violation of this chapter may be filed with the Office of the Attorney General. *The Office of the Attorney General shall notify a public body identified in a complaint of the alleged violation not more than 14 days after the complaint is filed.*

2. Except as otherwise provided in *subsection 3 and* NRS 241.0365, the Attorney General ~~[shall]~~ *:*

(a) Shall investigate and prosecute any violation of this chapter ~~[.]~~ *alleged in a complaint filed not later than 120 days after the alleged violation with the Office of the Attorney General.*

(b) Except as otherwise provided in paragraph (c), shall not investigate and prosecute any violation of this chapter alleged in a complaint filed with the Office of the Attorney General later than 120 days after the alleged violation.

(c) May, at his or her discretion, investigate and prosecute any violation of this chapter alleged in a complaint filed more than 120 days after the alleged violation with the Office of the Attorney General if:

(1) The alleged violation was not discoverable at the time that the alleged violation occurred; and

(2) The complaint is filed not more than 1 year after the alleged violation with the Office of the Attorney General.

3. *The Attorney General is not required to investigate or prosecute any alleged violation of this chapter if the Attorney General determines that the complaint was filed in bad faith or the interests of the person who filed the complaint are not significantly affected by the action of the public body that is alleged to violate this chapter. For purposes of this subsection:*

(a) A complaint is filed in bad faith if the person who filed the complaint has:

(1) Filed at least one other complaint against the same public body within the immediately preceding 12 months and no such complaint has resulted in a finding by the Attorney General that a violation of this chapter occurred; and

(2) Engaged in previous conduct to harass or annoy the public body, its members or its staff.

(b) The interests of the person who filed the complaint are not significantly affected by the action of the public body that is alleged to violate this chapter unless:

(1) The person who filed the complaint would have standing to challenge the action of the public body in a court of law; or

(2) The person who filed the complaint:

(I) Is a natural person and resides within the geographic area over which the public body has jurisdiction; or

(II) Is any form of business, a social organization or any other nongovernmental legal entity in this State that has a mission or purpose to foster or protect democratic principles or promote transparency in government.

4. Except as otherwise provided in subsection ~~[6]~~ *7* and NRS 239.0115, all documents and other information compiled as a result of an investigation conducted pursuant to subsection 2 are confidential until the investigation is closed.

~~[4.]~~ 5. In any investigation conducted pursuant to subsection 2, the Attorney General may issue subpoenas for the production of any relevant documents, records or materials.

~~[5.]~~ *6.* A person who willfully fails or refuses to comply with a subpoena issued pursuant to this section is guilty of a misdemeanor.

~~[6.]~~ *7.* The following are public records:

(a) A complaint filed pursuant to subsection 1.

(b) Every finding of fact or conclusion of law made by the Attorney General relating to a complaint filed pursuant to subsection 1.

(c) Any document or information compiled as a result of an investigation conducted pursuant to subsection 2 that may be requested pursuant to NRS 239.0107 from a governmental entity other than the Office of the Attorney General.

~~*[7.]*~~ *8. Upon completion of an investigation conducted pursuant to subsection 2, the Attorney General shall inform the public body that is the subject of the investigation and issue, as applicable:*

(a) A finding that no violation of this chapter occurred; or

(b) A finding that a violation of this chapter occurred, along with findings of fact and conclusions of law that support the finding that a violation of this chapter occurred.

~~*[8.]*~~ *9. A public body or, if authorized by the public body, an attorney employed or retained by the public body, shall submit a response to the Attorney General not later than 30 days after receipt of any finding that the public body violated this chapter. If the Attorney General does not receive a response within 30 days after receipt of the finding, it shall be deemed that the public body disagrees with the finding of the Attorney General.*

Sec. 11. NRS 241.0395 is hereby amended to read as follows:

241.0395 1. If the Attorney General makes findings of fact and conclusions of law that a public body has ~~[taken action in violation of]~~ *violated* any provision of this chapter, the public body must include an item on the next agenda posted for a meeting of the public body which acknowledges *the existence of* the findings of fact and conclusions of law. The opinion of the Attorney General must be treated as supporting material for the item on the agenda for the purposes of NRS 241.020.

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

Sec. 12. NRS 241.040 is hereby amended to read as follows:

241.040 1. ~~[Each]~~ *Except as otherwise provided in subsection 6, each* member of a public body who attends a meeting of that public body where ~~[action is taken in violation of]~~ any ~~[provision]~~ *violation* of this chapter ~~[, with]~~ *occurs, has* knowledge of the ~~[fact that the meeting is in violation thereof,]~~ *violation and participates in the violation,* is guilty of a misdemeanor.

2. ~~[Wrongful]~~ *Except as otherwise provided in subsection 6, wrongful* exclusion of any person or persons from a meeting is a misdemeanor.

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

4. ~~[In]~~ *Except as otherwise provided in subsection 6, in* addition to any criminal penalty imposed pursuant to this section, each member of a public body who attends a meeting of that public body where ~~[action is taken in violation of]~~ any ~~[provision]~~ *violation* of this chapter ~~[,]~~ *occurs* and who participates in such ~~[action the meeting]~~ *violation* with knowledge of the violation, is subject to ~~[a civil penalty]~~ *an administrative fine* in an amount not to exceed *:*

(a) For a first offense, $500 ~~[. The Attorney General may recover the penalty]~~ *;*

(b) For a second offense, $1,000; and

(c) For a third or subsequent offense, $2,500.

5. The Attorney General may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction. Such an action must be commenced within 1 year after the ~~[date of the action taken in violation of this chapter.]~~ *fine is assessed.*

6. No criminal penalty or administrative fine may be imposed upon a member of a public body pursuant to this section if a member of a public body violates a provision of this chapter as a result of legal advice provided by an attorney employed or retained by the public body.

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. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

This amendment relates to the Open Meeting Law. Amendment No. 878 to Assembly Bill No. 70 requires the public officers and employees responsible for a public meeting to make reasonable efforts to ensure the facilities for that meeting are large enough to accommodate the anticipated number of attendees; it clarifies when the Office of the Attorney General may decline to investigate certain complaints, and it makes certain technical corrections.

Amendment adopted.

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

Assembly Bill No. 112.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 806.

SUMMARY—Revises provisions governing the Advisory Commission on the Administration of Justice. (BDR 14-589)

AN ACT relating to criminal justice; revising certain provisions governing the Advisory Commission on the Administration of Justice; repealing certain subcommittees of the Advisory Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Advisory Commission, among other duties, to identify and study the elements of this State's system of criminal justice. Additionally, existing law requires the Advisory Commission to submit a report to the Director of the Legislative Counsel Bureau by September 1 of each even-numbered year. (NRS 176.0123, 176.0125) Sections 2 and 3 of this bill revise the duties of the Advisory Commission. Section 2: (1) removes language specifying certain duties of the Advisory Commission and instead generally requires the Advisory Commission, at the discretion of the Chair of the Advisory Commission, to identify and study certain elements of this State's system of criminal justice; and (2) revises the deadline for the Advisory Commission to submit its report to December 1 of each even-numbered year. Section 3 requires the Advisory Commission to evaluate and review the submittal, storage and testing of sexual assault forensic evidence kits.

Existing law establishes and prescribes the duties of various subcommittees of the Advisory Commission. Such subcommittees include: (1) the Subcommittee on Juvenile Justice; (2) the Subcommittee on Victims of Crime; (3) the Subcommittee to Review Arrestee DNA; and (4) the Subcommittee on Medical Use of Marijuana. (NRS 176.0124-176.01247) Section 7 of this bill repeals these subcommittees. Sections 4 and 5 of this bill make conforming changes.

Finally, section 1 of this bill : (1) requires that a legislative member of the Advisory Commission serve as the Chair of the Advisory Commission; and (2) requires an officer or employee of this State or a political subdivision of this State who is a member of the Advisory Commission to be relieved from his or her duties as an officer or employee to prepare, attend meetings and

perform work for the Advisory Commission without loss of his or her regular compensation.

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

Section 1. NRS 176.0123 is hereby amended to read as follows:

176.0123 1. The Advisory Commission on the Administration of Justice is hereby created. The Commission consists of:

(a) One member who is a municipal judge or justice of the peace, appointed by the governing body of the Nevada Judges of Limited Jurisdiction;

(b) One member who is a district judge, appointed by the governing body of the Nevada District Judges Association;

(c) One member who is a justice of the Supreme Court of Nevada or a retired justice of the Supreme Court of Nevada, appointed by the Chief Justice of the Supreme Court of Nevada;

(d) One member who is a district attorney, appointed by the governing body of the Nevada District Attorneys Association;

(e) One member who is an attorney in private practice, experienced in defending criminal actions, appointed by the governing body of the State Bar of Nevada;

(f) One member who is a public defender, appointed by the governing body of the State Bar of Nevada;

(g) One member who is a representative of a law enforcement agency, appointed by the Governor;

(h) One member who is a representative of the Division of Parole and Probation of the Department of Public Safety, appointed by the Governor;

(i) One member who is a representative of the Central Repository for Nevada Records of Criminal History, appointed by the Governor;

(j) One member who has been a victim of a crime or is a representative of an organization supporting the rights of victims of crime, appointed by the Governor;

(k) One member who is a representative of an organization that advocates on behalf of inmates, appointed by the Governor;

(l) One member who is a representative of the Nevada Sheriffs' and Chiefs' Association, appointed by the Nevada Sheriffs' and Chiefs' Association;

(m) One member who is a member of the State Board of Parole Commissioners, appointed by the State Board of Parole Commissioners;

(n) The Director of the Department of Corrections;

(o) Two members who are Senators, one of whom is appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate; and

(p) Two members who are members of the Assembly, one of whom is appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly.

➥ If any association listed in this subsection ceases to exist, the appointment required by this subsection must be made by the association's successor in interest or, if there is no successor in interest, by the Governor.

2. The Attorney General is an ex officio voting member of the Commission.

3. Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

4. The Legislators who are members of the Commission are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Commission.

5. At the first regular meeting of each odd-numbered year, the members of the Commission shall elect a Chair by majority vote ~~[who]~~ *from among the legislative members of the Commission. Each Chair* shall serve until the next Chair is elected.

6. The Commission shall meet at least once every 3 months and may meet at such further times as deemed necessary by the Chair.

7. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.

8. While engaged in the business of the Commission, to the extent of legislative appropriation, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

9. *A member of the Commission who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that he or she may prepare for and attend meetings of the Commission and perform any work necessary to carry out the duties of the Commission in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Commission to:*

(a) Make up the time the member is absent from work to carry out his or her duties as a member of the Commission; or

(b) Take annual leave or compensatory time for the absence.

10. To the extent of legislative appropriation, the Director of the Legislative Counsel Bureau shall provide the Commission with such staff as is necessary to carry out the duties of the Commission.

Sec. 2. NRS 176.0125 is hereby amended to read as follows:

176.0125 The Commission shall:

1. Except as otherwise provided pursuant to NRS 176.0134 ~~[,]~~ *and subject to the discretion of the Chair,* evaluate and study the elements of this State's system of criminal justice.

2. ~~[Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:~~

~~(a) Policies relating to parole;~~

~~(b) Regulatory procedures and policies of the State Board of Parole Commissioners;~~

~~(c) Policies for the operation of the Department of Corrections;~~

~~(d) Budgetary issues; and~~

~~(e) Other related matters.~~

~~3. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.~~

~~4. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges in this State rely on and follow the recommendations contained in such presentence investigations and reports.~~

~~5. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:~~

~~(a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court; and~~

~~(b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.~~

~~6. Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:~~

~~(a) State Board of Pardons Commissioners to consider an application for clemency; and~~

~~(b) State Board of Parole Commissioners to consider an offender for parole.~~

~~7. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.~~

~~8. Evaluate the policies and practices relating to the involuntary civil commitment of sexually dangerous persons.~~

~~9. Identify and study the impacts and effects of collateral consequences of convictions in this State. Such identification and study:~~

~~(a) Must cause to be identified any provision in the Nevada Constitution, the Nevada Revised Statutes and the Nevada Administrative Code which imposes a collateral sanction or authorizes the imposition of a disqualification, and any provision of law that may afford relief from a collateral consequence;~~

~~(b) May rely on the study of this State's collateral sanctions, disqualifications and relief provisions prepared by the National Institute of Justice described in section 510 of the Court Security Improvement Act of 2007, Public Law 110-177; and~~

~~(c) Must include the posting of a hyperlink on the Commission's website to any study of this State's collateral sanctions, disqualifications and relief provisions prepared by the National Institute of Justice described in section 510 of the Court Security Improvement Act of 2007, Public Law 110-177.~~

~~10.]~~ Recommend standards, policies and procedures for integrated criminal justice information sharing between criminal justice agencies in this State and the Central Repository for Nevada Records of Criminal History.

~~[11.]~~ *3.* Provide a copy of any recommendations described in subsection ~~[10]~~ *2* to the Director of the Department of Public Safety.

~~[12.]~~ *4.* For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the administration of justice in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than ~~[September]~~ *December* 1 of each even-numbered year.

Sec. 3. NRS 176.0125 is hereby amended to read as follows:

176.0125 The Commission shall:

1. Except as otherwise provided pursuant to NRS 176.0134 and subject to the discretion of the Chair, evaluate and study the elements of this State's system of criminal justice.

2. Recommend standards, policies and procedures for integrated criminal justice information sharing between criminal justice agencies in this State and the Central Repository for Nevada Records of Criminal History.

3. Provide a copy of any recommendations described in subsection 2 to the Director of the Department of Public Safety.

4. Evaluate and review issues relating to the submittal, storage and testing of sexual assault forensic evidence kits, including, without limitation, the review of any report required pursuant to NRS 200.3788.

5. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the administration of justice in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than December 1 of each even-numbered year.

6. As used in this section, "sexual assault forensic evidence kit" has the meaning ascribed to it in NRS 200.364.

Sec. 4. Section 4.5 of chapter 431, Statutes of Nevada 2017, at page 2891, is hereby amended to read as follows:

Sec. 4.5. The department or division designated by the Attorney General pursuant to section 1.7 of this act to establish a statewide program to track sexual assault forensic evidence kits shall, on or before July 1, 2021, submit to the Governor and the ~~[Subcommittee to Review DNA of the]~~ Advisory Commission on the Administration of Justice ~~[created by NRS 176.01246, as amended by section 3.1 of this act,]~~ a report concerning the status of the program and a plan for launching the program, including a plan for phased implementation.

Sec. 5. Section 8 of chapter 431, Statutes of Nevada 2017, at page 2891, is hereby amended to read as follows:

Sec. 8. 1. This section and sections 1, 1.3, 2, 3.3 to 4, inclusive, 5 and 6 of this act become effective on October 1, 2017.

2. Sections 1.7, 2.5 ~~[, 3.1]~~ and 4.5 of this bill become effective on January 1, 2021.

Sec. 6. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 7. 1. NRS 176.0124, 176.01245, 176.01246 and 176.01247 are hereby repealed.

2. Section 3.1 of chapter 431, Statutes of Nevada 2017, at page 2889, is hereby repealed.

Sec. 8. 1. This section and sections 1, 2 and 4 to 7, inclusive, of this act become effective on July 1, 2019.

2. Section 3 of this act becomes effective on January 1, 2021.

LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA

176.0124 Subcommittee on Juvenile Justice: Creation; Chair; members; duties; salaries and per diem.

176.01245 Subcommittee on Victims of Crime: Creation; Chair; members; duties; salaries and per diem.

176.01246 Subcommittee to Review Arrestee DNA: Creation; Chair; members; duties; salaries and per diem.

176.01247 Subcommittee on Medical Use of Marijuana: Creation; Chair; members; duties; salaries and per diem.

Section 3.1 of chapter 431, Statutes of Nevada 2017, at page 2889:

Sec. 3.1. NRS 176.01246 is hereby amended to read as follows:

176.01246 1. There is hereby created the Subcommittee to Review DNA of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee which must include, without limitation:

(a) A member experienced in defending criminal actions.

(b) A member of a minority community organization whose mission includes the protection of civil rights for minorities.

3. The Chair of the Commission shall designate one of the members of the Subcommittee as Chair of the Subcommittee.

4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

5. The Subcommittee shall consider issues relating to DNA and shall evaluate, review and submit a report to the Commission with recommendations concerning such issues. The issues considered by the Subcommittee and the report submitted by the Subcommittee must include, without limitation:

(a) The costs and procedures relating to the methods, implementation and utilization of the provisions for the destruction of biological specimens and purging of DNA profiles and DNA records of arrested persons;

(b) The collection and review of information concerning the number of requests for the destruction of biological specimens and purging of DNA profiles and DNA records of arrested persons and the number and percentage of such requests that are denied; and

(c) The submittal, storage and testing of sexual assault forensic evidence kits, including, without limitation, the review of any report required pursuant to section 1.7 of this act.

6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.

7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses as provided for state officers and employees generally.

8. As used in this section:

(a) "Biological specimen" has the meaning ascribed to it in NRS 176.09112.

(b) "DNA" has the meaning ascribed to it in NRS 176.09114.

(c) "DNA profile" has the meaning ascribed to it in NRS 176.09115.

(d) "DNA record" has the meaning ascribed to it in NRS 176.09116.

(e) "Sexual assault forensic evidence kit" has the meaning ascribed to it in NRS 200.364.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 806 to Assembly Bill No. 112 requires a Legislator serve as Chair of the Advisory Commission on the Administration of Justice.

Conflict of interest declared by Senator Ohrenschall.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 222.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 804.

SUMMARY—Revises provisions relating to specialty courts. (BDR 14-842)

AN ACT relating to specialty courts; revising provisions relating to the eligibility of certain defendants for participation in certain programs in specialty courts; authorizing a court to enter a judgment of conviction against a defendant before placing the defendant on probation and requiring the defendant to participate in certain programs in specialty courts; authorizing a court to dismiss the proceedings against or set aside a judgment of conviction of a defendant upon completion of certain programs in specialty courts under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a district court, justice court or municipal court to place certain defendants who are veterans or members of the military on probation upon terms and conditions that must include attendance and successful completion of an appropriate program for the treatment of such defendants. However, the court may not assign a defendant to such a program without the prosecuting attorney stipulating to the assignment if: (1) the offense committed by the defendant involved the use or threatened use of force or violence; or (2) the defendant was previously convicted of a felony that involved the use or threatened use of force or violence. (NRS 176A.290) Existing law also contains a similar provision relating to the eligibility of defendants for assignment to a program for defendants with mental illness or intellectual disabilities. (NRS 176A.260)

The Nevada Supreme Court has held that subsection 2 of NRS 176A.290, which provides that the court may not assign a defendant who is a veteran or member of the military to a program without the prosecuting attorney stipulating to the assignment, violates the separation of powers clause in the Nevada Constitution. (*State v. Hearn*, 134 Nev. Adv. Op. 96 (2018)) The Court further held that the language providing for such a stipulation by the prosecuting attorney is severable from the statute, thereby rendering all defendants who committed a violent offense or who have previously been convicted of a violent felony ineligible for assignment to the program. (*Id.* At 10)

Sections 2 and 3 of this bill, which pertain to the eligibility for assignment to the program for defendants who are veterans or members of the military: (1) remove the language in the statute found unconstitutional by the Nevada Supreme Court that requires the stipulation by the prosecuting attorney before

the court may assign to the program a defendant who committed a violent offense or who has previously been convicted of a violent felony; and (2) provide that a defendant who has committed a category A felony or a sexual offense punishable as a category B felony is ineligible for assignment to the program.

Section 3 also authorizes a court to enter a judgment of conviction against the defendant before placing the defendant on probation and requiring the defendant to complete the program for defendants who are veterans or members of the military. Section 3 also requires a court to discharge and dismiss the proceedings against or set aside the judgment of conviction of the defendant unless the defendant: (1) has previously been convicted of a felony under certain circumstances; or (2) has previously failed to complete a specialty court program. If the defendant has been previously convicted of a felony or has previously failed to complete a specialty court program, section 3 authorizes a court to discharge and dismiss the proceedings against or set aside the judgment of conviction of the defendant.

Section 1 of this bill, which pertains to a program of treatment for defendants with mental illness or intellectual disabilities, makes a similar change as in sections 2 and 3.

Section 2 also removes the provision in existing law that makes a defendant who has previously been assigned to the program ineligible for assignment to the program, thereby making such a defendant eligible for assignment to the program.

~~[Section]~~ Sections 4 and 4.5 of this bill makes conforming changes.

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

Section 1. NRS 176A.260 is hereby amended to read as follows:

176A.260 1. Except as otherwise provided in subsection 2, if a defendant who suffers from mental illness or is intellectually disabled tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may ~~[, without]~~ *:*

(a) Without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.250 ~~[.]~~ *; or*

(b) Enter a judgment of conviction and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.250.

2. If the offense committed by the defendant ~~[involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the~~

~~assignment.]~~ *is a category A felony* ~~[,]~~ *or a sexual offense as defined in NRS 179D.097 that is punishable as a category B felony, the defendant is not eligible for assignment to the program.*

3. Upon violation of a term or condition:

(a) The court may enter a judgment of conviction *, if applicable,* and proceed as provided in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

4. Upon fulfillment of the terms and conditions, the court ~~[shall]~~ *:*

(a) Shall discharge the defendant and dismiss the proceedings ~~[.]~~ *or set aside the judgment of conviction, as applicable, unless the defendant:*

(1) Has been previously convicted in this State or in any other jurisdiction of a felony; or

(2) Has previously failed to complete a specialty court program; or

(b) May discharge the defendant and dismiss the proceedings or set aside the judgment of conviction, as applicable, if the defendant:

(1) Has been previously convicted in this State or in any other jurisdiction of a felony; or

(2) Has previously failed to complete a specialty court program.

5. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of the defendant for any purpose.

Sec. 2. NRS 176A.287 is hereby amended to read as follows:

176A.287 1. Except as otherwise provided in subsection 2, a defendant is not eligible for assignment to a program of treatment established pursuant to NRS 176A.280 if *:* ~~[the defendant:]~~

(a) ~~[Has previously been assigned to such a program;]~~ *The offense committed by the defendant was a category A felony* ~~[,]~~ *or a sexual offense as defined in NRS 179D.097 that is punishable as a category B felony;* or

(b) ~~[Was]~~ *The defendant was* discharged or released from the Armed Forces of the United States, a reserve component thereof or the National Guard under dishonorable conditions.

2. A defendant described in paragraph (b) of subsection 1 may be assigned to a program of treatment established pursuant to NRS 176A.280 if a justice

court, municipal court or district court, as applicable, determines that extraordinary circumstances exist which warrant the assignment of the defendant to the program.

Sec. 3. NRS 176A.290 is hereby amended to read as follows:

176A.290 1. Except as otherwise provided in ~~[subsection 2 and]~~ NRS 176A.287, if a defendant described in NRS 176A.280 tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the district court, justice court or municipal court, as applicable, may ~~[, without]~~ :

(a) Without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.280 ~~[.]~~ *; or*

(b) Enter a judgment of conviction and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.280.

2. ~~[If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the district court, justice court or municipal court, as applicable, may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment. For the purposes of this subsection, in determining whether an offense involved the use or threatened use of force or violence, the district court, justice court or municipal court, as applicable, shall consider the facts and circumstances surrounding the offense, including, without limitation, whether the defendant intended to place another person in reasonable apprehension of bodily harm.~~

~~3.]~~ Upon violation of a term or condition:

(a) The district court, justice court or municipal court, as applicable, may impose sanctions against the defendant for the violation, but allow the defendant to remain in the program. Before imposing a sanction, the court shall notify the defendant of the violation and provide the defendant an opportunity to respond. Any sanction imposed pursuant to this paragraph:

(1) Must be in accordance with any applicable guidelines for sanctions established by the National Association of Drug Court Professionals or any successor organization; and

(2) May include, without limitation, imprisonment in a county or city jail or detention facility for a term set by the court, which must not exceed 25 days.

(b) The district court, justice court or municipal court, as applicable, may enter a judgment of conviction*, if applicable,* and proceed as provided in the section pursuant to which the defendant was charged.

(c) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the district court may order the defendant to the custody of the

Department of Corrections if the offense is punishable by imprisonment in the state prison.

~~[4.]~~ *3.* Except as otherwise provided in subsection 5, ~~*[4,]*~~ upon fulfillment of the terms and conditions, the district court, justice court or municipal court, as applicable ~~[, shall]~~ *:*

(a) Shall discharge the defendant and dismiss the proceedings ~~[.]~~ *or set aside the judgment of conviction, as applicable, unless the defendant:*

(1) Has been previously convicted in this State or in any other jurisdiction of a felony; or

(2) Has previously failed to complete a specialty court program; or

(b) May discharge the defendant and dismiss the proceedings or set aside the judgment of conviction, as applicable, if the defendant:

(1) Has been previously convicted in this State or in any other jurisdiction of a felony; or

(2) Has previously failed to complete a specialty court program.

4. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, complaint, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, complaint, indictment, information or trial in response to an inquiry made of the defendant for any purpose.

5. ~~*[4.]*~~ If the defendant was charged with a violation of NRS 200.485, 484C.110 or 484C.120, upon fulfillment of the terms and conditions, the district court, justice court or municipal court, as applicable, may conditionally dismiss the charges. If a court conditionally dismisses the charges, the court shall notify the defendant that the conditionally dismissed charges are a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail in a future case, but are not a conviction for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose. Conditional dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, complaint, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, complaint, indictment, information or trial in response to an inquiry made of the defendant for any purpose.

Sec. 4. NRS 176A.295 is hereby amended to read as follows:

176A.295 1. Except as otherwise provided in subsection 2, after a defendant is discharged from probation pursuant to NRS 176A.290, the justice court, municipal court or district court, as applicable, shall order sealed all

documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order if the defendant fulfills the terms and conditions imposed by the court and the Division. The justice court, municipal court or district court, as applicable, shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

2. If the defendant is charged with a violation of NRS 200.485, 484C.110 or 484C.120 and the charges are conditionally dismissed as provided in ~~[subsection 5 of]~~ NRS 176A.290, not sooner than 7 years after such a conditional dismissal and upon the filing of a petition by the defendant, the justice court, municipal court or district court, as applicable, shall order that all documents, papers and exhibits in the defendant's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order be sealed. The justice court, municipal court or district court, as applicable, shall order those records sealed without a hearing unless the Division petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

3. If the justice court, municipal court or district court, as applicable, orders sealed the record of a defendant discharged or whose charges were conditionally dismissed pursuant to NRS 176A.290, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the justice court, municipal court or district court, as applicable, in writing of its compliance with the order.

Sec. 4.5. NRS 484C.400 is hereby amended to read as follows:

484C.400 1. Unless a greater penalty is provided pursuant to NRS 484C.430 or 484C.440, and except as otherwise provided in NRS 484C.410, a person who violates the provisions of NRS 484C.110 or 484C.120:

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless the person is allowed to undergo treatment as provided in NRS 484C.320, the court shall:

(1) Except as otherwise provided in subparagraph (4) of this paragraph or subsection 3 of NRS 484C.420, order the person to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the Department and complete the course within the time specified in the order, and the court shall notify the Department if the person fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484C.320, sentence the person to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform not less than 48 hours, but not more than 96 hours, of community service while dressed in distinctive garb that identifies the person as having violated the provisions of NRS 484C.110 or 484C.120;

(3) Fine the person not less than $400 nor more than $1,000; and

(4) If the person is found to have a concentration of alcohol of 0.18 or more in his or her blood or breath, order the person to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484C.360.

(b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the sentence is reduced pursuant to NRS 484C.330, the court shall:

(1) Sentence the person to:

(I) Imprisonment for not less than 10 days nor more than 6 months in jail; or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

(2) Fine the person not less than $750 nor more than $1,000, or order the person to perform an equivalent number of hours of community service while dressed in distinctive garb that identifies the person as having violated the provisions of NRS 484C.110 or 484C.120; and

(3) Order the person to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484C.360.

➥ A person who willfully fails or refuses to complete successfully a term of residential confinement or a program of treatment ordered pursuant to this paragraph is guilty of a misdemeanor.

(c) Except as otherwise provided in NRS 484C.340, for a third offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender who is imprisoned pursuant to the provisions of this paragraph must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section:

(a) When evidenced by a conviction; or

(b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program [.] *or the judgment of conviction of such an offense was set aside pursuant to NRS 176A.290.*

➥ without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

3. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484C.320 or 484C.330 and the suspension of his or her sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 482.456, 483.560, 484C.410 or 485.330 must run consecutively.

5. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

6. For the purpose of determining whether one offense occurs within 7 years of another offense, any period of time between the two offenses during which, for any such offense, the offender is imprisoned, serving a term of residential confinement, placed under the supervision of a treatment provider, on parole or on probation must be excluded.

7. As used in this section, unless the context otherwise requires, "offense" means:

(a) A violation of NRS 484C.110, 484C.120 or 484C.430;

(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 484C.110, 484C.130 or 484C.430; 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).

Sec. 5. The amendatory provisions of this act apply to offenses committed before, on or after the effective date of this act.

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

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 804 to Assembly Bill No. 222 prohibits a person who has committed a sexual offense punishable as a category B felony from eligibility for assignment to a court-ordered program; provides that a court may enter a judgment of conviction against a defendant before placing the defendant on probation and requiring completion of a program; and provides circumstances under which a court may choose not to dismiss the proceedings or set aside a conviction of a defendant who has completed a program.

Amendment adopted.

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

Assembly Bill No. 286.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 728.

SUMMARY—Makes various changes relating to trusts and estates. (BDR 2-1028)

AN ACT relating to personal financial administration; revising provisions relating to certain fees charged by the clerk of the court; revising provisions relating to the statutory rule against perpetuities; clarifying certain provisions relating to nonprobate transfer of property upon death; providing that certain sums derived from the sale of a homestead are exempt from the execution of a judgment ~~[;]~~ in certain circumstances; revising provisions that govern the transfer of community property or separate property into a trust; revising certain provisions that govern wills and estates of deceased persons; revising certain provisions of the Uniform Powers of Appointment Act; revising certain provisions that govern trusts and the administration of trusts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the clerk of the court is required to charge and collect certain fees on the filing of a petition for letters testamentary or letters of administration for an estate that is valued at $200,000 or more and for an estate that is valued at more than $20,000 but less than $200,000. (NRS 19.0302) Section 1 of this bill increases the $200,000 amount to $300,000.

Existing law sets forth the Uniform Statutory Rule Against Perpetuities. (NRS 111.103-111.1039) This rule provides that a property interest which has not vested is invalid unless: (1) when the property interest is created, it is certain to vest or terminate no later than 21 years after the death of a person who is alive when the interest is created; or (2) the property interest either vests or terminates within 365 years after its creation. (NRS 111.1031) Existing law further provides that if language in a governing instrument for a trust or other property arrangement seeks to disallow or postpone the vesting or termination of any interest or trust beyond or until the later of the expiration of a period of time not exceeding or that exceeds or might exceed 21 years after the death of certain persons, such language is inoperative to the extent that it produces a period of time that exceeds 21 years after the death of certain persons. (NRS 111.1031) Section 4 of this bill removes this limitation on a governing instrument for a trust or other property.

Article 15, Section 4 of the Nevada Constitution provides that "[n]o perpetuities shall be allowed except for eleemosynary purposes." According to the Nevada Supreme Court, " 'eleemosynary' is synonymous with 'charitable,'.. (*Nixon v. Brown*, 46 Nev. 439, 457 (1923)) The constitutional provision against perpetuities is directed at private trusts and not at public or charitable trusts." *Id.* Existing law provides exclusions to which the statutory rule against perpetuities does not apply. (NRS 111.1037) Section 5 of this bill provides that the statutory rule against perpetuities does not apply to a property interest in or a power of appointment with respect to certain trusts or other property arrangements that were established for eleemosynary purposes.

Existing law sets forth various provisions governing nonprobate transfer of property upon death. (NRS 111.700-111.815) Existing law provides that a creditor has no claim against property transferred according to a power of appointment that was exercised by a decedent unless it was exercisable in favor of the decedent or the decedent's estate. (NRS 111.779) Section 6 of this bill provides that a creditor has no claim against property transferred according to a power of appointment that was exercised by a decedent unless the power of appointment was actually exercised in favor of the decedent or the decedent's estate.

Existing law provides that a homestead is not subject to forced sale on execution or any final process from any court, subject to certain exceptions. Existing law further provides that this exemption for homesteads extends only to the amount of equity in the property which does not exceed $550,000 in value. (NRS 115.010) Existing law defines "homestead" to mean the property consisting of: (1) a quantity of land, together with the dwelling house and its appurtenances; (2) a mobile home; or (3) a unit existing in a common-interest community or a condominium project. (NRS 115.005) Existing law provides that if the equity in the homestead exceeds the sum of $550,000, the judge shall determine whether the property can be divided so as to leave the property subject to the homestead exemption without material injury. If such division cannot occur, existing law requires: (1) the judge to order the entire property to be sold; and (2) that, from the proceeds of such a sale, the sum of $550,000 must be paid to the defendant in execution, with certain rules applying when the execution is against a spouse. (NRS 115.050) Section 7 of this bill provides that if the sum of $550,000 is paid to the defendant in execution or to a spouse, then the sum of $550,000 generally possesses all the protections that the original homestead possessed. Existing law provides that the homestead is exempt from execution of a judgment. (NRS 21.090) Section 2 of this bill provides that the sum of $550,000 that is paid to the defendant or spouse is also generally exempt from execution of a judgment. Sections 1.5 and 3 of this bill make conforming changes. Section 6.5 of this bill provides that the proceeds of $550,000 from the sale of a homestead are only exempt from execution if: (1) such proceeds are reinvested in another property of like kind for which the declaration of a homestead will be made; and (2) the other property is identified not later than 45 days after the sale of the homestead and taken possession of not later than 180 days after the sale of the homestead.

Existing law authorizes a trust instrument to provide that community property or separate property transferred into an irrevocable trust of which both spouses are current permissible beneficiaries remains community property or separate property, as applicable, during the marriage. (NRS 123.125) Section 8 of this bill authorizes a trust instrument to provide that community property or separate property transferred into an irrevocable trust of which both spouses are distribution beneficiaries remains community property or separate property, as applicable, during the marriage. The Nevada Supreme Court found that "[t]ransmutation from separate to community

property must be shown by clear and convincing evidence." (*Sprenger v. Sprenger*, 110 Nev. 855, 858 (1994)) Section 8 incorporates this standard by requiring a spouse or party to a case to establish by clear and convincing evidence the transmutation of community property or separate property that is transferred into a trust into separate property or community property, as applicable.

Existing law provides that kindred of the half blood inherit equally with those of the whole blood in the same degree, unless the inheritance comes to the decedent from an ancestor, in which case those who are not of the blood of the ancestor are excluded from the inheritance. (NRS 134.160) Section 10 of this bill provides that kindred of the half blood inherit equally with those of the whole blood in the same degree.

Existing law grants exclusive jurisdiction of the settlement of an estate to the district court in the county where the decedent was a resident at the time of death. Existing law provides that the estate of a nonresident decedent may be settled by the district court of any county in which part of the estate is located. (NRS 136.010) Section 11 of this bill provides that the estate of a decedent may be settled by the district court of any county in which any part of the estate is located or where the decedent was a resident at the time of death. Section 11 further provides that if the decedent was a resident of this State at his or her time of death, the district court of any county in this State may assume jurisdiction of the settlement of the estate only after considering the convenience of the forum to certain parties. Section 11 additionally provides that after a properly noticed hearing is held, the district court that first assumes jurisdiction of the settlement of an estate has exclusive jurisdiction of the settlement of that estate. Existing law requires a petition for the probate of a will and issuance of letters to state certain facts and information. (NRS 136.090) Section 12 of this bill requires such a petition to state how the district court in which the petition is being filed is a convenient forum to certain parties.

Existing law sets forth the procedure for petitioning for probate and proving a lost or destroyed will by using a copy of such a lost or destroyed will or a statement of the testamentary words. Existing law further provides that the production of a person's lost or destroyed will, whose primary beneficiary is a certain nontestamentary trust, creates a rebuttable presumption that the will had not been revoked. (NRS 136.240) Section 13 of this bill provides that the production of a copy of a person's lost or destroyed will, whose provisions are clearly and distinctly proved by two or more credible witnesses, creates a rebuttable presumption that the will had not been revoked. Section 13 further provides that a person may overcome these presumptions only by proving by a preponderance of the evidence that the person whose will it is claimed to be destroyed the will with the intent to revoke the will before his or her death.

Existing law provides for the enforcement of a no-contest clause in a will or trust. (NRS 137.005, 163.00195) Sections 14 and 23 of this bill provide, with certain exceptions, that a no-contest clause in a will or trust must be enforced

by a court according to the terms expressly stated in the no-contest clause. Sections 14 and 23 expand the number of exceptions to enforcing a no-contest clause in a will or trust.

Existing law authorizes a court, by temporary order, to: (1) restrain a personal representative or a trustee from performing certain acts; or (2) enter any other order to secure proper performance of the duties of the office. Any temporary order entered by a court must be set for hearing within 10 days after entry of the temporary order and notice must be given to the personal representative or trustee. (NRS 143.165, 163.115) Sections 15 and 22 of this bill authorize a court to enter an ex parte order: (1) restraining a personal representative or a trustee from performing certain acts; or (2) enter any other order to secure proper performance of the duties of the office that is effective until further order of the court. Sections 15 and 22 authorize a court to impose a fine on an interested person or a beneficiary who obtains an ex parte order without probable cause and further authorize the court to terminate an ex parte order in certain circumstances. Sections 25 and 27-31 of this bill make conforming changes.

After the filing of the inventory of an estate, existing law: (1) authorizes a court to set apart for the use of the surviving spouse, minor child or minor children of the decedent all of the personal property which is exempt by law from execution; and (2) requires a court to set apart the homestead. Such property set apart by a court is not subject to administration of the estate. (NRS 146.020) Section 16 of this bill removes the provision that such setting apart must happen after the filing of the inventory of the estate. If, after setting apart the property, the remaining assets of the estate do not exceed $100,000 and may be set aside without administration, section 16 requires the court to follow the procedure used to set aside the remaining assets of the estate without administration. If, after setting apart the property, the remaining assets of the estate exceed $100,000 and may not be set aside without administration, section 16 requires the court to administer the remaining assets of the estate as if the remaining assets of the estate are the only assets of the estate.

During the 2017 Legislative Session, the Nevada Legislature adopted the Uniform Powers of Appointment Act. (Chapter 162B of NRS) Sections 17-21 of this bill revise certain provisions of the Act.

Existing law provides that, unless the terms of the instrument creating a power of appointment manifest a contrary intent, the creation, revocation or amendment of the power and the exercise, release or disclaimer of the power is governed by the law of the donor's or powerholder's domicile at the relevant time. (NRS 162B.105) Section 17 of this bill provides that, unless the terms of the instrument creating a power of appointment manifest a contrary intent, the creation, revocation or amendment of the power and the exercise, release or disclaimer of the power is valid if permitted under any of: (1) the governing law adopted by the instrument; or (2) the law of the donor's or powerholder's domicile at the relevant time.

Existing law provides that a power of appointment is created only if the instrument creating the power: (1) is valid under applicable law; and (2) except in certain situations, transfers the appointive property. (NRS 162B.200) Section 18 of this bill removes the requirement that the instrument creating the power must transfer the appointive property.

Existing law authorizes a powerholder of a nongeneral power, unless the terms of the instrument creating a power of appointment manifest a contrary intent, to create a general power in a permissible appointee. (NRS 162B.320) Section 19 of this bill authorizes a powerholder of a nongeneral power, unless the terms of the instrument creating a power of appointment manifest a contrary intent, to create a general power or a nongeneral power in a permissible appointee.

Existing law authorizes a powerholder to revoke or amend an exercise of a power of appointment only in certain situations. (NRS 162B.365) Section 20 of this bill authorizes a powerholder to revoke or amend an exercise of a power appointment unless expressly prohibited by the instrument.

Existing law provides that appointive property subject to a general power of appointment created by a person other than the powerholder is subject to a claim of certain creditors. (NRS 162B.510) Section 21 of this bill provides that such property subject to a general power of appointment is not subject to a claim of any creditor, unless the power of appointment was actually exercised in favor of the decedent or the decedent's estate.

Existing law provides that a trust is irrevocable by the settlor except to the extent that a right to amend or a right to revoke the trust is expressly reserved by the settlor. (NRS 163.004) Section 24 of this bill provides that, in addition to situations where a settlor reserves a right of revocation, one or more other persons may amend or revoke a trust if such a right is granted to such persons under the terms of the trust instrument.

Existing law authorizes a beneficiary or cotrustee to maintain a proceeding if a trustee commits or threatens to commit a breach of trust. (NRS 163.115) Section 26 of this bill authorizes a settlor, cotrustee or beneficiary of a trust or a court, on its own initiative, to request a court to remove a trustee in certain circumstances. Section 26 further authorizes the court to order that a settlor, cotrustee or beneficiary of a trust who institutes a proceeding against a trustee without good faith and not based on probable cause pay all or any part of the costs of the proceeding, including reasonable attorney's fees.

Existing law sets forth the circumstances under which a trustee may appoint property of one trust to a second trust. Existing law prohibits a trustee from appointing property of the original trust to a second trust in certain circumstances, including where property held for the benefit of one or more beneficiaries under both the original and second trust has a lower value than the value of the property held for the benefit of such beneficiaries under only the original trust. (NRS 163.556) Section 32 of this bill removes this prohibition.

Existing law authorizes a trust to refer to a written statement or list to dispose of items of tangible personal property not otherwise disposed of by the trust. Existing law prohibits such a statement or list from disposing of money, evidences of indebtedness, documents of title, securities and property used in a trade or business. (NRS 163.590) Section 33 of this bill authorizes such a statement or list to dispose of items of trust property not otherwise specifically disposed of by the trust. Section 33 further provides that such a statement or list may be used to dispose of all items of trust property, regardless of whether the trust property is real or personal property or tangible or intangible property. Section 33 authorizes the trust instrument to limit the use of such statement or list to: (1) only dispose of tangible personal property; or (2) prevent the statement or list from being used to dispose of certain types of property.

Senate Bill No. 484 of the 78th Legislative Session replaced the term "excluded fiduciary" with "directed fiduciary." (Chapter 524, Statutes of Nevada 2015, p. 3518) Existing law still defines "excluded fiduciary" although this term has been replaced. (NRS 163.5539) Section 47 of this bill repeals the definition for "excluded fiduciary." Section 46 of this bill makes a conforming change.

Existing law sets forth various requirements for the expenses and compensation of a trustee of a testamentary trust. (NRS 153.070) Section 34 of this bill adds similar requirements for the expenses and compensation of a trustee of a nontestamentary trust.

Existing law authorizes the trustee of a nontestamentary trust, after the death of the settlor of the trust, to publish a notice and mail a copy of the notice to known or readily ascertainable creditors. Such a notice must comply with the format provided in existing law. (NRS 164.025) Section 35 of this bill creates an additional format for such a notice for a claim against a settlor.

Existing law authorizes virtual representation in the administration of trusts. Under existing law, certain persons may be represented by another person who has a substantially similar interest with respect to the question or dispute. (NRS 164.038) Section 36 of this bill authorizes a powerholder of a power of appointment to represent and bind a person who is a permissible appointee or a taker in default of appointment.

Existing law sets forth that the laws of this State govern the validity and construction of a trust in certain situations. Existing law further prohibits a trust instrument or designation from extending the duration of the trust beyond the rule against perpetuities that is otherwise applicable to the trust at the time of its creation. (NRS 164.045) Section 37 of this bill removes this prohibition.

Existing law provides that a provision in a will or trust instrument requiring the arbitration of certain disputes between or among certain parties is enforceable. (NRS 164.930) Existing law requires an agreement, including an agreement requiring a person to submit to arbitration of any dispute arising between the parties to the agreement, to include a provision indicating that the person has affirmatively agreed to the arbitration requirement. (NRS 597.995) Section 38 of this bill clarifies that this affirmative agreement to arbitration

requirement does not apply to an arbitration provision in a will or trust. Section 45 of this bill makes a conforming change.

Existing law authorizes the terms of a trust instrument to expand, restrict, eliminate or otherwise vary the rights and interests of beneficiaries in certain manners that are not illegal or against public policy. (NRS 165.160) Section 47 of this bill repeals this existing law.

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

Section 1. NRS 19.0302 is hereby amended to read as follows:

19.0302 1. Except as otherwise provided by specific statute and in addition to any other fee required by law, the clerk of the court shall charge and collect the following fees:

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer $99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by the defendant or defendants $99

(c) On the filing of a petition for letters testamentary or letters of administration, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is ~~[$200,000]~~ *$300,000* or more $352

(2) Where the stated value of the estate is more than $20,000 but less than ~~[$200,000]~~ *$300,000* $99

(3) Where the stated value of the estate is $20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto $200

(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto $1,359

(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as "complex" pursuant to the local rules of practice,

➥ and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding $349

(g) On the filing of a third-party complaint, to be paid by the filing Party $135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party $349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court $10

2. Except as otherwise provided in subsection 4, fees collected pursuant to this section must be deposited into a special account administered by the county and maintained for the benefit of the district court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff;

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraphs (a) and (b), to:

(1) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(5) Acquire advanced technology;

(6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court;

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district;

(8) In a county whose population is less than 100,000, support legal services to the indigent and to be used by the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent; or

(9) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court.

4. Each clerk of the court shall, on or before the fifth day of each month, account for and pay to the county treasurer:

(a) In a county whose population is 100,000 or more, an amount equal to $10 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1

during the preceding month. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the clerk of the court pursuant to this paragraph.

(b) All remaining fees collected pursuant to this section during the preceding month.

Sec. 1.5. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, *including* *, subject to the provisions of section 6.5 of this act,* *the proceeds from the sale of such property,* not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Eighty-two percent of the take-home pay for any workweek if your gross weekly salary or wage was $770 or less on the date the most recent writ of garnishment was issued, or seventy-five percent of the take-home pay for any workweek if your gross weekly salary or wage exceeded $770 on the date the most recent writ of garnishment was issued, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $1,000,000 in present value, held in:

(a) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(b) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(c) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a contingent interest, if the contingency has not been satisfied or removed;

(b) A present or future interest in the income or principal of a trust for which discretionary power is held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(c) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(d) Certain powers held by a trust protector or certain other persons; and

(e) Any power held by the person who created the trust.

17. If a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a mandatory interest in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; and

(b) A present or future interest in the income or principal of a trust that is a support interest in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of

the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed $10,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons). If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court an executed claim of exemption. A copy of the claim of exemption must be served upon the sheriff, the garnishee and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the sheriff within 9 judicial days after you serve the claim of exemption upon the sheriff, garnishee and judgment creditor, unless the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing. The hearing to determine whether the property or money is exempt must be held within 7 judicial days after the objection

to the claim of exemption and notice for the hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 2. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 82 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued was $770 or less, 75 percent of the disposable earnings of a judgment debtor during that week if the gross weekly salary or wage of the judgment debtor on the date the most recent writ of garnishment was issued exceeded $770, or 50 times the minimum hourly wage prescribed by section 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., and in effect at the

time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance.

(l) The homestead as provided for by law, including ~~[a]~~ *:*

(1) ~~*[The]*~~ *Subject to the provisions of section 6.5 of this act, the sum of $550,000 that is paid to the defendant in execution pursuant to subsection 2 of NRS 115.050 or to a spouse pursuant to subsection 3 of NRS 115.050; and*

(2) A homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $1,000,000 in present value, held in:

(1) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(2) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(3) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and

suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $10,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291 and 422A.325.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101 et seq., do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 3. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➥ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, ... (name of person), alleges that you owe the plaintiff money. The plaintiff has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, *including , subject to the provisions of section 6.5 of this act, the proceeds from the sale of such property,* not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Eighty-two percent of the take-home pay for any workweek if your gross weekly salary or wage on the date the most recent writ of garnishment was issued was $770 or less, or seventy-five percent of the take-home pay for any workweek if your gross weekly salary or wage on the date the most recent writ of garnishment was issued exceeded $770, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a contingent interest, if the interest has not been satisfied or removed;

(b) A present or future interest in the income or principal of a trust for which discretionary power is held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(c) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(d) Certain powers held by a trust protector or certain other persons; and

(e) Any power held by the person who created the trust.

17. If a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a mandatory interest in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust; and

(b) A present or future interest in the income or principal of a trust that is a support interest in which the standard for distribution may be

interpreted by the trustee or a court, if the interest has not been distributed from the trust.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to the indigent or elderly persons). If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk an executed claim of exemption. A copy of the claim of exemption must be served upon the sheriff, the garnishee and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail

pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the sheriff within 9 judicial days after you serve the claim of exemption upon the sheriff, garnishee and judgment creditor, unless the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing. The hearing must be held within 7 judicial days after the objection to the claim of exemption and notice for a hearing is filed. You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.

IF YOU DO NOT FILE THE EXECUTED CLAIM OF EXEMPTION WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 4. NRS 111.1031 is hereby amended to read as follows:

111.1031 1. A nonvested property interest is invalid unless:

(a) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of a natural person then alive; or

(b) The interest either vests or terminates within 365 years after its creation.

2. A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

(a) When the power is created, the condition precedent is certain to be satisfied or become impossible to satisfy no later than 21 years after the death of a natural person then alive; or

(b) The condition precedent either is satisfied or becomes impossible to satisfy within 365 years after its creation.

3. A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(a) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of a natural person then alive; or

(b) The power is irrevocably exercised or otherwise terminates within 365 years after its creation.

4. In determining whether a nonvested property interest or a power of appointment is valid under paragraph (a) of subsection 1, paragraph (a) of subsection 2 or paragraph (a) of subsection 3, the possibility that a child will be born to a person after his or her death is disregarded.

~~[5. If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument seeks to disallow the vesting or termination of any interest or trust beyond, seeks to postpone the vesting or termination of any interest or trust until, or seeks to operate in effect in any similar fashion upon, the later of:~~

~~(a) The expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement; or~~

~~(b) The expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement,~~

~~➥ that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.]~~

Sec. 5. NRS 111.1037 is hereby amended to read as follows:

111.1037 NRS 111.1031 does not apply to:

1. A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of:

(a) A premarital or postmarital agreement;

(b) A separation or divorce settlement;

(c) A spouse's election;

(d) A similar arrangement arising out of a prospective, existing or previous marital relationship between the parties;

(e) A contract to make or not to revoke a will or trust;

(f) A contract to exercise or not to exercise a power of appointment;

(g) A transfer in satisfaction of a duty of support; or

(h) A reciprocal transfer;

2. A fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease or mortgage property, and the power of a fiduciary to determine principal and income;

3. A power to appoint a fiduciary;

4. A discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal;

5. A nonvested property interest held by a charity, government, or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision;

6. *A property interest in or a power of appointment with respect to a trust or other property arrangement if such a trust or other property arrangement:*

(a) Was established for eleemosynary purposes; and

(b) As set forth in the terms of such trust or other property arrangement, is to continue for an indefinite or unlimited period;

7. A nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse; or

~~[7.]~~ *8.* A property interest, power of appointment or arrangement that was not subject to the common-law rule against perpetuities or is expressly excluded by another statute of this state.

Sec. 6. NRS 111.779 is hereby amended to read as follows:

111.779 1. Except as otherwise provided in NRS 21.090 and other applicable law, a transferee of a nonprobate transfer is liable to the probate estate of the decedent for allowed claims against that decedent's probate estate to the extent the estate is insufficient to satisfy those claims.

2. The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received or controlled by that transferee.

3. Nonprobate transferees are liable for the insufficiency described in subsection 1 in the following order of priority:

(a) A transferee specified in the decedent's will or any other governing instrument as being liable for such an insufficiency, in the order of priority provided in the will or other governing instrument;

(b) The trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received or controlled; and

(c) Other nonprobate transferees, in proportion to the values received.

4. Unless otherwise provided by the trust instrument, interests of beneficiaries in all trusts incurring liabilities under this section abate as necessary to satisfy the liability, as if all the trust instruments were a single will and the interests were devises under it.

5. If a nonprobate transferee is a spouse or a minor child, the nonprobate transferee may petition the court to be excluded from the liability imposed by this section as if the nonprobate property received by the spouse or minor child were part of the decedent's estate. Such a petition may be made pursuant to the applicable provisions of chapter 146 of NRS, including, without limitation, the provisions of NRS 146.010 ~~[, NRS]~~ *and* 146.020 ~~[without regard to the filing of an inventory]~~ and subsection 2 of NRS 146.070.

6. A provision made in one instrument may direct the apportionment of the liability among the nonprobate transferees taking under that or any other governing instrument. If a provision in one instrument conflicts with a provision in another, the later one prevails.

7. Upon due notice to a nonprobate transferee, the liability imposed by this section is enforceable in probate proceedings in this State, whether or not the transferee is located in this State.

8. If a probate proceeding is pending at the time of filing and it has been determined by a final order issued by the probate court that there are insufficient assets to pay a valid creditor, a proceeding under this section may be commenced by one of the following persons:

(a) The personal representative of the decedent's estate. A personal representative who declines in good faith to commence a proceeding incurs no personal liability for declining.

(b) A creditor of the estate, if the personal representative has declined or refused to commence an action within 30 days after receiving a written demand by a creditor. Such demand must identify the nonprobate transfers known to the creditor. If the creditor is unaware of any nonprobate transfers, in the probate proceeding, the creditor may, pursuant to NRS 155.170, obtain discovery, perpetuate testimony or conduct examinations in any manner authorized by law or by the Nevada Rules of Civil Procedure to ascertain whether any nonprobate transfers exist. If the creditor is unable to identify any nonprobate transfers within a reasonable time after conducting discovery, the creditor may not proceed under this section. If a creditor commences an action under this section:

(1) The creditor must proceed at the expense of the creditor and not of the estate.

(2) If a creditor successfully establishes an entitlement to payment under this section and collects nonprobate transfers, the court must order the reimbursement of the costs reasonably incurred by the creditor, including attorney's fees, from the transferee from whom the payment is to be made, subject to the limitations of subsection 2, or from the estate as a cost of administration, or partially from each, as the court deems just.

9. If a probate proceeding is not pending, a proceeding under this section may be commenced as a civil action by a creditor at the expense of the creditor.

10. If a proceeding is commenced pursuant to this section, it must be commenced:

(a) If a probate proceeding is pending in which notice to creditors has been given at the time of filing a proceeding under this section:

(1) As to a creditor whose claim was properly and timely filed, allowed by the personal representative or partially allowed by the personal representative, and accepted by the creditor pursuant to NRS 147.160, within 60 days after the probate court enters an order confirming the amount of payment of the approved claim that is final and no longer subject to reconsideration or appeal or within 1 year after the decedent's death, whichever is later.

(2) As to a creditor:

(I) Whose claim was rejected by the personal representative, partially allowed by the personal representative and rejected by the creditor pursuant to NRS 147.160, or deemed rejected by the personal representative pursuant to NRS 147.110;

(II) Who adjudicated the creditor's claims in the proper court or by a summary adjudication; and

(III) Who obtained a favorable final judgment on its claim from the proper court,

➥ within 60 days after the probate court enters an order confirming the amount of payment of the approved claim that is final and no longer subject to reconsideration or appeal or within 1 year after the decedent's death, whichever is later.

(b) If an action had been commenced against the decedent before the decedent's death, the creditor receives a judgment against the decedent's estate and the creditor has filed a proper and timely creditor's claim against the estate, within 60 days after the probate court enters an order confirming the amount of payment of the adjudicated claim that is final and no longer subject to reconsideration or appeal or within 1 year after the decedent's death, whichever is later.

(c) As to the recovery of benefits paid for Medicaid, within 3 years after the decedent's death.

(d) As to all other creditors, within 1 year after the decedent's death.

11. Unless a written notice asserting that a decedent's probate estate is nonexistent or insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, the following rules apply:

(a) Payment or delivery of assets by a financial institution, registrar or other obligor to a nonprobate transferee in accordance with the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.

(b) A trustee receiving or controlling a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

12. Except as otherwise provided in subsection 13, notwithstanding any provision of this section to the contrary:

(a) A creditor has no claim against:

(1) Property transferred pursuant to a power of appointment exercised by a decedent unless ~~[it]~~ *the power of appointment* was ~~[exercisable]~~ *actually exercised* in favor of the decedent or the decedent's estate.

(2) Property transferred pursuant to a beneficiary designation by a decedent which transfers money held by any of the following:

(I) An individual retirement arrangement which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A, including, without limitation, an inherited individual retirement arrangement;

(II) A written simplified employee pension plan which conforms with or is maintained pursuant to the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408, including, without limitation, an inherited simplified employee pension plan;

(III) A cash or deferred arrangement plan which is qualified and maintained pursuant to the Internal Revenue Code, including, without limitation, an inherited cash or deferred arrangement plan;

(IV) A trust forming part of a stock bonus, pension or profit-sharing plan which is qualified and maintained pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(V) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(3) Property transferred pursuant to a beneficiary designation by a decedent which transfers money, benefits or privileges that accrue in any manner out of life insurance.

(4) Proceeds of any wages of the decedent which were exempt from execution during the decedent's lifetime pursuant to paragraph (g) of subsection 1 of NRS 21.090.

(5) A trust, a beneficial interest of the decedent under a trust or amount payable from a trust if the trust was created by someone other than the decedent, except to enforce a valid assignment of the decedent's beneficial interest under a trust that is not a spendthrift trust.

(6) An irrevocable trust or amounts payable from a trust if the trust was properly created as a valid spendthrift trust under chapter 166 of NRS, except with respect to property transferred to the trust by the decedent to the extent permitted under subsections 1, 2 and 3 of NRS 166.170.

(b) A purchaser for value of property or a lender who acquires a security interest in the property from a beneficiary of a nonprobate transfer after the death of the owner, in good faith:

(1) Takes the property free of any claims or of liability to the owner's estate, creditors of the owner's estate, persons claiming rights as beneficiaries under the nonprobate transfer or heirs of the owner's estate, in absence of actual knowledge that the transfer was improper; and

(2) Has no duty to verify sworn information relating to the nonprobate transfer. The protection provided by this subparagraph applies to information that relates to the ownership interest of the beneficiary in the property and the beneficiary's right to sell, encumber and transfer good title to a purchaser or lender and does not relieve a purchaser or lender from the notice imparted by instruments of record respecting the property.

13. Nothing in this section exempts any real or personal property from any statute of this State that authorizes the recovery of money owed to the Department of Health and Human Services as a result of the payment of benefits from Medicaid.

14. As used in this section, "devise" has the meaning ascribed to it in NRS 132.095.

Sec. 6.5. Chapter 115 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law, the proceeds of $550,000 from the sale of a homestead pursuant to subsection 2 or 3 of NRS 115.050 are only exempt from execution if:

1. Such proceeds are reinvested in another property of like kind for which the declaration of a homestead will be made; and

2. The other property is:

(a) Identified not later than 45 days after the sale of the homestead; and

(b) Taken possession of not later than 180 days after the sale of the homestead.

Sec. 7. NRS 115.050 is hereby amended to read as follows:

115.050 1. Whenever execution has been issued against the property of a party claiming the property as a homestead, and the creditor in the judgment makes an oath before the judge of the district court of the county in which the property is situated that the amount of equity held by the claimant in the property exceeds, to the best of the creditor's information and belief, the sum of $550,000, the judge shall, upon notice to the debtor, appoint three disinterested and competent persons as appraisers to estimate and report as to the amount of equity held by the claimant in the property and, if the amount of equity exceeds the sum of $550,000, determine whether the property can be

divided so as to leave the property subject to the homestead exemption without material injury.

2. If it appears, upon the report, to the satisfaction of the judge that the property can be thus divided, the judge shall order the excess to be sold under execution. If it appears that the property cannot be thus divided, and the amount of equity held by the claimant in the property exceeds the exemption allowed by this chapter, the judge shall order the entire property to be sold, and out of the proceeds the sum of $550,000 to be paid to the defendant in execution, and the excess to be applied to the satisfaction on the execution. No bid under $550,000 may be received by the officer making the sale.

3. When the execution is against a spouse, the judge may direct the $550,000 to be deposited in court, to be paid out only upon the joint receipt of both spouses, and *, except as otherwise provided in section 6.5 of this act,* the deposit possesses all the protection against legal process and voluntary disposition by either spouse as did the original homestead.

4. ~~If~~ Except as otherwise provided in section 6.5 of this act, if the sum of $550,000 is paid to the defendant in execution pursuant to subsection 2 or to a spouse pursuant to subsection 3, such sum of $550,000 possesses all the protection against legal process and voluntary disposition by the defendant or spouse as did the original homestead.

Sec. 8. NRS 123.125 is hereby amended to read as follows:

123.125 1. A trust instrument may provide that community property or separate property transferred into an irrevocable trust of which both spouses are ~~[current permissible]~~ *distribution* beneficiaries *, as defined in NRS 163.415,* remains community property or separate property, as applicable, during the marriage. Any community property or separate property, including, without limitation, any income, appreciation and proceeds thereof, that is distributed or withdrawn from a trust instrument containing such a provision remains community property or separate property, as applicable.

2. *A spouse or other party in a case must establish by clear and convincing evidence the transmutation of community property or separate property that is transferred into a trust from, as applicable:*

(a) Community property to separate property; or

(b) Separate property to community property.

3. The provisions of this section do not affect the character of community property or separate property that is transferred into a trust in any manner other than as described in this section.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 134.160 is hereby amended to read as follows:

134.160 Kindred of the half blood inherit equally with those of the whole blood in the same degree . ~~[, unless the inheritance comes to the decedent by descent or devise from an ancestor, in which case all those who are not of the blood of the ancestor are excluded from the inheritance.]~~

Sec. 11. NRS 136.010 is hereby amended to read as follows:

136.010 1. ~~[Wills may be proved and letters granted in the county where the decedent was a resident at the time of death, whether death occurred in that county or elsewhere, and the district court of that county has exclusive jurisdiction of the settlement of such estates, whether the estate is in one or more counties.~~

~~2.]~~ The estate of a ~~[nonresident]~~ decedent may be settled by the district court of any county in *this State:*

(a) In which any part of the estate is located ~~[. The]~~ *; or*

(b) Where the decedent was a resident at the time of death.

2. If the decedent was a resident of this State at the time of death, the district court of any county in this State, whether death occurred in that county or elsewhere, may assume jurisdiction of the settlement of the estate of the decedent only after taking into consideration the convenience of the forum to:

(a) The person named as personal representative or trustee in the will; and

(b) The heirs, devisees, interested persons or beneficiaries to the decedent or estate and their legal counsel.

3. After a properly noticed hearing is held, the district court ~~[to which application is first made]~~ *that first assumes jurisdiction of the settlement of an estate* has exclusive jurisdiction of the settlement of ~~[estates of nonresidents.]~~ *that estate, including, without limitation:*

(a) The proving of wills;

(b) The granting of letters; and

(c) The administration of the estate.

Sec. 12. NRS 136.090 is hereby amended to read as follows:

136.090 1. A petition for the probate of a will and issuance of letters must state:

(a) The jurisdictional facts;

(b) Whether the person named as personal representative consents to act or renounces the right to letters;

(c) The names and residences of the heirs, next of kin and devisees of the decedent, the age of any heir, next of kin or devisee who is a minor, and the relationship of the heirs and next of kin to the decedent, so far as known to the petitioner;

(d) The character and estimated value of the property of the estate;

(e) The name of the person for whom letters are requested, and whether the person has been convicted of a felony; ~~[and]~~

(f) The name of any devisee who is deceased ~~[.]~~ *; and*

(g) How the district court in which the petition is being filed a convenient forum to:

(1) The person named as personal representative or trustee in the will; and

(2) The heirs, devisees, interested persons or beneficiaries to the decedent or estate and their legal counsel.

2. No defect of form or in the statement of jurisdictional facts actually existing voids the probate of a will.

Sec. 13. NRS 136.240 is hereby amended to read as follows:

136.240 1. The petition for the probate of a lost or destroyed will must include a copy of the will, or if no copy is available state, or be accompanied by a written statement of, the testamentary words, or the substance thereof.

2. If offered for probate, a lost or destroyed will must be proved in the same manner as other wills are proved under this chapter.

3. In addition, no will may be proved as a lost or destroyed will unless its provisions are clearly and distinctly proved by two or more credible witnesses and it is:

(a) Proved to have been in legal existence at the death of the person whose will it is claimed to be and has not otherwise been revoked or destroyed without the knowledge, consent or ratification of such person; or

(b) Shown to have been fraudulently destroyed in the lifetime of that person.

4. The testimony of each witness must be reduced to writing, signed by the witness and filed, and is admissible in evidence in any contest of the will if the witness has died or permanently moved from the State.

5. Notwithstanding any provision of this section to the contrary:

(a) The production of a person's lost or destroyed will, whose primary beneficiary is a nontestamentary trust established by the person and in existence at his or her death, creates a rebuttable presumption that the will had not been revoked.

(b) ~~[If]~~ *The production of a copy of a person's lost or destroyed will, whose provisions are clearly and distinctly proved by two or more credible witnesses, creates a rebuttable presumption that the will had not been revoked.*

(c) A person may overcome the presumption set forth in paragraph (a) or (b) only by proving by a preponderance of the evidence that the person whose will it is claimed to be destroyed the will with the intent to revoke the will before his or her death. In the absence of such evidence:

(1) The lost or destroyed will must be admitted to probate; and

(2) The court shall accept a copy of such a will as sufficient proof of the terms thereof without requiring further evidence.

(d) For a lost or destroyed will to which the presumption set forth in paragraph (a) or (b) does not apply, if the proponent of a lost or destroyed will makes a prima facie showing that it was more likely than not left unrevoked by the person whose will it is claimed to be before his or her death, then the will must be admitted to probate in absence of an objection. If such prima facie showing has been made, the court shall accept a copy of such a will as sufficient proof of the terms thereof without requiring further evidence in the absence of any objection.

6. If the will is established, its provisions must be set forth specifically in the order admitting it to probate, or a copy of the will must be attached to the order.

Sec. 14. NRS 137.005 is hereby amended to read as follows:

137.005 1. Except as otherwise provided in ~~[subsections 3 and]~~ *subsection* 4, a no-contest clause *in a will must be enforced, to the greatest extent possible, by the court according to the terms expressly stated in the no-contest clause without regard to the presence or absence of probable cause for, or the good faith or bad faith of the devisee in, taking the action prohibited by the no-contest clause. A no-contest clause* in a will must be enforced by the court because public policy favors enforcing the intent of the testator. ~~[However, because public policy does not favor forfeitures, a no-contest clause must be strictly construed by the court and must not be extended beyond the plain meaning of the express provisions of the will.]~~

2. ~~[A no-contest clause must be construed to carry out the testator's intent to the extent such intent is clear and unambiguous.]~~ No extrinsic evidence is admissible to establish the testator's intent concerning the no-contest clause ~~[.]~~ *to the extent such intent is clear and unambiguous.* The provisions of this subsection do not prohibit extrinsic evidence from being admitted for any other purpose authorized by law.

3. Except as otherwise provided in ~~[subsections 3 and]~~ *subsection* 4, a devisee's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the testator in the will, including, without limitation, any testamentary trust established in the will. Such conduct may include, without limitation:

(a) Conduct other than formal court action; and

(b) Conduct which is unrelated to the will itself, including, without limitation:

(1) The commencement of civil litigation against the testator's probate estate or family members;

(2) Interference with the administration of a trust or a business entity;

(3) Efforts to frustrate the intent of the testator's power of attorney; and

(4) Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the testator.

~~[3.]~~ *4.* Notwithstanding any provision to the contrary in the will, *a no-contest clause in a will must not be enforced by a court and* a devisee's share must not be reduced or eliminated *under a no-contest clause in a will* because *:* ~~[of any action taken by the devisee seeking only to:]~~

(a) *A devisee acts to:*

(1) Enforce the *clear and unambiguous* terms of the will or any document referenced in or affected by the will;

~~[(b)]~~ *(2)* Enforce the ~~[devisee's]~~ legal rights *of the devisee that provide the devisee standing* in the probate proceeding;

~~[(c)]~~ *(3)* Obtain court instruction with respect to the proper administration of the estate or the construction or legal effect of the will or the provisions thereof; or

~~[(d)]~~ *(4)* Enforce the fiduciary duties of the personal representative.

~~[4. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated under a no-contest clause because the devisee institutes legal action seeking to invalidate a will if the legal action is instituted and maintained in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to]~~

(b) The court determines by clear and convincing evidence that the conduct of the devisee was:

(1) A product of coercion or undue influence; or

(2) Caused by the lack of sufficient mental capacity to knowingly engage in the conduct.

(c) A devisee or any other interested person enters into an agreement to settle a dispute or resolve any other matter relating to the will.

(d) A devisee institutes legal action seeking to invalidate a will if the legal action is instituted and maintained in good faith and based on probable cause. For the purposes of this paragraph, legal action is based on probable cause where, based upon the facts and circumstances available to the devisee who commences such legal action, a reasonable person, properly informed and advised, would conclude that the will is invalid.

5. As to any testamentary trust, the testator is the settlor. Unless the will expressly provides otherwise, a no-contest clause in a will applies to a testamentary trust created under that will and the provisions of NRS 163.00195 apply to that trust.

6. *Where a devisee takes action, asserts a cause of action or asserts a request for relief and such action or assertion violates a no-contest clause in a will, this section must not prevent the enforcement of the no-contest clause unless the action, cause of action or request for relief claims one of the exceptions to enforcement set forth in subsection 4.*

7. Except as otherwise provided in subsection 4, subject to the discretion of the personal representative, as applicable:

(a) A personal representative may suspend distributions to a devisee to the extent that, under a no-contest provision, the conduct of the devisee may cause the reduction or elimination of the interest of the devisee in the trust.

(b) Until a court determines whether the interest of the devisee in the will has been reduced or eliminated, a personal representative may:

(1) Resume distributions that were suspended pursuant to paragraph (a) at any time; or

(2) Continue to suspend those distributions.

(c) To the extent that a devisee has received distributions prior to engaging in conduct that potentially would have caused the reduction or elimination of the interest of the devisee in the will under a no-contest clause, a personal representative may seek reimbursement from the devisee or may offset those distributions.

8. A no-contest clause in a will applies to a codicil even if the no-contest clause was not expressly incorporated in the codicil.

9. As used in this section, "no-contest clause" means one or more provisions in a will that express a directive to reduce or eliminate the share allocated to a devisee or to reduce or eliminate the distributions to be made to a devisee if the devisee takes action to frustrate or defeat the testator's intent as expressed in the will. *The term does not include:*

(a) Provisions in a will that shift or apportion attorney's fees and costs incurred by the estate against the share allocated to a devisee who has asserted an unsuccessful claim, defense or objection;

(b) Provisions in a will that permit a personal representative to delay distributions to a devisee;

(c) Provisions in a will that require the arbitration of disputes involving the will; or

(d) A forum selection clause in the will.

Sec. 15. NRS 143.165 is hereby amended to read as follows:

143.165 1. On petition or ex parte application of an interested person, the court , ~~[by temporary order,]~~ with or without bond, may ~~[restrain]~~ *enter an ex parte order restraining* a personal representative from performing specified acts of administration, disbursement or distribution, or exercising any powers or discharging any duties of the office, or enter any other order to secure proper performance of the duties of the office ~~[.]~~ *to be effective until further order of the court.* Notwithstanding any other provision of law, if it appears to the court that the personal representative otherwise may take ~~[some]~~ action that would jeopardize unreasonably the interest of the petitioner , ~~[or]~~ of some other interested person or the estate, the court may enter the ~~[temporary]~~ *ex parte* order. A person with whom the personal representative may transact business may be made a party to the ~~[temporary]~~ *ex parte* order.

2. ~~[The matter]~~ *Any ex parte orders entered pursuant to subsection 1* must be set for hearing within 10 days after entry of the ~~[temporary]~~ *ex parte* order, unless the parties otherwise agree, or on a date the court otherwise determines is in the best interest of the estate.

3. Notice ~~[as the court directs]~~ *of entry of the ex parte order entered pursuant to subsection 1* must be given by the petitioner *or applicant* to the personal representative and the attorney of record of the personal representative, if any, ~~[and]~~ to any other party named as a party in the ~~[temporary]~~ *ex parte* order ~~[.]~~ *and as otherwise directed by the court.*

4. The court may impose a fine on an interested person who obtains an ex parte order pursuant to this section without probable cause.

5. The court may, at any time, terminate an ex parte order entered pursuant to subsection 1 on its own motion or upon petition of the personal representative if it no longer appears to the court that the personal representative otherwise may take action that would jeopardize unreasonably the interest of the petitioner, of some other interested person or the estate.

Sec. 16. NRS 146.020 is hereby amended to read as follows:

146.020 ~~[Upon the filing of the inventory or at any time thereafter during the administration of the estate, the]~~

1. The court, on its own motion or upon petition by an interested person, may, if deemed advisable considering the needs and resources of the surviving spouse, minor child or minor children, set apart for the use of the surviving spouse, minor child or minor children of the decedent all of the personal property which is exempt by law from execution, and shall, in accordance with NRS 146.050, set apart the homestead, as designated by the general homestead law then in force, whether the homestead has theretofore previously been selected as required by law or not, and the property thus set apart is not subject to administration.

2. If, after setting apart the property pursuant to subsection 1, the remaining assets of the estate do not exceed $100,000 and may be set aside without administration pursuant to NRS 146.070, the court shall set aside the remaining assets of the estate without administration pursuant to the procedure set forth in NRS 146.070. The court may consider at the same time a petition made pursuant to subsection 1 and a petition to set aside the remaining assets of the estate without administration pursuant to NRS 146.070.

3. If, after setting apart the property pursuant to subsection 1, the remaining assets of the estate exceed $100,000 and may not be set aside without administration pursuant to NRS 146.070, the court shall administer the remaining assets of the estate pursuant to this title as if the remaining assets of the estate are the only assets of the estate. If the petition to set apart property pursuant to subsection 1 is made in the initial petition, the court shall consider only the value of the remaining assets of the estate not set apart pursuant to subsection 1 for the purpose of ordering summary administration pursuant to chapter 145 of NRS.

Sec. 17. NRS 162B.105 is hereby amended to read as follows:

162B.105 Unless the terms of the instrument creating a power of appointment manifest a contrary intent:

1. The creation, revocation or amendment of the power is ~~[governed by the]~~ *valid if permitted under any of:*

(a) The governing law adopted by the instrument creating the power; or

(b) The law of the donor's domicile at the relevant time; and

2. The exercise, release or disclaimer of the power, or the revocation or amendment of the exercise, release or disclaimer of the power, is ~~[governed by the]~~ *valid if permitted under any of:*

(a) The governing law adopted by the instrument creating the power;

(b) The governing law adopted by the instrument exercising, releasing or disclaiming the power, or revoking or amending the exercise, release or disclaimer of the power; or

(c) The law of the powerholder's domicile at the relevant time.

Sec. 18. NRS 162B.200 is hereby amended to read as follows:

162B.200 1. A power of appointment is created only if:

(a) The instrument creating the power ~~[:~~

~~(1) Is]~~ *is* valid under applicable law; and

~~[(2) Except as otherwise provided in subsection 2, transfers the appointive property; and]~~

(b) The terms of the instrument creating the power manifest the donor's intent to create in a powerholder a power of appointment over the appointive property exercisable in favor of a permissible appointee.

2. ~~[Subparagraph (2) of paragraph (a) of subsection 1 does not apply to the creation of a power of appointment by the exercise of a power of appointment. — 3.]~~ A power of appointment may not be created in a deceased individual.

~~[4.]~~ *3.* Subject to an applicable rule against perpetuities, a power of appointment may be created in an unborn or unascertained powerholder.

Sec. 19. NRS 162B.320 is hereby amended to read as follows:

162B.320 1. A powerholder of a general power of appointment that permits appointment to the powerholder or the powerholder's estate may make any appointment, including an appointment in trust or creating a new power of appointment, that the powerholder could make in disposing of the powerholder's own property.

2. A powerholder of a general power of appointment that permits appointment only to the creditors of the powerholder or of the powerholder's estate may appoint only to those creditors.

3. Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the powerholder of a nongeneral power may:

(a) Make an appointment in any form, including an appointment in trust, in favor of a permissible appointee;

(b) Create a general power *or a nongeneral power* in a permissible appointee; or

(c) Create a nongeneral power in any person to appoint to one or more of the permissible appointees of the original nongeneral power.

Sec. 20. NRS 162B.365 is hereby amended to read as follows:

162B.365 A powerholder may revoke or amend an exercise of a power of appointment ~~[only to the extent that:]~~ *unless:*

1. The ~~[powerholder reserves a power of revocation or amendment in]~~ *terms of* the instrument exercising the power of appointment ~~[and, if the power is nongeneral, the terms of the instrument creating the power of appointment do not prohibit the reservation; or]~~ *expressly state that the exercise is irrevocable or unamendable;*

2. The terms of the instrument creating the power of appointment ~~[provide]~~ *expressly state* that the exercise is ~~[revocable or amendable.]~~ *irrevocable or unamendable; or*

3. The property is subject to a present exercisable power of appointment that has been delivered to the permissible appointee in whose favor the power was exercised, regardless of whether such delivery was made outright, in trust or as custodial property pursuant to chapter 167 of NRS.

Sec. 21. NRS 162B.510 is hereby amended to read as follows:

162B.510 1. ~~[Except as otherwise provided in subsection 2, appointive]~~ *Appointive* property subject to a general power of appointment created by a

person other than the powerholder is *not* subject to a claim of ~~[a]~~ *any* creditor ~~[of:~~

~~(a) The powerholder, to the extent the powerholder's property is insufficient, if the power is presently exercisable; and~~

~~(b) The powerholder's estate, to the extent the estate is insufficient, subject to the right of a decedent to direct the source from which liabilities are paid.]~~ *, unless the power of appointment was actually exercised in favor of the decedent or the decedent's estate pursuant to subparagraph (1) of paragraph (a) of subsection 12 of NRS 111.779.*

2. Subject to subsection 3 of NRS 162B.530, a power of appointment created by a person other than the powerholder which is subject to an ascertainable standard relating to an individual's health, education, support or maintenance within the meaning of 26 U.S.C. § 2041(b)(1)(A) or 26 U.S.C. § 2514(c)(1), as those provisions existed on October 1, 2017, is treated for purposes of NRS 162B.500 to 162B.530, inclusive, as a nongeneral power.

Sec. 22. Chapter 163 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On petition or ex parte application of a beneficiary or trustee, the court, with or without bond, may enter an ex parte order restraining a trustee from performing specified acts of administration, disbursement or distribution, or exercising any powers or discharging any duties of the office, or enter any other order to secure proper performance of the duties of the office to be effective until further order of the court. Notwithstanding any other provision of law, if it appears to the court that the trustee otherwise may take action that would jeopardize unreasonably the interest of the petitioner, another beneficiary or the trust, the court may enter the ex parte order. A person with whom the personal representative may transact business may be made a party to the ex parte order.

2. An ex parte order entered pursuant to subsection 1 must be set for hearing within 10 days after entry of the ex parte order, unless the parties otherwise agree, or on a date the court otherwise determines is in the best interest of the trust.

3. Notice of entry of the ex parte order entered pursuant to subsection 1 must be given by the petitioner or applicant to the trustee and the attorney of record of the trustee, if any, to any other party named as a party in the ex parte order and as otherwise directed by the court.

4. The court may impose a fine on a beneficiary or trustee who obtains an ex parte order pursuant to this section without probable cause.

5. The court may, at any time, terminate an ex parte order entered pursuant to subsection 1 on its own motion or upon petition of the trustee if it no longer appears to the court that the trustee otherwise may take action that would jeopardize unreasonably the interest of the petitioner, another beneficiary or the trust.

Sec. 23. NRS 163.00195 is hereby amended to read as follows:

163.00195 1. Except as otherwise provided in ~~[subsections 3 and]~~ *subsection* 4, a no-contest clause *in a trust must be enforced, to the greatest extent possible, by the court according to the terms expressly stated in the no-contest clause without regard to the presence or absence of probable cause for, or the good faith or bad faith of the beneficiary in, taking the action prohibited by the no-contest clause. A no-contest clause* in a trust must be enforced by the court because public policy favors enforcing the intent of the settlor. ~~[However, because public policy does not favor forfeitures, a no-contest clause must be strictly construed by the court and must not be extended beyond the plain meaning of the express provisions of the trust.]~~

2. ~~[A no-contest clause must be construed to carry out the settlor's intent to the extent such intent is clear and unambiguous.]~~ No extrinsic evidence is admissible to establish the settlor's intent concerning the no-contest clause ~~[.]~~ *to the extent such intent is clear and unambiguous.* The provisions of this subsection do not prohibit extrinsic evidence from being admitted for any other purpose authorized by law.

3. Except as otherwise provided in ~~[subsections 3 and]~~ *subsection* 4, a beneficiary's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the settlor in the trust. Such conduct may include, without limitation:

(a) Conduct other than formal court action; and

(b) Conduct which is unrelated to the trust itself, including, without limitation:

(1) The commencement of civil litigation against the settlor's probate estate or family members;

(2) Interference with the administration of another trust or a business entity;

(3) Efforts to frustrate the intent of the settlor's power of attorney; and

(4) Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the settlor.

~~[3.]~~ *4.* Notwithstanding any provision to the contrary in the trust, *a no-contest clause in a trust must not be enforced by a court and* a beneficiary's share must not be reduced or eliminated *under a no-contest clause in a trust* because *:* ~~[of any action taken by the beneficiary seeking only to:]~~

(a) *A beneficiary acts to:*

(1) Enforce the *clear and unambiguous* terms of the trust, *a transfer of property into the trust,* any document referenced in or affected by the trust, or any other trust-related instrument;

~~[(b)]~~ *(2)* Enforce the ~~[beneficiary's]~~ legal rights *of the beneficiary that provide the beneficiary standing as* related to ~~[the]~~ *:*

(I) The trust ~~[, any]~~ *;*

(II) A transfer of property into the trust;

(III) Any document referenced in or affected by the trust *;* ~~[,]~~ or ~~[any]~~

(IV) Any other trust-related instrument;

~~[(c)]~~ *(3)* Obtain court instruction with respect to the proper administration of the trust or the construction or legal effect of the trust, ~~[the provisions thereof or]~~ *a transfer of property into the trust,* any document referenced in or affected by the trust, or any other trust-related instrument; or

~~[(d)]~~ *(4)* Enforce the fiduciary duties of the trustee.

~~[4. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action seeking to invalidate a trust, any document referenced in or affected by the trust, or any other trust-related instrument if the legal action is instituted and maintained in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that the trust, any document referenced in or affected by the trust, or other trust-related instrument is invalid.~~

~~5. Unless the trust expressly provides otherwise, a no-contest clause must not be applied to a settlor who is also a beneficiary of the trust.~~

~~6.]~~ *(b) The court determines by clear and convincing evidence that the conduct of the beneficiary was:*

(1) A product of coercion or undue influence; or

(2) Caused by the lack of sufficient mental capacity to knowingly engage in the conduct.

(c) A beneficiary acts as a trustee or a protector of the trust to exercise a power set forth in the trust, including, without limitation:

(1) Reforming, modifying or decanting the trust;

(2) Removing or replacing a trustee;

(3) Making or withholding distributions from the trust; or

(4) Exercising any other discretionary power.

(d) A beneficiary or any other interested person enters into an agreement to settle a dispute or resolve any other matter relating to the trust.

(e) A beneficiary institutes legal action seeking to invalidate a trust, the transfer of property into a trust, any document referenced in or affected by the trust, or any other trust-related instrument if the legal action is instituted and maintained in good faith and based on probable cause. For the purposes of this paragraph, legal action is based on probable cause where, based upon the facts and circumstances available to the beneficiary who commences such legal action, a reasonable person, properly informed and advised, would conclude that the trust, the transfer of property into the trust, any document referenced in or affected by the trust or any other trust-related instrument is invalid.

(f) Unless the trust expressly provides otherwise, a settlor is also a beneficiary of the trust.

5. Where a beneficiary takes action, asserts a cause of action or asserts a request for relief and such action or assertion violates a no-contest clause in a trust, this section must not prevent the enforcement of the no-contest clause unless the action, cause of action or request for relief claims one of the exceptions to enforcement set forth in subsection 4.

6. Except as otherwise provided in subsection 4, subject to the discretion of the trustee:

(a) A trustee may suspend distributions to a beneficiary to the extent that, under a no-contest provision, the conduct of the beneficiary may cause the reduction or elimination of the interest of the beneficiary in the trust.

(b) Until a court determines whether the interest of the beneficiary in the trust has been reduced or eliminated, a trustee may:

(1) Resume distributions that were suspended pursuant to paragraph (a) at any time; or

(2) Continue to suspend those distributions.

(c) To the extent that a beneficiary has received distributions before engaging in conduct that potentially would have caused the reduction or elimination of the interest of the beneficiary in the trust under a no-contest clause, a trustee may seek reimbursement from the beneficiary or may offset those distributions.

7. A no-contest clause applies to an amendment to the trust or trust-related document even if the no-contest clause was not expressly incorporated in such an amendment.

8. As used in this section:

(a) "No-contest clause" means one or more provisions in a trust that express a directive to reduce or eliminate the share allocated to a beneficiary or to reduce or eliminate the distributions to be made to a beneficiary if the beneficiary takes action to frustrate or defeat the settlor's intent as expressed in the trust or in a trust-related instrument. *The term does not include:*

(1) Provisions in a trust that shift or apportion attorney's fees and costs incurred by the trust against the share allocated to a beneficiary who has asserted an unsuccessful claim, defense or objection;

(2) Provisions in a trust that permit a trustee to delay distributions to a beneficiary;

(3) Provisions in a trust that require the arbitration of disputes involving the trust;

(4) A forum selection clause in the trust; or

(5) Provisions in a trust that make a devise conditional or specify conditions or actions pursuant to NRS 163.558.

(b) "Trust" means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) "Trust-related instrument" means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Sec. 24. NRS 163.004 is hereby amended to read as follows:

163.004 1. Except as otherwise provided by law, the terms of a trust instrument may expand, restrict, eliminate or otherwise vary the rights and

interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation:

(a) The right to be informed of the beneficiary's interest for a period of time;

(b) The grounds for the removal of a fiduciary;

(c) The circumstances, if any, in which the fiduciary must diversify investments;

(d) A fiduciary's powers, duties, standards of care, rights of indemnification and liability to persons whose interests arise from the trust instrument; and

(e) The provisions of general applicability to trusts and trust administration.

2. A trust is irrevocable ~~[by the settlor]~~ except to the extent that a right to amend the trust or a right to revoke the trust is expressly reserved by the settlor ~~[.]~~ *or is granted to one or more other persons under the terms of the trust instrument. Notwithstanding the provisions of this subsection, the following powers do not make a trust revocable:*

(a) Power of appointment;

(b) Power to add or remove beneficiaries;

(c) Power to appoint, remove or replace the trustee; or

(d) Power to make administrative amendments.

3. Nothing in this section shall be construed to:

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

4. The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.

Sec. 25. NRS 163.020 is hereby amended to read as follows:

163.020 As used in NRS 163.010 to 163.200, inclusive, *and section 22 of this act,* unless the context or subject matter otherwise requires:

1. "Affiliate" means any person directly or indirectly controlling or controlled by another person, or any person under direct or indirect common control with another person. It includes any person with whom a trustee has an express or implied agreement regarding the purchase of trust investments by each from the other, directly or indirectly, except a broker or stock exchange.

2. "Relative" means a spouse, ancestor, descendant, brother or sister.

3. "Trust" means an express trust only.

4. "Trustee" means the person holding property in trust and includes trustees, a corporate as well as a natural person and a successor or substitute trustee.

Sec. 26. NRS 163.115 is hereby amended to read as follows:

163.115 1. *A settlor, cotrustee or beneficiary of the trust may request the court to remove a trustee, or a trustee may be removed by the court on its own motion pursuant to subsection 2.*

2. The court may remove a trustee if:

(a) The trustee commits or threatens to commit a breach of trust;

(b) Lack of cooperation between cotrustees substantially impairs the administration of the trust; or

(c) Because of unfitness, unwillingness or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the settlor or beneficiaries.

3. If a trustee commits or threatens to commit a breach of trust, a beneficiary or cotrustee of the trust may maintain a proceeding for any of the following purposes that is appropriate:

(a) To compel the trustee to perform his or her duties.

(b) To enjoin the trustee from committing the breach of trust.

(c) To compel the trustee to redress the breach of trust by payment of money or otherwise.

(d) To appoint a receiver or temporary trustee to take possession of the trust property and administer the trust.

(e) To remove the trustee.

(f) To set aside acts of the trustee.

(g) To reduce or deny compensation of the trustee.

(h) To impose an equitable lien or a constructive trust on trust property.

(i) To trace trust property that has been wrongfully disposed of and recover the property or its proceeds.

~~[2. On petition or ex parte application of a beneficiary or trustee, the court by temporary order, with or without bond, may restrain a trustee from performing specified acts of administration, disbursement or distribution, or exercising any powers or discharging any duties of the office, or enter any other order to secure proper performance of the duties of the office. Notwithstanding any other provision of law governing temporary injunctions, if it appears to the court that the trustee otherwise may take some action that would jeopardize unreasonably the interest of the petitioner, another beneficiary or the trust, the court may enter the temporary order. A person with whom the trustee may transact business may be made a party to the temporary order.~~

~~3. Any temporary order entered pursuant to subsection 2 must be set for hearing within 10 days after entry of the temporary order, unless the parties otherwise agree, or on a date the court otherwise determines is in the best interests of the trust. Notice of entry of the temporary order must be given by the petitioner to the trustee and the attorney of record of the trustee, if any, to any other party named as a party in the temporary order and as otherwise directed by the court.]~~

4. *If the court determines that a proceeding instituted pursuant to subsection 1 by a settlor, cotrustee or beneficiary of the trust against a trustee was not instituted in good faith and based on probable cause, the court may order that the settlor, cotrustee or beneficiary who is maintaining the proceeding against a trustee pay all or part of the costs of the proceeding,*

including, without limitation, reasonable attorney's fees. The provisions of this subsection do not preclude any other remedy available.

5. The ~~[provision]~~ *provisions* of ~~[remedies in this section does]~~ *subsections 2 and 3 do* not preclude resort to any other appropriate *ground or* remedy provided by statute or common law.

~~[5.]~~ *6.* A proceeding under this section must be commenced by filing or bringing in conjunction with the filing of a petition under NRS 164.010 and 164.015.

Sec. 27. NRS 163.160 is hereby amended to read as follows:

163.160 1. The settlor of a trust affected by NRS 163.010 to 163.200, inclusive, *and section 22 of this act* may, by provision in the instrument creating the trust if the trust was created by a writing, or by oral statement to the trustee at the time of the creation of the trust if the trust was created orally, or by an amendment of the trust if the settlor reserved the power to amend the trust, relieve his or her trustee from any or all of the duties, restrictions and liabilities which would otherwise be imposed upon the trustee by NRS 163.010 to 163.200, inclusive, *and section 22 of this act,* or alter or deny to his or her trustee any or all of the privileges and powers conferred upon the trustee by NRS 163.010 to 163.200, inclusive, *and section 22 of this act,* or add duties, restrictions, liabilities, privileges or powers to those imposed or granted by NRS 163.010 to 163.200, inclusive, *and section 22 of this act,* but no act of the settlor relieves a trustee from the duties, restrictions and liabilities imposed upon the trustee by NRS 163.030, 163.040 and 163.050.

2. Except as otherwise provided in subsections 1 and 3, a trustee may be relieved of liability for breach of trust by provisions of the trust instrument.

3. A provision of the trust instrument is not effective to relieve a trustee of liability:

(a) For breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference to the interest of a beneficiary; or

(b) For any profit that the trustee derives from a breach of trust.

Sec. 28. NRS 163.170 is hereby amended to read as follows:

163.170 A beneficiary of a trust affected by NRS 163.010 to 163.200, inclusive, *and section 22 of this act* may, if of full legal capacity and acting upon full information, by written instrument delivered to the trustee, relieve the trustee as to that beneficiary from any or all of the duties, restrictions and liabilities which would otherwise be imposed on the trustee by NRS 163.010 to 163.200, inclusive, *and section 22 of this act,* except as to the duties, restrictions and liabilities imposed by NRS 163.030, 163.040 and 163.050. The beneficiary may release the trustee from liability to him or her for past violations of any of the provisions of NRS 163.010 to 163.200, inclusive ~~[.]~~ , *and section 22 of this act.*

Sec. 29. NRS 163.180 is hereby amended to read as follows:

163.180 A court may, for cause shown and upon notice to the beneficiaries, relieve a trustee from any or all of the duties and restrictions which would otherwise be placed upon the trustee by NRS 163.010 to 163.200,

inclusive, *and section 22 of this act,* or wholly or partly excuse a trustee who has acted honestly and reasonably from liability for violation of the provisions of NRS 163.010 to 163.200, inclusive ~~.~~ *, and section 22 of this act.*

Sec. 30. NRS 163.190 is hereby amended to read as follows:

163.190 If a trustee violates any of the provisions of NRS 163.010 to 163.200, inclusive, *and section 22 of this act,* the trustee may be removed and denied compensation in whole or in part, and any beneficiary, cotrustee or successor trustee may treat the violation as a breach of trust.

Sec. 31. NRS 163.200 is hereby amended to read as follows:

163.200 NRS 163.010 to 163.200, inclusive, *and section 22 of this act* must be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them.

Sec. 32. NRS 163.556 is hereby amended to read as follows:

163.556 1. Except as otherwise provided in this section, unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust as provided in this section.

2. The second trust to which a trustee appoints property of the ~~[first]~~ *original* trust may only have as beneficiaries one or more of the beneficiaries of the original trust:

(a) To or for whom a distribution of income or principal may be made from the original trust;

(b) To or for whom a distribution of income or principal may be made in the future from the original trust at a time or upon the happening of an event specified under the ~~[first]~~ *original* trust; or

(c) Both paragraphs (a) and (b).

➥ For purposes of this subsection, a permissible appointee of a power of appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

3. A trustee may not appoint property of the original trust to a second trust if:

(a) Appointing the property will reduce any income interest of any income beneficiary of the original trust if the original trust is:

(1) A trust for which a marital deduction has been taken for federal or state income, gift or estate tax purposes;

(2) A trust for which a charitable deduction has been taken for federal or state income, gift or estate tax purposes; or

(3) A grantor-retained annuity trust or unitrust under 26 C.F.R. § 25.2702-3(b) and (c).

➥ As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

(b) The property to be appointed is subject to a power of withdrawal which is held by a beneficiary of the original trust and may be executed at the time

of the proposed appointment, unless after the exercise of such appointment, the beneficiary of the original trust's power of withdrawal is unchanged with respect to the trust property.

(c) Property specifically allocated for one beneficiary of the original trust is no longer allocated for that beneficiary under either or both trusts, unless the beneficiary consents in writing.

(d) ~~[Property held for the benefit of one or more beneficiaries under both the original and the second trust has a lower value than the value of the property held for the benefit of the same beneficiaries under only the original trust, unless:~~

~~(1) The benefit provided is limited to a specific amount or periodic payments of a specific amount; and~~

~~(2) The value of the property held in either or both trusts for the benefit of one or more beneficiaries is actuarially adequate to provide the benefit.~~

~~(e)]~~ A contribution made to the original trust qualified for a gift tax exclusion as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's remainder interest must vest not later than the date upon which such interest would have vested under the terms of the original trust.

4. A trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

(a) Under the terms of the original trust or pursuant to law governing the administration of the original trust:

(1) The trustee does not have discretion to make distributions to himself or herself;

(2) The trustee's discretion to make distributions to himself or herself is limited by an ascertainable standard, and under the terms of the second trust, the trustee's discretion to make distributions to himself or herself is not limited by the same ascertainable standard; or

(3) The trustee's discretion to make distributions to himself or herself can only be exercised with the consent of a cotrustee or a person holding an adverse interest and under the terms of the second trust the trustee's discretion to make distributions to himself or herself is not limited by an ascertainable standard and may be exercised without consent; or

(b) Under the terms of the original trust or pursuant to law governing the administration of the original trust, the trustee of the original trust does not have discretion to make distributions that will discharge the trustee's legal support obligations but under the second trust the trustee's discretion is not limited.

5. Notwithstanding the provisions of subsection 1, a trustee who may be removed by the beneficiary or beneficiaries of the original trust and replaced with a trustee that is related to or subordinate, as described in section 672 of the Internal Revenue Code, 26 U.S.C. § 672(c), to a beneficiary, may not exercise the authority to appoint property of the original trust to a second trust

to the extent that the exercise of the authority by such trustee would have the effect of increasing the distributions that can be made from the second trust to such beneficiary or group of beneficiaries that held the power to remove the trustee of the original trust and replace such trustee with a related or subordinate person, unless the distributions that may be made from the second trust to such beneficiary or group of beneficiaries described in paragraph (a) of subsection 4 are limited by an ascertainable standard.

6. The provisions of subsections 4 and 5 do not prohibit a trustee who is not a beneficiary of the original trust or who may not be removed by the beneficiary or beneficiaries and replaced with a trustee that is related to or subordinate to a beneficiary from exercising the authority to appoint property of the original trust to a second trust pursuant to the provisions of subsection 1.

7. Before appointing property pursuant to subsection 1, a trustee may give notice of a proposed action pursuant to NRS 164.725 or may petition a court for approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed action or a petition for a court's approval must include the trustee's opinion of how the appointment of property will affect the trustee's compensation and the administration of other trust expenses.

8. The trust instrument of the second trust may:

(a) Grant a general or limited power of appointment to one or more of the beneficiaries of the second trust who are beneficiaries of the original trust.

(b) Provide that, at a time or occurrence of an event specified in the trust instrument, the remaining trust assets in the second trust must be held for the beneficiaries of the original trust upon terms and conditions that are substantially identical to the terms and conditions of the original trust.

9. The power to appoint the property of the original trust pursuant to subsection 1 must be exercised by a writing, signed by the trustee and filed with the records of the trust.

10. The exercise of the power to invade principal of the original trust pursuant to subsection 1 is considered the exercise of a power of appointment, other than power to appoint the property to the trustee, the trustee's creditors, the trustee's estate or the creditors of the trustee's estate and the provisions of NRS 111.1031 apply to such power of appointment.

11. The provisions of this section do not abridge the right of any trustee who has the power to appoint property which arises under any other law.

12. The provisions of this section do not impose upon a trustee a duty to exercise the power to appoint property pursuant to subsection 1.

13. The power to appoint property to another trust pursuant to subsection 1 is not a power to amend the trust and a trustee is not prohibited from appointing property to another trust pursuant to subsection 1 if the original trust is irrevocable or provides that it may not be amended.

14. A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

15. A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

16. The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also exercise the powers granted pursuant to this section with respect to the second trust.

17. This section applies to a trust that is governed by, sitused in or administered under the laws of this State, whether the trust is initially governed by, sitused in or administered under the laws of this State pursuant to the terms of the trust instrument or whether the governing law, situs or administration of the trust is moved to this State from another state or foreign jurisdiction.

18. The power to appoint to a second trust pursuant to this section may be exercised to appoint to a second trust that is a special needs trust, pooled trust or third-party trust.

19. As used in this section:

(a) "Ascertainable standard" means a standard relating to a person's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code, 26 U.S.C. §2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.

(b) "Pooled trust" means a trust described in 42 U.S.C. § 1396p(d)(4)(C) that meets the requirements for such a trust under any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid or other needs-based public assistance.

(c) "Second trust" means an irrevocable trust that receives trust income or principal appointed by the trustee of the original trust, and may be established by any person, including, without limitation, a new trust created by the trustee, acting in that capacity, of the original trust. If the trustee of the original trust establishes the second trust, then for purposes of creating the new second trust, the requirement of NRS 163.008 that the instrument be signed by the settlor shall be deemed to be satisfied by the signature of the trustee of the ~~[second]~~ original trust. The second trust may be a trust created under ~~[the same]~~ *:*

(1) The original trust instrument ~~[as the original trust]~~ *, as modified after an appointment of property made pursuant to this section;* or ~~[under a]~~

(2) A different trust instrument.

(d) "Special needs trust" means a trust under 42 U.S.C. § 1396p(d)(4)(A) that meets the requirements for such a trust under any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid or other needs-based public assistance.

(e) "Third-party trust" means a trust that is:

(1) Established by a third party with the assets of the third party to provide for the supplemental needs of a person who is eligible for needs-based public assistance at or after the time of the creation of the trust; and

(2) Exempt from the provisions of any law or regulation of this State relating to the treatment of trusts for purposes of eligibility for Medicaid.

Sec. 33. NRS 163.590 is hereby amended to read as follows:

163.590 1. Whether or not the provisions relating to electronic trusts apply, a trust may refer to a written statement or list, including, without limitation, a written statement or list contained in an electronic record, to dispose of items of ~~[tangible personal]~~ *trust* property not otherwise specifically disposed of by the trust . ~~[, other than money, evidences of indebtedness, documents of title, securities and property used in a trade or business.]~~

2. To be admissible as evidence of the intended disposition, the statement or list must contain:

(a) The date of its execution.

(b) A title indicating its purpose.

(c) A reference to the trust to which it relates.

(d) A reasonably certain description of the items to be disposed of and the beneficiaries.

(e) The handwritten signature or electronic signature of the settlor.

3. The statement or list may be:

(a) Referred to as a writing to be in existence at the death of the settlor.

(b) Prepared before or after the execution of the trust instrument.

(c) Altered by the settlor after its preparation.

(d) A writing which has no significance apart from its effect upon the dispositions made by the trust.

4. Except as otherwise provided in this subsection, the statement or list may be used to dispose of all items of trust property, regardless of whether the trust property is real or personal property or tangible or intangible property. The trust instrument may limit the use of the statement or list so that the statement or list:

(a) Is expressly limited to tangible personal property;

(b) Cannot be used to direct the disposition of trust property that is above a value specified by the trust instrument; or

(c) Is not applicable to certain types of property, including, without limitation:

(1) Money;

(2) Evidences of indebtedness;

(3) Documents of title;

(4) Securities; and

(5) Property used in a trade or business.

Sec. 34. Chapter 164 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The expenses and compensation of a trustee of a nontestamentary trust must initially be governed by the terms of the nontestamentary trust. Thereafter, subject to any contrary terms of the nontestamentary trust, the court shall allow the trustee his or her proper expenses and such compensation for services as are just and reasonable.

2. Where there are several trustees, compensation must be apportioned among the trustees according to the respective services rendered, and such compensation may be:

(a) A fixed yearly compensation for each trustee;

(b) A set amount for the term of service;

(c) An hourly rate for services rendered; or

(d) Pursuant to a standard schedule of fees.

3. The provisions of this section must not be interpreted to abridge the authority of a court having jurisdiction over a testamentary trust pursuant to NRS 153.020 or 164.010 to review and settle the expenses and compensation of the trustee of a testamentary trust upon the petition of any interested person.

4. As used in this section, "nontestamentary trust" has the meaning ascribed to it in NRS 163.0016.

Sec. 35. NRS 164.025 is hereby amended to read as follows:

164.025 1. The trustee of a nontestamentary trust may after the death of the settlor of the trust cause to be published a notice in the manner specified in paragraph (b) of subsection 1 of NRS 155.020 and mail a copy of the notice to known or readily ascertainable creditors.

2. The notice must be in substantially the following form:

(a) For a claim against the settlor:

NOTICE TO CREDITORS

Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the ..... trust. ....., the settlor of that trust died on ..... A creditor having a claim against the settlor must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated .....

.....

Trustee

.....

Address

(b) For a claim against the trust:

NOTICE TO CREDITORS

Notice is hereby given that the undersigned is the duly appointed and qualified trustee of the ..... trust. ....., the settlor of that trust died on ..... A creditor having a claim against the trust estate must file a claim with the undersigned at the address given below within 90 days after the first publication of this notice.

Dated .....

.....

Trustee

.....

Address

3. A person having a claim, due or to become due, against a settlor or the trust *, as applicable,* must file the claim with the trustee within 90 days after

the mailing, for those required to be mailed, or 90 days after publication of the first notice to creditors. Any claim against *a settlor or* the trust estate , *as applicable,* not filed within that time is forever barred. After the expiration of the time ~~[,]~~ *to file a claim as provided in this section,* the trustee may distribute the assets of the trust to its beneficiaries without personal liability ~~[to any creditor who has failed to file a]~~ *for any* claim *which has not been timely filed* with the trustee.

4. If the trustee knows or has reason to believe that the settlor received public assistance during the lifetime of the settlor, the trustee shall, whether or not the trustee gives notice to other creditors, give notice within 30 days after the death to the Department of Health and Human Services in the manner provided in NRS 155.010. If notice to the Department is required by this subsection but is not given, the trust estate and any assets transferred to a beneficiary remain subject to the right of the Department to recover public assistance received.

5. If a claim is rejected by the trustee, in whole or in part, the trustee must, within 10 days after the rejection, notify the claimant of the rejection by written notice forwarded by registered or certified mail to the mailing address of the claimant. The claimant must bring suit in the proper court against the trustee within 60 days after the notice is given, whether the claim is due or not, or the claim is barred forever and the trustee may distribute the assets of the trust to its beneficiaries without personal liability to any creditor whose claim is barred forever.

6. As used in this section, "nontestamentary trust" has the meaning ascribed to it in NRS 163.0016.

Sec. 36. NRS 164.038 is hereby amended to read as follows:

164.038 1. Unless otherwise represented by counsel, a minor, incapacitated person, unborn person or person whose identity or location is unknown and not reasonably ascertainable may be represented by another person who has a substantially similar interest with respect to the question or dispute.

2. A person may only be represented by another person pursuant to subsection 1 if there is no material conflict of interest between the person and the representative with respect to the question or dispute for which the person is being represented. If a person is represented pursuant to subsection 1, the results of that representation in the question or dispute will be binding on the person.

3. A presumptive remainder beneficiary may represent and bind a beneficiary with a contingent remainder for the same purpose, in the same circumstance and to the same extent as an ascertainable beneficiary may bind a minor, incapacitated person, unborn person or person who cannot be ascertained.

4. *A powerholder may represent and bind a person who is a permissible appointee or taker in default of appointment.*

5. If a trust has a minor or incapacitated beneficiary who may not be represented by another person pursuant to this section, the custodial parent or guardian of the estate of the minor or incapacitated beneficiary may represent the minor or incapacitated beneficiary in any judicial proceeding or nonjudicial matter pertaining to the trust. A minor or incapacitated beneficiary may only be represented by a parent or guardian if there is no material conflict of interest between the minor or incapacitated beneficiary and the parent or guardian with respect to the question or dispute. If a minor or incapacitated beneficiary is represented pursuant to this subsection, the results of that representation will be binding on the minor or incapacitated beneficiary. The representation of a minor or incapacitated beneficiary pursuant to this subsection is binding on an unborn person or a person who cannot be ascertained if:

(a) The unborn person or a person who cannot be ascertained has an interest substantially similar to the minor or incapacitated person; and

(b) There is no material conflict of interest between the unborn person or a person who cannot be ascertained and the minor or incapacitated person with respect to the question or dispute.

~~[5.]~~ *6.* As used in this section ~~[, "presumptive]~~ *:*

(a) "Permissible appointee" has the meaning ascribed to it in NRS 162B.065.

(b) "Powerholder" has the meaning ascribed to it in NRS 162B.080.

(c) "Presumptive remainder beneficiary" means:

~~[(a)]~~ *(1)* A beneficiary who would receive income or principal of the trust if the trust were to terminate as of that date, regardless of the exercise of a power of appointment; or

~~[(b)]~~ *(2)* A beneficiary who, if the trust does not provide for termination, would receive or be eligible to receive distributions of income or principal of the trust if all beneficiaries of the trust who were receiving or eligible to receive distributions were deceased.

(d) "Taker in default of appointment" has the meaning ascribed to it in NRS 162B.095.

Sec. 37. NRS 164.045 is hereby amended to read as follows:

164.045 1. The laws of this State govern the validity and construction of a trust if:

(a) The trust instrument so provides;

(b) Designated by a person who, under the terms of the trust instrument, has the right to designate the laws that govern the validity and construction of the trust, at the time the designation is made; or

(c) The trust instrument does not provide for the law that governs the validity and construction of the trust, a person designated under the terms of the trust instrument to designate the law that governs the validity and construction of the trust, if any, has not made such a designation and the settlor or the trustee of the trust was a resident of this State at the time the trust was created or at the time the trust became irrevocable.

~~[➥ A trust instrument or designation cannot extend the duration of the trust beyond the rule against perpetuities otherwise applicable to the trust at the time of its creation.]~~

2. A person not domiciled in this State may have the right to designate the laws that govern the validity and construction of a trust if properly designated under the trust instrument.

3. A trust, the situs of which is outside this State, that moves its situs to this State is valid whether or not the trust complies with the laws of this State at the time of its creation or after its creation.

Sec. 38. NRS 164.930 is hereby amended to read as follows:

164.930 1. A provision in a will or trust instrument requiring the arbitration of disputes other than disputes of the validity of all or a part of a will or trust, between or among ~~[the]~~ *one or more* beneficiaries ~~[and a fiduciary]~~ *or fiduciaries* under the will or trust, *a settlor of a nontestamentary trust,* or any combination of such persons or entities, is enforceable. *Such a provision in a will or trust instrument is not subject to the requirements of NRS 597.995.*

2. Unless otherwise specified in the will or trust, a will or trust provision requiring arbitration shall be presumed to require binding arbitration under NRS 38.206 to 38.248, inclusive. If an arbitration enforceable under this section is governed under NRS 38.206 to 38.248, inclusive, the arbitration provision in the will or trust shall be treated as an agreement for the purposes of applying the provisions of NRS 38.206 to 38.248, inclusive.

3. The court is authorized to appoint a guardian ad litem at any time during the arbitration procedure to represent the interests of a minor or a person who is incapacitated, unborn, unknown or unascertained, or a designated class of persons who are not ascertained or are not in being. If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests. The guardian ad litem is entitled to reasonable compensation for services with such compensation to be paid from the principal of the estate or trust whose beneficiaries are represented. The provisions of NRS 164.038 and the common law relating to the doctrine of virtual representation apply to the dispute resolution procedure unless the common law rule or doctrine is inconsistent with the provisions of NRS 164.038, and any action taken by a court enforcing the judgment is conclusive and binding upon each person receiving actual or constructive notice or who is otherwise virtually represented.

4. Such arbitration in a provision in a will or trust may include, without limitation:

(a) The number, method of selection and minimum qualifications of arbitrators;

(b) The selection and establishment of arbitration procedures, including, without limitation, the incorporation of the arbitration rules for wills and trusts adopted by the American Arbitration Association;

(c) The county in which the dispute resolution will take place;

(d) The scope of discovery;

(e) The burden of proof;

(f) Confidentiality of the arbitration process and the evidence produced during arbitration and discovery;

(g) The awarding of attorney's fees, expert fees and costs;

(h) The time period in which the arbitration must be conducted and deciding an award;

(i) The method of allocating the appointed person's fees and expenses among the parties;

(j) The required appointment of guardians ad litem;

(k) The consequences to a party who fails to act in accordance with such provisions or contests such provisions; and

(l) Other matters which are not inconsistent with NRS 38.206 to 38.248, inclusive.

Sec. 39. Chapter 166 of NRS is hereby amended by adding thereto the provisions set forth as sections 40 and 41 of this act.

Sec. 40. *As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 166.020 and section 41 of this act have the meanings ascribed to them in those sections.*

Sec. 41. *"Settlor" means:*

1. The person who creates a spendthrift trust however described in the trust instrument; or

2. Any person who contributes assets to the spendthrift trust as to the assets he or she contributed to the spendthrift trust except to the extent of consideration received therefor by that person.

Sec. 42. NRS 166.020 is hereby amended to read as follows:

166.020 ~~[For the purposes of this chapter, a spendthrift trust is defined to be]~~ *"Spendthrift trust" means* a trust in which by the terms thereof a valid restraint on the voluntary and involuntary transfer of the interest of the beneficiary is imposed. It is an active trust not governed or executed by any use or rule of law of uses.

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 45. NRS 597.995 is hereby amended to read as follows:

597.995 1. Except as otherwise provided in subsection 3, an agreement which includes a provision which requires a person to submit to arbitration any dispute arising between the parties to the agreement must include specific authorization for the provision which indicates that the person has affirmatively agreed to the provision.

2. If an agreement includes a provision which requires a person to submit to arbitration any dispute arising between the parties to the agreement and the agreement fails to include the specific authorization required pursuant to subsection 1, the provision is void and unenforceable.

3. The provisions of this section do not apply to an agreement that is a collective bargaining agreement. As used in this subsection, "collective bargaining" has the meaning ascribed to it in NRS 288.033.

4. The provisions of this section do not apply to a provision in a will or trust instrument that requires the arbitration of disputes which is enforceable pursuant to NRS 164.930.

Sec. 46. NRS 669A.082 is hereby amended to read as follows:

669A.082 "Fiduciary" means:

1. A person described in NRS 132.145;

2. A person described in NRS 163.554;

3. ~~[An excluded]~~ *A directed* fiduciary as ~~[defined]~~ *provided* in NRS ~~[163.5539;]~~ *163.5548;* and

4. A trust protector as defined in NRS 163.5547,

➥ who may not be acting as a fiduciary under the terms of the trust instrument or will.

Sec. 47. NRS 163.5539 and 165.160 are hereby repealed.

TEXT OF REPEALED SECTIONS

163.5539 "Excluded fiduciary" defined. "Excluded fiduciary" means any fiduciary excluded from exercising certain powers under the instrument and those powers may be exercised by the settlor, custodial account owner, investment trust adviser, trust protector, trust committee or other person designated in the instrument.

165.160 Trust instrument.

1. Except as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may expand, restrict, eliminate or otherwise vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:

(a) The right to be informed of the beneficiary's interest for a period of time;

(b) The grounds for removing a fiduciary;

(c) The circumstances, if any, in which the fiduciary must diversify investments; and

(d) A fiduciary's powers, duties, standard of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.

2. Nothing in this section shall be construed to:

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

3. The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 728 to Assembly Bill No. 286 revises section 6.5 of the bill to provide that, notwithstanding any other provision of law, the proceeds of $550,000 from the sale of a homestead are only exempt from execution if they are reinvested in another property of like kind for which the declaration of a homestead will be made, and the other property is identified within 45 days after the sale and is taken possession of within 180 days after the sale.

Amendment adopted.

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

Assembly Bill No. 288.

Bill read second time.

The following amendment was proposed by the Committee on Growth and Infrastructure:

Amendment No. 769.

SUMMARY—Makes various changes relating to ~~[motor vehicles.]~~ services provided by the Department of Motor Vehicles. (BDR 43-938)

AN ACT relating to motor vehicles; requiring the Department of Motor Vehicles to make certain efforts to provide employees who are fluent in certain languages at offices of the Department in certain circumstances; ~~[revising provisions related to towing certain vehicles from a residential complex;]~~ requiring the Department to provide certain services to document preparation services and the clients of document preparation services in certain circumstances; requiring the Secretary of State, the Attorney General or the district attorney to notify the Department of certain actions taken regarding a document preparation service; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under federal law, certain voting materials must be provided in a language other than English in certain political subdivisions if more than 5 percent of the citizens of voting age in the subdivision are members of a single language minority and are limited-English proficient. (52 U.S.C. § 10503) Section ~~[1]~~ 1.3 of this bill requires the Department of Motor Vehicles, in any office of the Department located in a county where federal law requires voting materials in a language other than English, to make every effort to provide at least one employee who is fluent in the language of the relevant single language minority.

~~[Existing law imposes certain requirements on the towing of a vehicle from a residential complex when the tow is at the request of a person other than the owner of the vehicle. (NRS 706.4477) Section 76 of this bill newly requires a tow operator who has been requested by the owner of the real property where the residential complex is located, or an authorized agent of the owner, to tow a vehicle from the residential complex based on an expired registration of the vehicle to independently verify the registration status of the vehicle before towing the vehicle. A tow operator who fails to comply with that requirement is responsible for the cost of the towing and storage of the vehicle.]~~ Existing law requires a person who wishes to conduct business as a document

preparation service to register with the Secretary of State and meet certain requirements. (NRS 240A.100) A person who alleges certain violations against the document preparation service may file a complaint with the Secretary of State, who may investigate the complaint to determine if a violation has occurred. (NRS 240A.260) Upon making such a determination, the Secretary of State is authorized to deny, suspend, revoke or refuse to renew the registration of the document preparation service, and may refer the violation to the Attorney General or a district attorney to commence a civil action against the document preparation service, with available remedies including injunctive relief, civil penalties and restitution. (NRS 240A.270, 240A.280)

Section 1.5 of this bill authorizes the Department of Motor Vehicles to maintain service windows or locations in an office of the Department that are dedicated to serving document preparation services conducting transactions on behalf of clients if the Department determines that enough such transactions are conducted to warrant it, and requires the Department to maintain such windows or locations in certain counties. Such windows or locations may be used to provide services to the general public during times when no document preparation services are in the office seeking to conduct transactions. Section 1.5 also authorizes a client of a document preparation service who alleges a violation by the document preparation service that involves a transaction with the Department of Motor Vehicles to file the complaint with the Department. If the Department determines that the alleged violation or violations more likely than not occurred, the Department must forward the complaint to the Secretary of State for further action under existing laws. Section 1.5 also provides that, if the registration of a document preparation service is suspended or revoked, the Department must not allow the document preparation service to conduct transactions with the Department on behalf of clients. If some penalty other than suspension or revocation of registration is imposed on a document preparation service, the Department may suspend, for a reasonable time, the privilege of the document preparation service to: (1) conduct transactions with the Department on behalf of clients; or (2) use a service window or location dedicated to document preparation services at any office of the Department where such a window or location is provided. Sections 1.7 and 1.9 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 481 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. At each office of the Department in which voting materials are required pursuant to NRS 293.2699 to be provided in the language or languages of a minority group, the Department shall make every effort to ensure that not less than one employee who is fluent in each such language is available to provide services in the office in the language or languages of the

minority group. Such efforts must include, without limitation, including fluency in any such language as a consideration when hiring employees for or transferring employees to an office that lacks such an employee.

Sec. 1.5. 1. At each office of the Department where the Department determines that document preparation services conduct a sufficient number of transactions on behalf of clients to warrant it, the Department may maintain public service windows or locations dedicated to serving document preparation services conducting transactions on behalf of clients, except that the Department must maintain:

(a) In a county where motor vehicle owners are required to participate in a program for the control of emissions pursuant to NRS 445B.795 and where four or more offices of the Department are located, not less than two such public service windows or locations at each office in the county;

(b) Except as otherwise provided in paragraph (a), in a county where motor vehicle owners are required to participate in a program for the control of emissions pursuant to NRS 445B.795, not less than one such public service window or location in each office in the county; and

(c) At the main office of the Department, not less than one such public service window or location.

➥ Such public service windows or locations may be used to provide services to the general public during times when no document preparation service is in the office seeking to conduct transactions on behalf of clients.

2. A person who is a client of a document preparation service may file with the Department a complaint alleging a violation of chapter 240A of NRS by the document preparation service in lieu of notifying the Secretary of State pursuant to chapter 240A of NRS if at least one allegation in the complaint involves a transaction with the Department by the document preparation service on behalf of the client.

3. Upon receipt of a complaint filed pursuant to subsection 2 and evidence satisfactory to the Department that a violation of chapter 240A of NRS is more likely than not to have occurred, the Department shall forward the complaint to the Secretary of State or his or her designee for investigation pursuant to NRS 240A.260. Such evidence may include, without limitation, a written receipt for payment to the document preparation service by the client, as required pursuant to NRS 240A.230, for the transaction or transactions that are the subject of the complaint.

4. Upon receipt by the Department of a notice from the Secretary of State pursuant to NRS 240A.270 or from the Attorney General or a district attorney pursuant to NRS 240A.280 that a violation of the provisions of chapter 240A of NRS has been committed by a document preparation service concerning a transaction with the Department that resulted in:

(a) A suspension or revocation of or the refusal to renew the registration of the document preparation service, the Department shall not allow the document preparation service to conduct transactions with the Department on behalf of a client.

(b) The imposition of any civil remedy authorized by chapter 240A of NRS other than the suspension or revocation of the registration of the document preparation service, the Department may suspend, for an amount of time determined to be reasonable by the Department, the privilege of the document preparation service to:

(1) Conduct transactions with the Department on behalf of clients; or

(2) Use a service window or location dedicated to document preparation services at any office of the Department where such a window or location is provided.

Sec. 1.7. NRS 240A.270 is hereby amended to read as follows:

240A.270 1. The Secretary of State may deny, suspend, revoke or refuse to renew the registration of any person who violates a provision of this chapter or a regulation or order adopted or issued pursuant thereto. Except as otherwise provided in subsection 2, a suspension or revocation may be imposed only after a hearing.

2. The Secretary of State shall immediately revoke the registration of a registrant upon the receipt of an official document or record showing:

(a) The entry of a judgment or conviction; or

(b) The occurrence of any other event,

➥ that would disqualify the registrant from registration pursuant to subsection 2 of NRS 240A.100.

3. Upon the suspension or revocation of or refusal to renew the registration of a document preparation service pursuant to this section, the Secretary of State shall notify the Department of Motor Vehicles of the name of the document preparation service for the purposes of section 1.5 of this act.

Sec. 1.9. NRS 240A.280 is hereby amended to read as follows:

240A.280 1. Upon referral by the Secretary of State, the Attorney General or the district attorney of the county in which the defendant resides or maintains a place of business may bring an action in the name of the State of Nevada in a court of competent jurisdiction:

(a) For injunctive relief against any person who violates or threatens to violate a provision of this chapter or a regulation or order adopted or issued pursuant thereto;

(b) For the recovery of a civil penalty against the defendant of not less than $100 or more than $5,000 for each such violation;

(c) For an order directing restitution to be made by the defendant to any person who suffers pecuniary loss as a result of such a violation; or

(d) For any combination of the remedies described in this subsection.

2. Any civil penalty recovered pursuant to this section must be paid to the Secretary of State and deposited in the State General Fund.

3. If the court determines that the State of Nevada is the prevailing party in an action brought pursuant to this section, the court shall award the State the costs of suit and reasonable attorney's fees incurred in the action.

4. Upon the imposition of any remedy pursuant to this section against a document preparation service, the Attorney General or district attorney shall

notify the Department of Motor Vehicles of the name of the document preparation service and the remedy imposed for the purposes of section 1.5 of this act.

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. (Deleted by amendment.)
Sec. 32. (Deleted by amendment.)
Sec. 33. (Deleted by amendment.)
Sec. 34. (Deleted by amendment.)
Sec. 35. (Deleted by amendment.)
Sec. 36. (Deleted by amendment.)
Sec. 37. (Deleted by amendment.)
Sec. 38. (Deleted by amendment.)
Sec. 39. (Deleted by amendment.)
Sec. 40. (Deleted by amendment.)
Sec. 41. (Deleted by amendment.)
Sec. 42. (Deleted by amendment.)
Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)
Sec. 45. (Deleted by amendment.)
Sec. 46. (Deleted by amendment.)
Sec. 47. (Deleted by amendment.)
Sec. 48. (Deleted by amendment.)
Sec. 49. (Deleted by amendment.)
Sec. 50. (Deleted by amendment.)
Sec. 51. (Deleted by amendment.)
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Sec. 55. (Deleted by amendment.)
Sec. 56. (Deleted by amendment.)
Sec. 57. (Deleted by amendment.)
Sec. 58. (Deleted by amendment.)
Sec. 59. (Deleted by amendment.)
Sec. 60. (Deleted by amendment.)
Sec. 61. (Deleted by amendment.)
Sec. 62. (Deleted by amendment.)
Sec. 63. (Deleted by amendment.)
Sec. 64. (Deleted by amendment.)
Sec. 65. (Deleted by amendment.)
Sec. 66. (Deleted by amendment.)
Sec. 67. (Deleted by amendment.)
Sec. 68. (Deleted by amendment.)
Sec. 69. (Deleted by amendment.)
Sec. 70. (Deleted by amendment.)
Sec. 71. (Deleted by amendment.)
Sec. 72. (Deleted by amendment.)
Sec. 73. (Deleted by amendment.)
Sec. 74. (Deleted by amendment.)
Sec. 75. (Deleted by amendment.)
Sec. 76. ~~[~~NRS 706.4477 is hereby amended to read as follows:~~]~~

~~706.4477 1. If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer:~~

~~(a) The person requesting the towing must be the owner of the real property from which the vehicle is towed or an authorized agent of the owner of the real property and must sign a specific request for the towing. For the purposes of this section, the operator is not an authorized agent of the owner of the real property.~~

~~(b) The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.~~

~~(c) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.~~

~~(d) The operator may be directed to terminate the towing by a law enforcement officer.~~

~~2. If, pursuant to subsection 1, the owner of the real property or authorized agent of the owner of the real property requests that a vehicle be towed from a residential complex at which the vehicle is located, the owner of the real property or authorized agent of the owner:~~

~~(a) Must:~~

~~(1) Meet the requirements of subsection 1.~~

~~(2) If the vehicle is being towed pursuant to subparagraph (1), (2) or (3) of paragraph (b), notify the owner or operator of the vehicle of the tow not less than 48 hours before the tow by affixing to the vehicle a sticker which provides the date and time after which the vehicle will be towed.~~

~~(b) May only have a vehicle towed:~~

~~(1) Because of a parking violation;~~

~~(2) If the vehicle is not registered pursuant to this chapter or chapter 482 of NRS or in any other state;~~

~~(3) If the registration of the vehicle:~~

~~(I) Has been expired for not less than 60 days, if the vehicle is owned or operated by a resident of the residential complex or does not meet the requirements of sub-subparagraph (II); or~~

~~(II) Is expired, if the owner of real property or authorized agent of the owner verifies that the vehicle is not owned or operated by a resident of the residential complex; or~~

~~(4) If the vehicle is:~~

~~(I) Blocking a fire hydrant, fire lane or parking space designated for the handicapped; or~~

~~(II) Posing an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residents of the residential complex.~~

~~3. If towing is requested by a county or city pursuant to NRS 244.3605 or 268.4122, as applicable:~~

~~(a) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.~~

~~(b) The operator may be directed to terminate the towing by a law enforcement officer.~~

~~4. *If towing is requested based on subparagraph (2) or (3) of paragraph (b) of subsection 2, the operator shall independently verify the registration status of the vehicle before towing the vehicle. If, upon accessing the Internet website of the Department for such verification the operator encounters a failure of the verification system or receives an error message, the operator shall be considered to have met the requirements of this subsection. The operator shall retain evidence of such verification, system failure or error message for not less than 1 year. An operator who fails to comply with this subsection is responsible for the cost of removal and storage of the vehicle.*~~

~~5. The registered owner of a motor vehicle towed pursuant to the provisions of subsection 1, 2 or 3:~~

~~(a) Is presumed to have left the motor vehicle on the real property from which the vehicle is towed; and~~

~~(b) [Is] *Except as otherwise provided in subsection 4, is* responsible for the cost of removal and storage of the motor vehicle.~~

~~[5.] 6. The registered owner may rebut the presumption in subsection [4] 5 by showing that:~~

~~(a) The registered owner transferred the registered owner's interest in the motor vehicle:~~

~~(1) Pursuant to the provisions set forth in NRS 482.399 to 482.420, inclusive; or~~

~~(2) As indicated by a bill of sale for the vehicle that is signed by the registered owner; or~~

~~(b) The vehicle is stolen, if the registered owner submits evidence that, before the discovery of the vehicle, the registered owner filed an affidavit with the Department or a written report with an appropriate law enforcement agency alleging the theft of the vehicle.~~

~~[6.] 7. As used in this section:~~

~~(a) "Parking violation" means a violation of any:~~

~~(1) State or local law or ordinance governing parking; or~~

~~(2) Parking rule promulgated by the owner or manager of the residential complex that applies to vehicles on the property of the residential complex.~~

~~(b) "Residential complex" means a group of apartments, condominiums or townhomes intended for use as residential units and for which a common parking area is provided, regardless of whether each resident or unit has been assigned a specific parking space in the common parking area.]~~ (Deleted by amendment.)

Sec. 77. (Deleted by amendment.)

Sec. 78. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On ~~[July 1, 2020,]~~ October 1, 2019, for all other purposes.

Senator Cancela moved the adoption of the amendment.

Remarks by Senator Cancela.

Amendment No. 769 makes three changes to Assembly Bill No. 288. The amendment requires the Department of Motor Vehicles to maintain a public service window or location dedicated to serve a document-preparation service with multiple transactions for its clients in each office in certain counties; allows a client to make a complaint to the Department if the document-preparation service did not conduct a transaction on his or her behalf, and the Department may forward such a complaint to the Secretary of State, who may suspend or revoke a document-preparation service's license; deletes provisions related to towing certain vehicles from a residential complex, and changes the effective of the bill to October 1, 2019.

Amendment adopted.

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

Assembly Bill No. 301.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 696.

SUMMARY—Revises provisions relating to jails. (BDR 16-769)

AN ACT relating to jails; requiring the person appointed to administer a city jail and the sheriff of a county to report, as applicable, certain information concerning deaths in the city jail or county jail to the governing body of the city or the board of county commissioners; requiring the person appointed to administer a city jail and the sheriff to investigate certain deaths in the city jail or county jail, as applicable; requiring each governing body of a city and board of county commissioners to take certain actions relating to reports regarding deaths in the city jail or county jail, as applicable; revising provisions relating to the coordination of care for mental health and substance abuse treatment provided to a prisoner under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each board of county commissioners to: (1) at least once every 3 months, inquire into the security of the county jail and the treatment and condition of the prisoners; and (2) take all necessary precautions against escape, sickness and infection in the county jail. (NRS 211.020) Existing law also gives the sheriff the responsibility for the daily operation of the county jail. (NRS 211.030) Section 6 of this bill requires the sheriff to: (1) report each death of a prisoner in the county jail or any branch county jail to the board; and (2) submit to the board a biannual report that contains aggregate data concerning deaths of prisoners in the county jail and any branch county jail. Section 5 of this bill requires the board to review all available information concerning deaths of prisoners in the county jail and any branch county jail. At least twice each year, section 5 also requires the board to include as an item on the agenda of a public meeting of the board consideration of the conditions of the county jail and any branch county jail and the number of deaths of prisoners in the county jail or any branch county jail during the immediately preceding 6 months and the known circumstances surrounding any such deaths. Section 5 additionally requires the board to take necessary precautions against suicide and death in the county jail and any branch county jail.

Sections 3 and 4 of this bill apply the amendatory provisions of sections 5 and 6, respectively, to city jails and impose conforming requirements on the person appointed to administer a city jail and the governing body of a city, as applicable.

In a county whose population is 700,000 or more, existing law: (1) requires a sheriff, chief of police or town marshal, in collaboration with the Department of Health and Human Services, to arrange for the coordination of care for mental health and substance abuse treatment provided to a prisoner in the custody of certain jails or detention facilities; (2) requires the Department to arrange for the coordination of such care after the prisoner is released from

custody; and (3) provides that the sheriff, chief of police or town marshal is not responsible for arranging the coordination of such care after the prisoner is released from custody. (NRS 211.140) Section 6.5 of this bill removes the 700,000 or more population reference, thereby making the provisions of existing law concerning the coordination of care applicable to all counties in this State.

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

Section 1. Chapter 211 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, "basic demographics" includes, without limitation:*

1. A prisoner's:

(a) Name;

(b) Inmate number;

(c) Age at the time of his or her death; and

(d) Gender;

2. The date of the admission of a prisoner to a county or city jail;

3. The date of the death of a prisoner;

4. The location of a prisoner at the time of his or her death; and

5. The probable cause of the death of a prisoner.

Sec. 3. *The governing body of a city:*

1. Shall take all necessary precautions against escape from the city jail and sickness, infection, suicide and death in the city jail.

2. Shall review all available information concerning deaths of prisoners in the city jail, including, without limitation, information received from the person appointed to administer the city jail pursuant to section 4 of this act. At least twice each year, the governing body shall include as an item on the agenda of a public meeting of the governing body consideration of the conditions of the city jail and the number of deaths of prisoners in the city jail and the known circumstances surrounding any such deaths, including, without limitation, basic demographics and information submitted pursuant to the Death in Custody Reporting Act of 2013, Public Law 113-242, during the immediately preceding 6 months.

Sec. 4. *1. Not later than 48 hours after the death of a prisoner in a city jail, the person appointed to administer the city jail shall report the death to the governing body of the city. The report must include, without limitation, basic demographics.*

2. The person appointed to administer the city jail shall submit to the governing body of the city a biannual report that contains aggregated data similar to the information submitted pursuant to the Death in Custody Reporting Act of 2013, Public Law 113-242, concerning the deaths of prisoners in the city jail during the immediately preceding 6 months and the circumstances surrounding any such deaths.

Sec. 5. NRS 211.020 is hereby amended to read as follows:

211.020 The board of county commissioners:

1. Is responsible for building, inspecting and repairing any county or branch county jail located in its county.

2. Once every 3 months, shall inquire into the security of the jail and the treatment and condition of the prisoners.

3. Shall take all necessary precautions against escape, sickness ~~[or]~~ , infection ~~[.]~~ *, suicide and death.*

4. Shall review all available information concerning deaths of prisoners in the county jail and any branch county jail, including, without limitation, information received from the sheriff pursuant to NRS 211.030. At least twice each year, the board shall include as an item on the agenda of a public meeting of the board, consideration of the conditions of the county jail and any branch county jail and the number of deaths of prisoners in the county jail and any branch county jail and the known circumstances surrounding any such deaths, including, without limitation, basic demographics and information submitted pursuant to the Death in Custody Reporting Act of 2013, Public Law 113-242, during the immediately preceding 6 months.

Sec. 6. NRS 211.030 is hereby amended to read as follows:

211.030 1. The sheriff is the custodian of the jail in his or her county, and of the prisoners therein, and shall keep the jail personally, or by his or her deputy, or by a jailer or jailers appointed by the sheriff for that purpose, for whose acts the sheriff is responsible.

2. All jailers employed or appointed by the sheriff are entitled to receive a fair and adequate monthly compensation, to be paid out of the county treasury, for their services.

3. Not later than 48 hours after the death of a prisoner in the county jail or any branch county jail in his or her county, the sheriff shall report the death to the board of county commissioners. The report must include, without limitation, basic demographics.

4. The sheriff shall submit to the board a biannual report that contains aggregated data similar to the information submitted pursuant to the Death in Custody Reporting Act of 2013, Public Law 113-242, concerning the deaths of prisoners in the county jail and any branch county jail in his or her county during the immediately preceding 6 months and the circumstances surrounding any such deaths.

Sec. 6.5. NRS 211.140 is hereby amended to read as follows:

211.140 1. The sheriff of each county has charge and control over all prisoners committed to his or her care in the respective county jails, and the chiefs of police and town marshals in the several cities and towns throughout this State have charge and control over all prisoners committed to their respective city and town jails and detention facilities.

2. A court shall not, at the request of any prisoner in a county, city or town jail, issue an order which affects the conditions of confinement of the prisoner

unless, except as otherwise provided in this subsection, the court provides the sheriff, chief of police or town marshal having control over the prisoner with:

(a) Sufficient prior notice of the court's intention to enter the order. Notice by the court is not necessary if the prisoner has filed an action with the court challenging his or her conditions of confinement and has served a copy of the action on the sheriff, chief of police or town marshal.

(b) An opportunity to be heard on the issue.

➥ As used in this subsection, "conditions of confinement" includes, but is not limited to, a prisoner's access to the law library, privileges regarding visitation and the use of the telephone, the type of meals provided to the prisoner and the provision of medical care in situations which are not emergencies.

3. The sheriffs, chiefs of police and town marshals shall see that the prisoners under their care are kept at labor for reasonable amounts of time within the jail or detention facility, on public works in the county, city or town, or as part of a program of release for work established pursuant to NRS 211.120 or 211.171 to 211.200, inclusive.

4. The sheriff, chief of police or town marshal shall arrange for the administration of medical care required by prisoners while in his or her custody. The county, city or town shall pay the cost of appropriate medical:

(a) Treatment provided to a prisoner while in custody for injuries incurred by a prisoner while the prisoner is in custody and for injuries incurred during the prisoner's arrest for commission of a public offense if the prisoner is not convicted of that offense;

(b) Treatment provided to a prisoner while in custody for any infectious, contagious or communicable disease which the prisoner contracts while the prisoner is in custody; and

(c) Examinations required by law or by court order conducted while the prisoner is in custody unless the order otherwise provides.

5. A prisoner shall pay the cost of medical treatment for:

(a) Injuries incurred by the prisoner during his or her commission of a public offense or for injuries incurred during his or her arrest for commission of a public offense if the prisoner is convicted of that offense;

(b) Injuries or illnesses which existed before the prisoner was taken into custody;

(c) Self-inflicted injuries; and

(d) Except treatment provided pursuant to subsection 4, any other injury or illness incurred by the prisoner.

6. A medical facility furnishing treatment pursuant to subsection 5 shall attempt to collect the cost of the treatment from the prisoner or the prisoner's insurance carrier. If the facility is unable to collect the cost and certifies to the appropriate board of county commissioners that it is unable to collect the cost of the medical treatment, the board of county commissioners shall pay the cost of the medical treatment.

7. A sheriff, chief of police or town marshal who arranges for the administration of medical care pursuant to this section may attempt to collect from the prisoner or the insurance carrier of the prisoner the cost of arranging for the administration of medical care including the cost of any transportation of the prisoner for the purpose of medical care. The prisoner shall obey the requests of, and fully cooperate with the sheriff, chief of police or town marshal in collecting the costs from the prisoner or the prisoner's insurance carrier.

8. ~~[In a county whose population is 700,000 or more:~~

~~(a)]~~ While a prisoner is in custody, a sheriff, chief of police or town marshal, in collaboration with the Department of Health and Human Services and the various divisions thereof, for the purpose of maintaining continuity of care, shall arrange for the coordination of the care for mental health and substance abuse treatment provided to the prisoner by all providers of such care in the county, city or town jail or detention facility.

~~[(b)]~~ After a prisoner is released from custody:

~~[(1)]~~ *(a)* The Department and the various divisions thereof shall arrange for the coordination of the care for mental health and substance abuse treatment provided to the prisoner.

~~[(2)]~~ *(b)* The sheriff, chief of police or town marshal is no longer responsible for arranging the coordination of such care.

9. Each sheriff described in subsection 8, or his or her representative, and the Director of the Department of Health and Human Services, or his or her representative, shall, at the request of the Legislative Committee on Health Care, appear before the Committee during the legislative interim to report on the collaboration and coordination provided pursuant to subsection 8.

10. Mental health and substance abuse treatment provided pursuant to subsection 8 may include any medication that has been:

(a) Approved by the United States Food and Drug Administration; and

(b) Prescribed by a treating physician as medically necessary for use by the prisoner to address mental health or substance abuse issues.

Sec. 7. 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.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 696 to Assembly Bill No. 301 removes the 700,000 person population reference in current statute, thereby making the provisions of existing law applicable to all counties in the State.

Amendment adopted.

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

Assembly Bill No. 307.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 826.

SUMMARY—Establishes provisions governing the use of a gang database by a local law enforcement agency. (BDR 14-897)

AN ACT relating to criminal gangs; establishing provisions governing the use of a gang database by a local law enforcement agency; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill establishes provisions governing the use of a gang database by a local law enforcement agency. This bill provides that if a local law enforcement agency uses a gang database: (1) ~~[the database must be the database used by the largest local law enforcement agency in Nevada; (2)]~~ if a person is registered in the database, written notice and an opportunity to contest the registration must be provided to the person; ~~[(3)]~~ (2) a person registered in the database must be allowed to request removal of his or her registration in the database; and ~~[(4)]~~ (3) any file relating to a person must be deleted from the database not later than 5 years after the date on which the person last had contact with the local law enforcement agency.

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

Section 1. Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a local law enforcement agency uses a gang database for the purposes of identifying suspected members and affiliates of a criminal gang, the local law enforcement agency must comply with the following requirements:

(a) ~~[The database used by the local law enforcement agency must be the database used by the largest local law enforcement agency in this State.~~

~~(b)]~~ If a person is registered in the database, the local law enforcement agency must provide to the person written notice of his or her registration. Such written notice must include, without limitation, detailed instructions on the process for contesting registration as provided in this section.

~~[(c)]~~ (b) A person who wishes to contest registration in the database must be given the following period after receiving notification pursuant to paragraph ~~[(b)]~~ (a) to contest registration in the database:

(1) For a person who is confined in a state or local correctional or detention facility, 10 calendar days.

(2) For a person who is not confined in a state or local correctional or detention facility, 30 calendar days.

~~[(d)]~~ (c) To contest registration in the database, a person must be allowed:

(1) To submit to the local law enforcement agency a written statement or other evidence; or

(2) To request, in writing, an in-person interview with a representative of the local law enforcement agency. The in-person interview must be conducted as soon as reasonably practicable at a date and time convenient to the person who is contesting his or her registration.

~~[(e)]~~ (d) A person who is registered in the database must be allowed to request removal of his or her registration in the database:

(1) By submitting to the local law enforcement agency a written statement or other evidence; or

(2) By requesting, in writing, an in-person interview with a representative of the local law enforcement agency. The in-person interview must be conducted as soon as reasonably practicable at a date and time convenient to the person who is requesting removal of his or registration from the database.

~~[(f)]~~ *(e) The file relating to any person who is registered in the database must be deleted from the database not later than 5 years after the date on which the person last had contact with the local law enforcement agency.*

2. As used in this section:

(a) "Contact" means contact with a local law enforcement agency during the investigation of a crime or report of an alleged crime.

(b) "Criminal gang" means any combination of persons, organized formally or informally, so constructed that the organization will continue its operation even if individual members enter or leave the organization, which:

(1) Has a common name or identifying symbol;

(2) Has particular conduct, status and customs indicative of it; and

(3) Has as one of its common activities engaging in criminal activity punishable as a felony.

(c) "Local law enforcement agency" means:

(1) The sheriff's office of a county;

(2) A metropolitan police department; or

(3) A police department of an incorporated city.

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. 13.5. <u>The provisions of this act apply to a person whose registration is added to a gang database on or after July 1, 2019.</u>

Sec. 14. This act becomes effective on July 1, 2019.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 826 to Assembly Bill No. 307 removes the requirement that the database used by a law enforcement agency must be the one used by the largest law enforcement agency in the State and makes the provisions of this act applicable to a person whose registration is added to a gang database on or after July 1, 2019.

Amendment adopted.

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

Assembly Bill No. 393.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 766.

SUMMARY—Provides protections to certain governmental and tribal employees and certain other persons during a government shutdown. (BDR 3-1015)

AN ACT relating to governmental administration; prohibiting the foreclosure of real property or a lien against a unit in a common-interest community owned by a federal worker, tribal worker, state worker or household member of such a worker during a government shutdown in certain circumstances; providing certain protections to a tenant who is a federal worker, tribal worker, state worker or household member of such a worker during a government shutdown; prohibiting a person from repossessing the vehicle of a federal worker, tribal worker, state worker or household member of such a worker during a government shutdown; authorizing the provision of assistance in paying for natural gas and electricity to a federal worker, tribal worker, state worker or household member of such a worker during a government shutdown; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Federal Employees Civil Relief Act, which is pending before Congress, proposes to provide relief to federal employees and employees of contractors during a lapse in appropriations for any federal agency or department by suspending the enforcement of certain civil liabilities of such employees during the lapse. (S. 72, 116th Cong. (2019)) This bill generally enacts similar provisions in state law intended to provide certain protections to federal workers, tribal workers, state workers and household members of such workers during a lapse in appropriations at the state or federal level or for the tribal government. This bill defines the following terms: (1) "federal worker" to mean an employee of a federal agency or an employee of a contractor who has entered into a contract with a federal agency; (2) "tribal worker" to mean an employee of a federally recognized Nevada Indian tribe that receives at least a majority of its funding from the Federal Government or an employee of a contractor who has entered into a contract with such a tribe; (3) "state worker" to mean an employee of a state agency or an employee of a contractor who has entered into a contract with a state agency; ~~[and]~~ (4) "shutdown" to mean any period in which there is a lapse in appropriations for a federal or state agency or tribal government that continues through any unpaid payday for a federal worker, tribal worker or state worker employed by that agency or government ~~[.]~~ ; and (5) "household member" to mean any person who is related by blood,

marriage, adoption or other legal process and is currently residing with a federal worker, tribal worker or state worker affected by a shutdown.

Section 6 of this bill provides that if a mortgagor or grantor of a deed of trust under a residential mortgage loan is a federal worker, tribal worker, state worker or, in certain circumstances, a household member or landlord of such a worker, a person is prohibited from conducting a foreclosure sale during the period commencing on the date that a shutdown begins and ending on the date that is 90 days after the date on which the shutdown ends. Section 6 also provides that in any civil action for a foreclosure sale that is filed during that period against a federal worker, tribal worker or state worker or, if applicable, a household member or landlord of such a worker, the court is authorized or required, depending on the circumstances, to stay the proceedings in the action for a certain period or issue an order that conserves the interests of the parties unless the court determines that the ability of the federal worker, tribal worker, state worker or household member or landlord of such a worker to comply with the terms of the obligation secured by the residential mortgage loan is not materially affected by the shutdown. Section 6 further provides that any such protection against foreclosure only applies to a residential mortgage loan that was secured before the shutdown. Section 6 provides that any person who knowingly conducts a foreclosure sale in violation of the provisions of section 6 is guilty of a misdemeanor and is liable for actual damages, reasonable attorney's fees and costs incurred by the injured party. This protection against foreclosure provided by section 6 is similar to that provided in existing law to a servicemember on active duty or deployment. (NRS 40.439) Existing law requires that a servicemember receive notice of such protections before a notice of default and election to sell is recorded for a trustee's sale or before the commencement of a civil action for a foreclosure sale. (NRS 107.500) Section 12 of this bill extends this requirement to provide notice of the similar protections to a federal worker, tribal worker or state worker or household member or landlord of such a worker in relation to a shutdown.

Section 13 of this bill applies the applicable provisions set forth in section 6 to the foreclosure of a lien of a unit-owners' association against a unit in a common-interest community and provides that if a unit's owner or his or her successor in interest is a federal worker, tribal worker or state worker or, in certain circumstances, a household member or landlord of such a worker, an association is generally prohibited from initiating the foreclosure of a lien by sale during any period between the commencement of a shutdown and 90 days after the end of a shutdown. Section 13 also requires a unit-owners' association to: (1) inform each unit's owner or his or her successor in interest that if the person is a federal worker, tribal worker, state worker or household member or landlord of such a worker, he or she may be entitled to certain protections pursuant to section 13; and (2) give the person the opportunity to provide any information required to enable the association to verify whether the person is entitled to the protections set forth in section 13. Section 13 also requires that

before an association takes certain action relating to the foreclosure of a lien by sale, the association must, if such information is provided, verify whether a unit's owner or his or her successor in interest is entitled to the protections set forth in section 13 or, if such information is not provided, make a good faith effort to verify whether a unit's owner or his or her successor in interest is entitled to such protections. This protection against foreclosure provided by section 13 is similar to that provided to a servicemember on active duty or deployment. (NRS 116.311625)

Existing law prescribes criteria for unlawful detainer by a tenant of real property, a recreational vehicle or a mobile home. (NRS 40.251, 40.2512) Section 7 of this bill: (1) authorizes a tenant who is a federal worker, tribal worker, state worker or household member of such a worker to request to be allowed to continue in possession of real property or a dwelling unit during a shutdown and for a period of not more than 30 days after the shutdown; and (2) requires a landlord who receives such a request to allow the tenant to remain in possession of the property or unit during that period. Section 8 of this bill provides that a tenant who provides to a landlord proof that he or she is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown is not guilty of unlawful detainer.

Existing law provides for a summary eviction procedure when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises defaults in the payment of rent. (NRS 40.253) Section 9 of this bill provides that the summary eviction procedure does not apply to a tenant who provides proof to the landlord that he or she is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown.

Existing law prescribes basic obligations of a tenant, which include requiring a tenant to comply with the terms of a rental agreement. (NRS 118A.310) Section 20 of this bill makes any term of a rental agreement requiring the payment of rent at a specified time unenforceable against a tenant who is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown. Section 20 also requires a landlord to accept payment of rent for the period in which a federal or state agency or tribal government was experiencing a shutdown for a period not to exceed 30 days after the end of the shutdown. Section 21 of this bill prohibits a landlord from taking certain retaliatory action against a tenant who pays rent in the period prescribed in section 20.

Section 18.7 of this bill authorizes a landlord to petition the court for relief from the protections for federal workers, tribal workers, state workers and certain household members of such workers prescribed in sections 6 and 20 if: (1) a shutdown continues for a period of 30 days or more; and (2) the requirements prescribed by sections 6 and 20 impose an undue hardship on the landlord. Section 18.7 provides that if the court grants relief from these provisions: (1) the parties may modify the terms of the rental agreement; or (2) the landlord may terminate the rental agreement and commence eviction proceedings. Sections 7-9, 20 and 21 make conforming changes.

Sections 26 and 27 of this bill prohibit a landlord of a manufactured home park from charging any late fee for a late rental payment by a federal worker, tribal worker, state worker or household member of such a worker during a shutdown. Section 28 of this bill prohibits a landlord of a manufactured home park from terminating a rental agreement for failure of the tenant to pay rent if the tenant provides proof to the landlord that he or she is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown. Section 29 of this bill prohibits a landlord from taking certain retaliatory action against a tenant who provides such proof.

Section 30 of this bill prohibits a person from repossessing the vehicle of a federal worker, tribal worker, state worker or household member of such a worker who provides proof that he or she is such a person during a shutdown or for a period of 30 days immediately after the end of a shutdown. Section 30 provides that any person who knowingly repossesses a vehicle in violation of the provisions of section 30 is guilty of a misdemeanor and is liable for actual damages, reasonable attorney's fees and costs incurred by the injured party. Existing law requires that certain notice be provided before a vehicle repossessed pursuant to a security agreement may be sold. (NRS 482.516) Section 30.5 of this bill requires that information about the protections provided by section 30 be included in that notice.

Existing law authorizes the Division of Welfare and Supportive Services of the Department of Health and Human Services to use money in the Fund for Energy Assistance and Conservation to assist eligible households in paying for natural gas and electricity. (NRS 702.260) Section 31 of this bill makes households that include at least one federal worker, tribal worker or state worker eligible for such assistance during a shutdown.

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

Section 1. Chapter 40 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 5.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Federal worker" means an employee of a federal agency or an employee of a contractor who has entered into a contract with a federal agency.*

Sec. 3.25. *"Household member" means any person who is related by blood, marriage, adoption or other legal process and is currently residing with a federal worker, tribal worker or state worker affected by a shutdown.*

Sec. 3.5. *"Qualified Indian tribe" means a federally recognized Nevada Indian tribe that receives at least a majority of its funding from the Federal Government.*

Sec. 4. *"Shutdown" means any period in which there is a lapse in appropriations for a federal or state agency or tribal government that*

continues through any unpaid payday for a federal worker, state worker or tribal worker employed by that agency or tribal government.

Sec. 5. *"State worker" means an employee of a state agency or an employee of a contractor who has entered into a contract with a state agency.*

Sec. 5.5. *"Tribal worker" means an employee of a qualified Indian tribe or an employee of a contractor who has entered into a contract with a qualified Indian tribe.*

Sec. 6. *1. Notwithstanding any other provision of law and except as otherwise ordered by a court of competent jurisdiction, if a borrower provides proof that he or she is a federal worker, tribal worker or state worker or, in accordance with subsection 5, a household member or landlord of such a worker, a person shall not initiate or direct or authorize another person to initiate a foreclosure sale during the period commencing on the date on which a shutdown begins and ending on the date that is 90 days after the date on which the shutdown ends.*

2. Except as otherwise provided in subsection 3, in any civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan that is filed against a federal worker, tribal worker or state worker or, in accordance with subsection 5, a household member or landlord of such a worker, during a shutdown or during the 90-day period immediately after the end of a shutdown, the court may, on its own motion after a hearing, or shall, on a motion or on behalf of the federal worker, tribal worker, state worker or household member or landlord of such a worker, as applicable, do one or both of the following:

(a) Stay the proceedings in the action until at least 90 days after the end of the shutdown; or

(b) Adjust the obligation to preserve the interests of the parties.

3. The provisions of subsection 2 do not apply if the court determines that the ability of the federal worker, tribal worker, state worker or household member or landlord of such a worker to comply with the terms of the obligation secured by the residential mortgage loan is not materially affected by the shutdown.

4. The provisions of this section apply only to a residential mortgage loan that was secured by a federal worker, tribal worker or state worker or, in accordance with subsection 5, a household member or landlord of such a worker, before the shutdown.

5. Upon application to the court, a household member or landlord of such a worker is entitled to the protections provided to a federal worker, tribal worker or state worker pursuant to this section if the ability of the household member or landlord of such a worker to make payments required by a residential mortgage loan is materially affected by the shutdown.

6. Except as otherwise provided in subsection 7, any person who knowingly initiates or directs or authorizes another person to initiate a foreclosure sale in violation of this section:

(a) Is guilty of a misdemeanor; and

(b) May be liable for actual damages, reasonable attorney's fees and costs incurred by the injured party.

7. The provisions of subsection 6 do not apply to a trustee who initiates a foreclosure sale pursuant to the direction or authorization of another person.

8. In imposing liability pursuant to paragraph (b) of subsection 6, a court shall, when determining whether to reduce such liability, take into consideration any due diligence used by the person before he or she initiated or directed or authorized another person to initiate the foreclosure sale.

9. As used in this section:

(a) "Borrower" has the meaning ascribed to it in NRS 107.410.

(b) "Initiate a foreclosure sale" means to commence a civil action for a foreclosure sale pursuant to NRS 40.430 or, in the case of the exercise of a trustee's power of sale pursuant to NRS 107.080 and 107.0805, to execute and cause to be recorded in the office of the county recorder a notice of the breach and of the election to sell or cause to be sold the property pursuant to paragraph (b) of subsection 2 of NRS 107.080 and paragraph (b) of subsection 1 of NRS 107.0805.

(c) "Residential mortgage loan" has the meaning ascribed to it in NRS 107.450.

(d) "Trustee" means a person described in NRS 107.028.

Sec. 7. NRS 40.251 is hereby amended to read as follows:

40.251 1. A tenant of real property, a recreational vehicle or a mobile home for a term less than life is guilty of an unlawful detainer when having leased:

(a) Real property, except as otherwise provided in this section, or a mobile home for an indefinite time, with monthly or other periodic rent reserved, the tenant continues in possession thereof, in person or by subtenant, without the landlord's consent after the expiration of a notice of:

(1) For tenancies from week to week, at least 7 days;

(2) Except as otherwise provided in subsection 2, for all other periodic tenancies, at least 30 days; or

(3) For tenancies at will, at least 5 days.

(b) A dwelling unit subject to the provisions of chapter 118A of NRS, the tenant continues in possession, in person or by subtenant, without the landlord's consent after expiration of:

(1) The term of the rental agreement or its termination and, except as otherwise provided in subparagraph (2), the expiration of a notice of:

(I) At least 7 days for tenancies from week to week; and

(II) Except as otherwise provided in subsection 2, at least 30 days for all other periodic tenancies; or

(2) A notice of at least 5 days where the tenant has failed to perform the tenant's basic or contractual obligations under chapter 118A of NRS.

(c) A mobile home lot subject to the provisions of chapter 118B of NRS, or a lot for a recreational vehicle in an area of a mobile home park other than an area designated as a recreational vehicle lot pursuant to the provisions of

subsection 8 of NRS 40.215, the tenant continues in possession, in person or by subtenant, without the landlord's consent:

(1) After notice has been given pursuant to NRS 118B.115, 118B.170 or 118B.190 and the period of the notice has expired; or

(2) If the person is not a natural person and has received three notices for nonpayment of rent within a 12-month period, immediately upon failure to pay timely rent.

(d) A recreational vehicle lot, the tenant continues in possession, in person or by subtenant, without the landlord's consent, after the expiration of a notice of at least 5 days.

2. Except as otherwise provided in this section, if a tenant with a periodic tenancy pursuant to paragraph (a) or (b) of subsection 1, other than a tenancy from week to week, is 60 years of age or older or has a physical or mental disability, the tenant may request to be allowed to continue in possession for an additional 30 days beyond the time specified in subsection 1 by submitting a written request for an extended period and providing proof of the tenant's age or disability. A landlord may not be required to allow a tenant to continue in possession if a shorter notice is provided pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. *Except as otherwise provided in this section, if a tenant with a periodic tenancy pursuant to paragraph (a) or (b) of subsection 1 is a federal worker, tribal worker, state worker or household member of such a worker, the tenant may request to be allowed to continue in possession during the period commencing on the date on which a shutdown begins and ending on the date that is 30 days after the date on which the shutdown ends by submitting a written request for the extended period and providing proof that he or she is a federal worker, tribal worker, state worker or household member of such a worker during the shutdown.*

4. Except as otherwise provided in section 18.7 of this act, a landlord who receives a request from a tenant pursuant to subsection 3 shall allow a tenant to continue in possession for the period requested.

5. Any notice provided pursuant to paragraph (a) or (b) of subsection 1 must include a statement advising the tenant of the provisions of ~~[subsection]~~ *subsections* 2 ~~[.]~~ *, 3 and 4.*

~~[4.]~~ *6.* If a landlord rejects a request to allow a tenant to continue in possession for an additional 30 days pursuant to subsection 2, the tenant may petition the court for an order to continue in possession for the additional 30 days. If the tenant submits proof to the court that the tenant is entitled to request such an extension, the court may grant the petition and enter an order allowing the tenant to continue in possession for the additional 30 days. If the court denies the petition, the tenant must be allowed to continue in possession for 5 calendar days following the date of entry of the order denying the petition.

Sec. 8. NRS 40.2512 is hereby amended to read as follows:

40.2512 ~~[A]~~

1. Except as otherwise provided in subsection 2, a tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when the tenant continues in possession, in person or by subtenant, after default in the payment of any rent and after a notice in writing, requiring in the alternative the payment of the rent or the surrender of the detained premises, remains uncomplied with for a period of 5 days, or in the case of a mobile home lot, 10 days after service thereof. The notice may be served at any time after the rent becomes due.

2. Except as otherwise provided in section 18.7 of this act, the provisions of subsection 1 do not apply to a person who provides to the landlord proof that he or she is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown.

Sec. 9. NRS 40.253 is hereby amended to read as follows:

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

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

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

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

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

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

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent

informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

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

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

(b) Advise the tenant:

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

(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order; and

(3) That, pursuant to NRS 118A.390, a tenant may seek relief if a landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises or willfully interrupts or causes or permits the interruption of an essential service required by the rental agreement or chapter 118A of NRS.

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

5. Upon noncompliance with the notice:

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

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

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

(4) The date the rental payments became delinquent.

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

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

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

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

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

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

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

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

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

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

➥ whichever is later.

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

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230 and any accumulating daily costs; and

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

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

10. ~~[This]~~ *Except as otherwise provided in section 18.7 of this act, this* section does not apply to ~~[the]~~ *:*

(a) The tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 8 of NRS 40.215.

(b) A tenant who provides proof to the landlord that he or she is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown.

Sec. 10. NRS 40.426 is hereby amended to read as follows:

40.426 As used in NRS 40.426 to 40.495, inclusive, *and section 6 of this act,* unless the context otherwise requires, the words and terms defined in NRS 40.427, 40.428 and 40.429 have the meanings ascribed to them in those sections.

Sec. 11. NRS 107.480 is hereby amended to read as follows:

107.480 1. In addition to the requirements of NRS 40.439, 107.085 , ~~[and]~~ 107.086 ~~[,]~~ *and section 6 of this act,* the exercise of a trustee's power of sale pursuant to NRS 107.080 with respect to a deed of trust securing a residential mortgage loan is subject to the provisions of NRS 107.400 to 107.560, inclusive.

2. In addition to the requirements of NRS 40.430 to 40.4639, inclusive, *and section 6 of this act,* a civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan is subject to the requirements of NRS 107.400 to 107.560, inclusive.

Sec. 12. NRS 107.500 is hereby amended to read as follows:

107.500 1. At least 30 calendar days before recording a notice of default and election to sell pursuant to subsection 2 of NRS 107.080 or commencing a civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan and at least 30 calendar days after the borrower's default, the mortgage servicer, mortgagee or beneficiary of the deed of trust shall mail, by first-class mail, a notice addressed to the borrower at the borrower's primary address as indicated in the

records of the mortgage servicer, mortgagee or beneficiary of the deed of trust, which contains:

(a) A statement that if the borrower is ~~[~~a~~]~~ *:*

(1) A servicemember or a dependent of a servicemember, he or she may be entitled to certain protections under the federal Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 et seq., and NRS 40.439 regarding the servicemember's interest rate and the risk of foreclosure, and counseling for covered servicemembers that is available from Military OneSource and the United States Armed Forces Legal Assistance or any other similar agency.

(2) A federal worker, tribal worker, state worker or a household member or landlord of such a worker, he or she may be entitled to certain protections under section 6 of this act.

(b) A summary of the borrower's account which sets forth:

(1) The total amount of payment necessary to cure the default and reinstate the residential mortgage loan or to bring the residential mortgage loan into current status;

(2) The amount of the principal obligation under the residential mortgage loan;

(3) The date through which the borrower's obligation under the residential mortgage loan is paid;

(4) The date of the last payment by the borrower;

(5) The current interest rate in effect for the residential mortgage loan, if the rate is effective for at least 30 calendar days;

(6) The date on which the interest rate for the residential mortgage loan may next reset or adjust, unless the rate changes more frequently than once every 30 calendar days;

(7) The amount of the prepayment fee charged under the residential mortgage loan, if any;

(8) A description of any late payment fee charged under the residential mortgage loan;

(9) A telephone number or electronic mail address that the borrower may use to obtain information concerning the residential mortgage loan; and

(10) The names, addresses, telephone numbers and Internet website addresses of one or more counseling agencies or programs approved by the United States Department of Housing and Urban Development.

(c) A statement of the facts establishing the right of the mortgage servicer, mortgagee or beneficiary of the deed of trust to cause the trustee to exercise the trustee's power of sale pursuant to NRS 107.080 or to commence a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430.

(d) A statement of the foreclosure prevention alternatives offered by, or through, the mortgage servicer, mortgagee or beneficiary of the deed of trust.

(e) A statement that the borrower may request:

(1) A copy of the borrower's promissory note or other evidence of indebtedness;

(2) A copy of the borrower's mortgage or deed of trust;

(3) A copy of any assignment, if applicable, of the borrower's mortgage or deed of trust required to demonstrate the right of the mortgage servicer, mortgagee or beneficiary of the deed of trust to cause the trustee to exercise the trustee's power of sale pursuant to NRS 107.080 or to commence a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430; and

(4) A copy of the borrower's payment history since the borrower was last less than 60 calendar days past due.

2. Unless a borrower has exhausted the process described in NRS 107.520 and 107.530 for applying for a foreclosure prevention alternative offered by, or through, the mortgage servicer, mortgagee or beneficiary of the deed of the trust, not later than 5 business days after a notice of default and election to sell is recorded pursuant to subsection 2 of NRS 107.080 or a civil action for the recovery of any debt, or for the enforcement of any right, under a residential mortgage loan that is not barred by NRS 40.430 is commenced, the mortgage servicer, mortgagee or beneficiary of the deed of trust that offers one or more foreclosure prevention alternatives must send to the borrower a written statement:

(a) That the borrower may be evaluated for a foreclosure prevention alternative or, if applicable, foreclosure prevention alternatives;

(b) Whether a complete application is required to be submitted by the borrower if the borrower wants to be considered for a foreclosure prevention alternative; and

(c) Of the means and process by which a borrower may obtain an application for a foreclosure prevention alternative.

3. As used in this section:

(a) "Federal worker" has the meaning ascribed to it in section 3 of this act.

(b) "Household member" has the meaning ascribed to it in section 3.25 of this act.

(c) "State worker" has the meaning ascribed to it in section 5 of this act.

~~*[(c)]*~~ *(d) "Tribal worker" has the meaning ascribed to it in section 5.5 of this act.*

Sec. 13. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law and except as otherwise provided in subsection 2 or ordered by a court of competent jurisdiction, if a unit's owner or his or her successor in interest is a federal worker, tribal worker or state worker or, in accordance with subsection 3, a household member or landlord of a federal worker, tribal worker or state worker, an association shall not initiate the foreclosure of a lien by sale during the period commencing on the date on which a shutdown begins and ending on the date that is 90 days after the date on which the shutdown ends.

2. The provisions of subsection 1 do not apply if a court determines that the ability of the federal worker, tribal worker, state worker, household member or landlord to comply with the terms of the obligation secured by the residential mortgage loan is not materially affected by the shutdown.

3. Upon application to the court, a household member or landlord of a federal worker, tribal worker or state worker is entitled to the protections provided to a federal worker, tribal worker or state worker pursuant to this section if the ability of the household member or landlord to make payments required by a lien of a unit-owners' association is materially affected by the shutdown.

4. An association shall:

(a) Inform each unit's owner or his or her successor in interest that if the person is a federal worker, tribal worker, state worker, household member or landlord of such a worker, he or she may be entitled to certain protections pursuant to this section; and

(b) Give the person the opportunity to provide any information required to enable the association to verify whether he or she is entitled to the protections set forth in this section.

5. Before an association takes any action pursuant to paragraph (a) of subsection 4 of NRS 116.31162, if information required to verify whether a unit's owner or his or her successor in interest is entitled to the protections set forth in this section:

(a) Has been provided to the association pursuant to subsection 4, the association must verify whether the person is entitled to the protections set forth in this section.

(b) Has not been provided to the association pursuant to subsection 4, the association must make a good faith effort to verify whether the person is entitled to the protections set forth in this section.

6. Any person who knowingly initiates the foreclosure of a lien by sale in violation of this section:

(a) Is guilty of a misdemeanor; and

(b) May be liable for actual damages, reasonable attorney's fees and costs incurred by the injured party.

7. In imposing liability pursuant to paragraph (b) of subsection 6, a court shall, when determining whether to reduce such liability, take into consideration any due diligence used by the person before he or she initiated the foreclosure of the lien by sale.

8. As used in this section:

(a) "Federal worker" has the meaning ascribed to it in section 3 of this act.

(b) "Good faith effort" means that an association acts honestly and fairly when trying to verify whether a unit's owner or his or her successor in interest is entitled to the protections set forth in this section, as evidenced by the following actions:

(1) The association informs the unit's owner or his or her successor in interest of the information required pursuant to paragraph (a) of subsection 4;

(2) The association makes reasonable efforts to give the unit's owner or his or her successor in interest the opportunity to provide any information required to enable the association to verify whether the person is entitled to the protections set forth in this section pursuant to paragraph (b) of subsection 4; and

(3) The association makes reasonable efforts to utilize all resources available to the association to verify whether the unit's owner or his or her successor in interest is a federal worker, tribal worker, state worker or household member or landlord of such a worker.

(c) "Household member" has the meaning ascribed to it in section 3.25 of this act.

(d) "Initiate the foreclosure of a lien by sale" means to take any action in furtherance of foreclosure of a lien by sale after taking the actions set forth in paragraph (a) of subsection 4 of NRS 116.31162.

~~*[(d)]*~~ *(e) "Shutdown" has the meaning ascribed to it in section 4 of this act.*

~~*[(e)]*~~ *(f) "State worker" has the meaning ascribed to it in section 5 of this act.*

~~*[(f)]*~~ *(g) "Tribal worker" has the meaning ascribed to it in section 5.5 of this act.*

Sec. 14. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 5, 6 or 7, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, *and section 13 of this act*, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit or, if authorized by the parties, delivered by electronic transmission, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing or delivering by electronic transmission the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the total amount of the deficiency in payment, with a separate statement of:

(I) The amount of the association's lien that is prior to the first security interest on the unit pursuant to subsection 3 of NRS 116.3116 as of the date of the notice;

(II) The amount of the lien described in sub-subparagraph (I) that is attributable to assessments based on the periodic budget adopted by the association pursuant to NRS 116.3115 as of the date of the notice;

(III) The amount of the lien described in sub-subparagraph (I) that is attributable to amounts described in NRS 116.310312 as of the date of the notice; and

(IV) The amount of the lien described in sub-subparagraph (I) that is attributable to the costs of enforcing the association's lien as of the date of the notice.

(3) State that:

(I) If the holder of the first security interest on the unit does not satisfy the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and that the sale may extinguish the first security interest as to the unit; and

(II) If, not later than 5 days before the date of the sale, the holder of the first security interest on the unit satisfies the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116 and, not later than 2 days before the date of the sale, a record of such satisfaction is recorded in the office of the recorder of the county in which the unit is located, the association may foreclose its lien by sale but the sale may not extinguish the first security interest as to the unit.

(4) State the name and address of the person authorized by the association to enforce the lien by sale.

(5) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

(d) The unit's owner or his or her successor in interest, or the holder of a recorded security interest on the unit, has, for a period which commences in the manner and subject to the requirements described in subsection 3 and which expires 5 days before the date of sale, failed to pay the assessments and other sums that are due to the association in accordance with subsection 1 of NRS 116.3116.

(e) The association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, an affidavit which states, based on the direct, personal knowledge of the affiant, the personal knowledge which the affiant acquired by a review of a trustee sale guarantee or a similar product or the personal knowledge which the affiant acquired by a review of the business records of the association or other person conducting the sale, which business records must meet the standards set forth in NRS 51.135, the following:

(1) The name of each holder of a security interest on the unit to which the notice of default and election to sell and the notice of sale was mailed, as required by subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635; and

(2) The address at which the notices were mailed to each such holder of a security interest.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days described in paragraph (c) of subsection 1 begins on the first day following:

(a) The date on which the notice of default and election to sell is recorded; or

(b) The date on which a copy of the notice of default and election to sell is mailed by certified or registered mail, return receipt requested or delivered by electronic transmission, as applicable, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

➥ whichever date occurs later.

4. An association may not mail or deliver by electronic transmission to a unit's owner or his or her successor in interest a letter of its intent to mail or deliver by electronic transmission a notice of delinquent assessment pursuant to paragraph (a) of subsection 1, mail or deliver by electronic transmission the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless the association has complied with the provisions of subsections 4 and 5 of NRS 116.311625 and ~~[:]~~ *subsections 4 and 5 of section 13 of this act and:*

(a) Not earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit's owner or, if authorized by the parties, delivers by electronic transmission:

(1) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;

(2) A proposed repayment plan; and

(3) A notice of the right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing; and

(b) Within 30 days after the date on which the information described in paragraph (a) is mailed or delivered by electronic transmission, as applicable, the past due obligation has not been paid in full or the unit's owner or his or her successor in interest has not entered into a repayment plan or requested a hearing before the executive board. If the unit's owner or his or her successor in interest requests a hearing or enters into a repayment plan within 30 days after the date on which the information described in paragraph (a) is mailed or delivered by electronic transmission, as applicable, and is unsuccessful at the hearing or fails to make a payment under the repayment plan within 10 days after the due date, the association may take any lawful action pursuant to subsection 1 to enforce its lien.

5. The association may not foreclose a lien by sale if the association has not mailed a copy of the notice of default and election to sell and a copy of the notice of sale to each holder of a security interest on the unit in the manner and subject to the requirements set forth in subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635.

6. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

7. The association may not foreclose a lien by sale if the association has received notice pursuant to NRS 107.086 that the unit is subject to foreclosure mediation pursuant to that section, unless:

(a) The trustee of record has recorded the certificate provided to the trustee pursuant to subparagraph (1) or (2) of paragraph (e) of subsection 2 of NRS 107.086; or

(b) The unit's owner has failed to pay to the association any amounts enforceable as assessments pursuant to subsection 1 of NRS 116.3116 that become due during the pendency of foreclosure mediation pursuant to NRS 107.086, other than past due obligations as described in subsection 11 of NRS 107.086.

Sec. 15. Chapter 118A of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 18.7, inclusive, of this act.

Sec. 16. *"Federal worker" has the meaning ascribed to it in section 3 of this act.*

Sec. 17. *"Shutdown" has the meaning ascribed to it in section 4 of this act.*

Sec. 18. *"State worker" has the meaning ascribed to it in section 5 of this act.*

Sec. 18.5. *"Tribal worker" has the meaning ascribed to it in section 5.5 of this act.*

Sec. 18.7. *1. If a shutdown continues for a period of 30 days or more, the landlord may petition the court for relief from the requirements prescribed in subsection 4 of NRS 40.251 and subsection 2 of NRS 118A.310 on the basis that the requirements impose an undue hardship on the landlord. In determining whether to grant relief from these requirements, the court may consider, without limitation:*

(a) The mortgage on the property and the risk of foreclosure; and

(b) Any additional financial responsibilities of the landlord, including, without limitation:

(1) Child support or alimony;

(2) Educational costs which must be paid by the landlord;

(3) Motor vehicle payments, student loans, medical bills and payment plans; and

(4) Any costs associated with the continued operation of a business of the landlord.

2. If the court grants relief pursuant to subsection 1:

(a) The parties may modify the terms of the rental agreement; or

(b) The landlord may terminate the rental agreement and commence eviction proceedings in accordance with the provisions of chapter 40 of NRS.

Sec. 19. NRS 118A.020 is hereby amended to read as follows:

118A.020 As used in this chapter, unless the context otherwise requires, the terms defined in NRS 118A.030 to 118A.170, inclusive, *and sections 16 to 18.5, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 20. NRS 118A.310 is hereby amended to read as follows:

118A.310 *1.* A tenant shall, as basic obligations under this chapter:

~~[1. Comply]~~

(a) Except as otherwise provided in subsection 2, comply with the terms of the rental agreement;

~~[2.]~~ *(b)* Keep that part of the premises which is occupied and used as clean and safe as the condition of the premises permit;

~~[3.]~~ *(c)* Dispose of all ashes, garbage, rubbish and other waste from the dwelling unit in a clean and safe manner;

~~[4.]~~ *(d)* Keep all plumbing fixtures in the dwelling unit as clean as their condition permits;

~~[5.]~~ *(e)* Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, in the premises;

~~[6.]~~ *(f)* Not deliberately or negligently render the premises uninhabitable or destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and

~~[7.]~~ *(g)* Conduct himself or herself and require other persons on the premises with his or her consent to conduct themselves in a manner that will not disturb a neighbor's peaceful enjoyment of the premises.

2. Except as otherwise provided in section 18.7 of this act:

(a) Any term of a rental agreement requiring the payment of rent at a specified time pursuant to NRS 118A.210 is unenforceable against a tenant who is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown. As used in this paragraph, "household member" has the meaning ascribed to it in section 3.25 of this act.

(b) If the terms of a rental agreement require the payment of rent at a specified time, the landlord shall accept payment of rent for the period in which a federal or state agency or tribal government was experiencing a shutdown from such a tenant for a period not to exceed 30 days after the end of the shutdown.

Sec. 21. NRS 118A.510 is hereby amended to read as follows:

118A.510 1. Except as otherwise provided in subsection 3, the landlord may not, in retaliation, terminate a tenancy, refuse to renew a tenancy, increase rent or decrease essential items or services required by the rental agreement or this chapter, or bring or threaten to bring an action for possession if:

(a) The tenant has complained in good faith of a violation of a building, housing or health code applicable to the premises and affecting health or safety to a governmental agency charged with the responsibility for the enforcement of that code;

(b) The tenant has complained in good faith to the landlord or a law enforcement agency of a violation of this chapter or of a specific statute that imposes a criminal penalty;

(c) The tenant has organized or become a member of a tenant's union or similar organization;

(d) A citation has been issued resulting from a complaint described in paragraph (a);

(e) The tenant has instituted or defended against a judicial or administrative proceeding or arbitration in which the tenant raised an issue of compliance with the requirements of this chapter respecting the habitability of dwelling units;

(f) The tenant has failed or refused to give written consent to a regulation adopted by the landlord, after the tenant enters into the rental agreement, which requires the landlord to wait until the appropriate time has elapsed before it is enforceable against the tenant;

(g) The tenant has complained in good faith to the landlord, a government agency, an attorney, a fair housing agency or any other appropriate body of a violation of NRS 118.010 to 118.120, inclusive, or the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq., or has otherwise exercised rights which are guaranteed or protected under those laws; ~~[or]~~

(h) The tenant or, if applicable, a cotenant or household member, is a victim of domestic violence, harassment, sexual assault or stalking or terminates a rental agreement pursuant to NRS 118A.345 ~~[.]~~ *; or*

(i) Except as otherwise provided in section 18.7 of this act, the tenant is a federal worker, tribal worker, state worker or household member of such a worker and the tenant pays rent during the time specified in subsection 2 of NRS 118A.310. As used in this paragraph, "household member" has the meaning ascribed to it in section 3.25 of this act.

2. If the landlord violates any provision of subsection 1, the tenant is entitled to the remedies provided in NRS 118A.390 and has a defense in any retaliatory action by the landlord for possession.

3. A landlord who acts under the circumstances described in subsection 1 does not violate that subsection if:

(a) The violation of the applicable building, housing or health code of which the tenant complained was caused primarily by the lack of reasonable care by the tenant, a member of his or her household or other person on the premises with his or her consent;

(b) The tenancy is terminated with cause;

(c) A citation has been issued and compliance with the applicable building, housing or health code requires alteration, remodeling or demolition and cannot be accomplished unless the tenant's dwelling unit is vacant; or

(d) The increase in rent applies in a uniform manner to all tenants.

➥ The maintenance of an action under this subsection does not prevent the tenant from seeking damages or injunctive relief for the landlord's failure to comply with the rental agreement or maintain the dwelling unit in a habitable condition as required by this chapter.

4. As used in this section:

(a) "Cotenant" has the meaning ascribed to it in NRS 118A.345.

(b) "Domestic violence" has the meaning ascribed to it in NRS 118A.345.

(c) "Harassment" means a violation of NRS 200.571.

(d) "Household member" has the meaning ascribed to it in NRS 118A.345.

(e) "Sexual assault" means a violation of NRS 200.366.

(f) "Stalking" means a violation of NRS 200.575.

Sec. 22. Chapter 118B of NRS is hereby amended by adding thereto the provisions set forth as sections 23 ~~[, 24 and 25]~~ to 25.5, inclusive, of this act.

Sec. 23. *"Federal worker" has the meaning ascribed to it in section 3 of this act.*

Sec. 23.5. "Household member" has the meaning ascribed to it in section 3.25 of this act.

Sec. 24. *"Shutdown" has the meaning ascribed to it in section 4 of this act.*

Sec. 25. *"State worker" has the meaning ascribed to it in section 5 of this act.*

Sec. 25.5. *"Tribal worker" has the meaning ascribed to it in section 5.5 of this act.*

Sec. 26. NRS 118B.140 is hereby amended to read as follows:

118B.140 1. Except as otherwise provided in subsection 2, the landlord or his or her agent or employee shall not:

(a) Require a person to purchase a manufactured home from the landlord or any other person as a condition to renting a manufactured home lot to the purchaser or give an adjustment of rent or fees, or provide any other incentive to induce the purchase of a manufactured home from the landlord or any other person.

(b) Charge or receive:

(1) Any entrance or exit fee for assuming or leaving occupancy of a manufactured home lot.

(2) Any transfer or selling fee or commission as a condition to permitting a tenant to sell his or her manufactured home or recreational vehicle within the manufactured home park, even if the manufactured home or recreational vehicle is to remain within the park, unless the landlord is licensed as a dealer of manufactured homes pursuant to NRS 489.311 and has acted as the tenant's agent in the sale pursuant to a written contract.

(3) Any fee for the tenant's spouse or children.

(4) Any fee for pets kept by a tenant in the park. If special facilities or services are provided, the landlord may also charge a fee reasonably related to the cost of maintenance of the facility or service and the number of pets kept in the facility.

(5) Any additional service fee unless the landlord provides an additional service which is needed to protect the health and welfare of the tenants, and written notice advising each tenant of the additional fee is sent to the tenant 90 days in advance of the first payment to be made, and written notice of the additional fee is given to prospective tenants on or before commencement of their tenancy. A tenant may only be required to pay the additional service fee for the duration of the additional service.

(6) Any fee for a late monthly rental payment within 4 days after the date the rental payment is due or which exceeds $5 for each day, excluding Saturdays, Sundays and legal holidays, which the payment is overdue, beginning on the day after the payment was due. Any fee for late payment of charges for utilities must be in accordance with the requirements prescribed by the Public Utilities Commission of Nevada.

(7) *Any fee for a late monthly rental payment by a federal worker, tribal worker, state worker or household member of such a worker during a shutdown.*

(8) Any fee, surcharge or rent increase to recover from his or her tenants the costs resulting from converting from a master-metered water system to individual water meters for each manufactured home lot.

~~[(8)]~~ *(9)* Any fee, surcharge or rent increase to recover from his or her tenants any amount that exceeds the amount of the cost for a governmentally mandated service or tax that was paid by the landlord.

2. Except for the provisions of subparagraphs (3), (4), (6) and ~~[(8)]~~ *(9)* of paragraph (b) of subsection 1, the provisions of this section do not apply to a corporate cooperative park.

Sec. 27. NRS 118B.150 is hereby amended to read as follows:

118B.150 1. Except as otherwise provided in subsections 2 and 3, the landlord or his or her agent or employee shall not:

(a) Increase rent or additional charges unless:

(1) The rent charged after the increase is the same rent charged for manufactured homes of the same size or lots of the same size or of a similar location within the park, including, without limitation, manufactured homes and lots which are held pursuant to a long-term lease, except that a discount may be selectively given to persons who:

(I) Are handicapped;

(II) Are 55 years of age or older;

(III) Are long-term tenants of the park if the landlord has specified in the rental agreement or lease the period of tenancy required to qualify for such a discount;

(IV) Pay their rent in a timely manner; or

(V) Pay their rent by check, money order or electronic means;

(2) Any increase in additional charges for special services is the same amount for each tenant using the special service; and

(3) Written notice advising a tenant of the increase is received by the tenant 90 days before the first payment to be increased and written notice of the increase is given to prospective tenants before commencement of their tenancy. In addition to the notice provided to a tenant pursuant to this subparagraph, if the landlord or his or her agent or employee knows or reasonably should know that the tenant receives assistance from the Account, the landlord or his or her agent or employee shall provide to the Administrator written notice of the increase 90 days before the first payment to be increased.

(b) Require a tenant to pay for an improvement to the common area of a manufactured home park unless the landlord is required to make the improvement pursuant to an ordinance of a local government.

(c) Require a tenant to pay for a capital improvement to the manufactured home park unless the tenant has notice of the requirement at the time the tenant enters into the rental agreement. A tenant may not be required to pay for a capital improvement after the tenant enters into the rental agreement unless the tenant consents to it in writing or is given 60 days' notice of the requirement in writing. The landlord may not establish such a requirement unless a meeting of the tenants is held to discuss the proposal and the landlord provides each tenant with notice of the proposal and the date, time and place of the meeting not less than 60 days before the meeting. The notice must include a copy of the proposal. A notice in a periodic publication of the park does not constitute notice for the purposes of this paragraph.

(d) Require a tenant to pay the rent by check or money order.

(e) Require a tenant who pays the rent in cash to apply any change to which the tenant is entitled to the next periodic payment that is due. The landlord or his or her agent or employee shall have an adequate amount of money available to provide change to such a tenant.

(f) Prohibit or require fees or deposits for any meetings held in the park's community or recreational facility by the tenants or occupants of any manufactured home or recreational vehicle in the park to discuss the park's affairs, or any political meeting sponsored by a tenant, if the meetings are held at reasonable hours and when the facility is not otherwise in use, or prohibit the distribution of notices of those meetings.

(g) Interrupt, with the intent to terminate occupancy, any utility service furnished the tenant except for nonpayment of utility charges when due. Any landlord who violates this paragraph is liable to the tenant for actual damages.

(h) Prohibit a tenant from having guests, but the landlord may require the tenant to register the guest within 48 hours after his or her arrival, Sundays and legal holidays excluded, and if the park is a secured park, a guest may be required to register upon entering and leaving.

(i) Charge a fee for a guest who does not stay with the tenant for more than a total of 60 days in a calendar year. The tenant of a manufactured home lot who is living alone may allow one other person to live in his or her home without paying an additional charge or fee, unless such a living arrangement constitutes a violation of chapter 315 of NRS. No agreement between a tenant and his or her guest alters or varies the terms of the rental contract between the tenant and the landlord, and the guest is subject to the rules and regulations of the landlord.

(j) Prohibit a tenant from erecting a fence on the tenant's lot if the fence complies with any standards for fences established by the landlord, including limitations established for the location and height of fences, the materials used for fences and the manner in which fences are to be constructed.

(k) Prohibit any tenant from soliciting membership in any association which is formed by the tenants who live in the park. As used in this paragraph, "solicit" means to make an oral or written request for membership or the payment of dues or to distribute, circulate or post a notice for payment of those dues.

(l) Prohibit a public officer, candidate for public office or the representative of a public officer or candidate for public office from walking through the park to talk with the tenants or distribute political material.

(m) If a tenant has voluntarily assumed responsibility to trim the trees on his or her lot, require the tenant to trim any particular tree located on the lot or dispose of the trimmings unless a danger or hazard exists.

(n) Charge a fee for a late monthly rental payment by a federal worker, tribal worker, state worker or household member of such a worker during a shutdown.

2. The landlord is entitled to require a security deposit from a tenant who wants to use the manufactured home park's clubhouse, swimming pool or other park facilities for the tenant's exclusive use. The landlord may require the deposit at least 1 week before the use. The landlord shall apply the deposit to costs which occur due to damage or cleanup from the tenant's use within 1 week after the use, if any, and shall, on or before the eighth day after the use,

refund any unused portion of the deposit to the tenant making the deposit. The landlord is not required to place such a deposit into a financial institution or to pay interest on the deposit.

3. The provisions of paragraphs (a), (b), (c), (j) and (m) of subsection 1 do not apply to a corporate cooperative park.

4. As used in this section, "long-term lease" means a rental agreement or lease the duration of which exceeds 12 months.

Sec. 28. NRS 118B.200 is hereby amended to read as follows:

118B.200 1. Notwithstanding the expiration of a period of a tenancy or service of a notice pursuant to subsection 1 of NRS 118B.190, the rental agreement described in NRS 118B.190 may not be terminated except on one or more of the following grounds:

(a) ~~[Failure]~~ *Except as otherwise provided in subsection 3, failure* of the tenant to pay rent, utility charges or reasonable service fees within 10 days after written notice of delinquency served upon the tenant in the manner provided in NRS 40.280;

(b) Failure of the tenant to correct any noncompliance with a law, ordinance or governmental regulation pertaining to manufactured homes or recreational vehicles or a valid rule or regulation established pursuant to NRS 118B.100 or to cure any violation of the rental agreement within a reasonable time after receiving written notification of noncompliance or violation;

(c) Conduct of the tenant in the manufactured home park which constitutes an annoyance to other tenants;

(d) Violation of valid rules of conduct, occupancy or use of park facilities after written notice of the violation is served upon the tenant in the manner provided in NRS 40.280;

(e) A change in the use of the land by the landlord pursuant to NRS 118B.180;

(f) Conduct of the tenant which constitutes a nuisance as defined in NRS 40.140 or which violates a state law or local ordinance, specifically including, without limitation:

(1) Discharge of a weapon;

(2) Prostitution;

(3) Illegal drug manufacture or use;

(4) Child molestation or abuse;

(5) Elder molestation or abuse;

(6) Property damage as a result of vandalism; and

(7) Operating a motor vehicle while under the influence of alcohol or any other controlled substance; or

(g) In a manufactured home park that is owned by a nonprofit organization or housing authority, failure of the tenant to meet qualifications relating to age or income which:

(1) Are set forth in the lease signed by the tenant; and

(2) Comply with federal, state and local law.

2. A tenant who is not a natural person and who has received three or more 10-day notices to surrender for failure to pay rent in the preceding 12-month period may have his or her tenancy terminated by the landlord for habitual failure to pay timely rent.

3. A rental agreement may not be terminated for failure of the tenant to pay rent if the tenant provides proof to the landlord that he or she is a federal worker, tribal worker, state worker or household member of such a worker during a shutdown.

Sec. 29. NRS 118B.210 is hereby amended to read as follows:

118B.210 1. The landlord shall not terminate a tenancy, refuse to renew a tenancy, increase rent or decrease services the landlord normally supplies, or bring or threaten to bring an action for possession of a manufactured home lot as retaliation upon the tenant because:

(a) The tenant has complained in good faith about a violation of a building, safety or health code or regulation pertaining to a manufactured home park to the governmental agency responsible for enforcing the code or regulation.

(b) The tenant has complained to the landlord concerning the maintenance, condition or operation of the park or a violation of any provision of NRS 118B.040 to 118B.220, inclusive, or 118B.240.

(c) The tenant has organized or become a member of a tenants' league or similar organization.

(d) The tenant has requested the reduction in rent required by:

(1) NRS 118.165 as a result of a reduction in property taxes.

(2) NRS 118B.153 when a service, utility or amenity is decreased or eliminated by the landlord.

(e) *The tenant provides the proof required by subsection 3 of NRS 118B.200.*

(f) A citation has been issued to the landlord as the result of a complaint of the tenant.

~~[(f)]~~ *(g)* In a judicial proceeding or arbitration between the landlord and the tenant, an issue has been determined adversely to the landlord.

2. A landlord, manager or assistant manager of a manufactured home park shall not willfully harass a tenant.

3. A tenant shall not willfully harass a landlord, manager or assistant manager of a manufactured home park or an employee or agent of the landlord.

4. As used in this section, "harass" means to threaten or intimidate, through words or conduct, with the intent to affect the terms or conditions of a tenancy or a person's exercise of his or her rights pursuant to this chapter.

Sec. 30. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law and except as otherwise ordered by a court of competent jurisdiction, if a person liable on a security agreement provides proof that he or she is a federal worker, tribal worker, state worker or household member of such a worker and a shutdown is occurring or has occurred, a person shall not repossess or direct or authorize

another person to repossess a vehicle of that person during the period commencing on the date on which a shutdown begins and ending on the date that is 30 days after the date on which the shutdown ends.

2. Any person who knowingly repossesses a vehicle or authorizes another person to repossess a vehicle in violation of this section:

(a) Is guilty of a misdemeanor; and

(b) May be liable for actual damages, reasonable attorney's fees and costs incurred by the injured party.

3. In imposing liability pursuant to paragraph (b) of subsection 2, a court shall, when determining whether to reduce such liability, take into consideration any due diligence used by the person before he or she repossessed a vehicle or directed or authorized another person to repossess a vehicle.

4. As used in this section:

(a) "Federal worker" has the meaning ascribed to it in section 3 of this act.

(b) "Household member" has the meaning ascribed to it in section 3.25 of this act.

(c) "Shutdown" has the meaning ascribed to it in section 4 of this act.

~~*[(c)]*~~ *(d) "State worker" has the meaning ascribed to it in section 5 of this act.*

~~*[(d)]*~~ *(e) "Tribal worker" has the meaning ascribed to it in section 5.5 of this act.*

Sec. 30.5. NRS 482.516 is hereby amended to read as follows:

482.516 1. Any provision in any security agreement for the sale or lease of a vehicle to the contrary notwithstanding, at least 10 days' written notice of intent to sell or again lease a repossessed vehicle must be given to all persons liable on the security agreement. The notice must be given in person or sent by mail directed to the address of the persons shown on the security agreement, unless such persons have notified the holder in writing of a different address.

2. The notice:

(a) Must *inform such persons of the provisions of section 30 of this act;*

(b) Must set forth that there is a right to redeem the vehicle and the total amount required as of the date of the notice to redeem;

~~[(b)]~~ *(c)* May inform such persons of their privilege of reinstatement of the security agreement, if the holder extends such a privilege;

~~[(c)]~~ *(d)* Must give notice of the holder's intent to resell or again lease the vehicle at the expiration of 10 days from the date of giving or mailing the notice;

~~[(d)]~~ *(e)* Must disclose the place at which the vehicle will be returned to the buyer or lessee upon redemption or reinstatement; and

~~[(e)]~~ *(f)* Must designate the name and address of the person to whom payment must be made.

3. During the period provided under the notice, the person or persons liable on the security agreement may pay in full the indebtedness evidenced by the security agreement. Such persons are liable for any deficiency after sale or

lease of the repossessed vehicle only if the notice prescribed by this section is given within 60 days after repossession and includes an itemization of the balance and of any costs or fees for delinquency, collection or repossession. In addition, the notice must either set forth the computation or estimate of the amount of any credit for unearned finance charges or cancelled insurance as of the date of the notice or state that such a credit may be available against the amount due.

Sec. 31. NRS 702.260 is hereby amended to read as follows:

702.260 1. Seventy-five percent of the money in the Fund must be distributed to the Division of Welfare and Supportive Services for programs to assist eligible households in paying for natural gas and electricity. The Division may use not more than 5 percent of the money distributed to it pursuant to this section for its administrative expenses.

2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Division may use the money distributed to it pursuant to this section only to:

(a) Assist eligible households in paying for natural gas and electricity.

(b) Carry out activities related to consumer outreach.

(c) Pay for program design.

(d) Pay for the annual evaluations conducted pursuant to NRS 702.280.

3. Except as otherwise provided in ~~[subsection 4,]~~ *subsections 4 and 5*, to be eligible to receive assistance from the Division pursuant to this section, a household must have a household income that is not more than 150 percent of the federally designated level signifying poverty, as determined by the Division.

4. *In addition to the persons eligible to receive assistance from the Division pursuant to subsection 3, a household that includes at least one federal worker, tribal worker or state worker is eligible for such assistance during a shutdown.*

5. The Division is authorized to render emergency assistance to a household if an emergency related to the cost or availability of natural gas or electricity threatens the health or safety of one or more of the members of the household. Such emergency assistance may be rendered upon the good faith belief that the household is otherwise eligible to receive assistance pursuant to this section.

~~[5.]~~ *6.* Before July 1, 2002, if a household is eligible to receive assistance pursuant to this section, the Division shall determine the amount of assistance that the household will receive by using the existing formulas set forth in the state plan for low-income home energy assistance.

~~[6.]~~ *7.* On or after July 1, 2002, if a household is eligible to receive assistance pursuant to this section, the Division:

(a) Shall, to the extent practicable, determine the amount of assistance that the household will receive by determining the amount of assistance that is sufficient to reduce the percentage of the household's income that is spent on

natural gas and electricity to the median percentage of household income spent on natural gas and electricity statewide.

(b) May adjust the amount of assistance that the household will receive based upon such factors as:

(1) The income of the household;

(2) The size of the household;

(3) The type of energy that the household uses; and

(4) Any other factor which, in the determination of the Division, may make the household particularly vulnerable to increases in the cost of natural gas or electricity.

~~[7.]~~ *8.* The Division shall adopt regulations to carry out and enforce the provisions of this section and NRS 702.250.

~~[8.]~~ *9.* In carrying out the provisions of this section, the Division shall:

(a) Solicit advice from the Housing Division and from other knowledgeable persons;

(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;

(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;

(d) Establish a process for evaluating the programs conducted pursuant to this section;

(e) Develop a process for making changes to such programs; and

(f) Engage in annual planning and evaluation processes with the Housing Division as required by NRS 702.280.

~~[9.]~~ *10.* For the purposes of this section ~~[, "eligible]~~ *:*

(a) "Eligible household" includes, without limitation:

~~[(a)]~~ *(1)* A tenant of a manufactured home park or mobile home park subject to the provisions of NRS 704.905 to 704.960, inclusive; and

~~[(b)]~~ *(2)* A tenant who purchases electricity from a landlord as described in paragraph (c) of subsection 2 of NRS 702.090 based on the actual usage of electricity by the tenant.

(b) "Federal worker" has the meaning ascribed to it in section 3 of this act.

(c) "Shutdown" has the meaning ascribed to it in section 4 of this act.

(d) "State worker" has the meaning ascribed to it in section 5 of this act.

(e) "Tribal worker" has the meaning ascribed to it in section 5.5 of this act.

Sec. 32. The provisions of this act apply to any contract entered into:

1. Before the effective date of this act that remains in effect on the effective date of this act.

2. On and after the effective date of this act.

Sec. 33. This act becomes effective upon passage and approval.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 766 to Assembly Bill No. 393 adds a definition of "household member" for the purpose of the bill to mean "any person who is related by blood, marriage, adoption or other legal process and is currently residing with a federal worker, tribal worker or State worker affected by a shutdown."

Amendment adopted.

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

Assembly Bill No. 417.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 771.

SUMMARY—Revises provisions governing the dissemination of certain records of criminal history to certain persons by the Central Repository for the Nevada Records of Criminal History. (BDR 14-714)

AN ACT relating to criminal records; revising provisions governing the dissemination of records of criminal history from the Central Repository for Nevada Records of Criminal History pursuant to name-based searches conducted by a service within the Central Repository; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes within the Central Repository for Nevada Records of Criminal History a service to conduct a name-based search of records of criminal history of an employee, prospective employee, volunteer or prospective volunteer. (NRS 179A.103) Existing law authorizes an employment screening service which has entered into a contract with the Central Repository to inquire about, obtain and provide those records of criminal history to the employer or volunteer organization. (NRS 179A.103) This bill provides that a person who enters into a contract with a person, business or organization for certain services provided by an independent contractor, subcontractor or third party is an employer for the purpose of being eligible to conduct a name-based search of records of criminal history of an employee pursuant to existing law.

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

Section 1. NRS 179A.103 is hereby amended to read as follows:

179A.103 1. There is hereby established within the Central Repository a service to conduct a name-based search of records of criminal history of an employee, prospective employee, volunteer or prospective volunteer.

2. An eligible person that wishes to participate in the service must enter into a contract with the Central Repository. *The elements of a contract entered into pursuant to this section must be limited to requiring the eligible person to:*

(a) Pay a fee pursuant to subsection 3, if applicable; and

(b) Comply with applicable law.

3. The Central Repository may charge a reasonable fee for participation in the service.

4. An authorized participant of the service may inquire about the records of criminal history of an employee, prospective employee, volunteer or prospective volunteer to determine the suitability of the employee or prospective employee for employment or the suitability of the volunteer or prospective volunteer for volunteering.

5. The Central Repository shall disseminate to an authorized participant of the service information which:

(a) Reflects convictions only; or

(b) Pertains to an incident for which an employee, prospective employee, volunteer or prospective volunteer is currently within the system of criminal justice, including parole or probation.

6. An employee, prospective employee, volunteer or prospective volunteer who is proposed to be the subject of a name-based search must provide his or her written consent *directly to the authorized participant or, if the authorized participant is a screening service, directly to the eligible person designating the screening service to receive records of criminal history,* for the Central Repository to perform the search and to release the information to an authorized participant. The written consent form may be:

(a) A form designated by the Central Repository; or

(b) If the authorized participant is ~~[an employment]~~ *a* screening service, a form that complies with the provisions of 15 U.S.C. § 1681b(b)2 for the procurement of a consumer report.

7. ~~[An employment]~~ *A* screening service that is designated to receive records of criminal history on behalf of an ~~[employer or volunteer organization]~~ *eligible person* may provide such records of criminal history to the ~~[employer or volunteer organization]~~ *eligible person* upon request of the ~~[employer or volunteer organization,]~~ *eligible person* if the ~~[employment]~~ screening service maintains records of its dissemination of the records of criminal history.

8. The Central Repository may audit an authorized participant, at such times as the Central Repository deems necessary, to ensure that records of criminal history are securely maintained.

9. The Central Repository may terminate participation in the service if an authorized participant fails:

(a) To pay the fees required to participate in the service; or

(b) To address, within a reasonable period, deficiencies identified in an audit conducted pursuant to subsection 8.

10. As used in this section:

(a) "Authorized participant" means an eligible person who has entered into a contract with the Central Repository to participate in the service established pursuant to subsection 1.

(b) "Consumer report" has the meaning ascribed to it in 15 U.S.C. § 1681a(d).

(c) "Eligible person" ~~[includes:]~~ *means:*

(1) An employer.

(2) A volunteer organization.

(3) ~~[An employment]~~ *A* screening service.

(d) "Employer" means a person that:

(1) Employs an employee ~~[;]~~ or *makes employment decisions;*

(2) Enters into a contract with an independent contractor ~~[.~~ ~~(e)]~~ *or makes the determination whether to enter into a contract with an independent contractor; or*

(3) Enters into a contract with a person, business or organization for the provision, directly or indirectly, of labor, services or materials by an independent contractor, subcontractor or a third party.

(e) "Employment" includes performing services *, directly or indirectly,* for an employer as an independent contractor ~~[.~~ ~~(f) "Employment screening]~~ *, subcontractor or a third party pursuant to a contract.*

(f) "Screening service" means a person or entity designated *, directly or indirectly,* by an ~~[employer or volunteer organization]~~ *eligible person* to provide employment or volunteer screening services to the ~~[employer or volunteer organization.]~~ *eligible person.*

(g) "Written consent" means:

(1) An electronic signature pursuant to 15 U.S.C. § 7006(5), and any regulations adopted pursuant thereto;

(2) Completion of the form designated by the Central Repository pursuant to paragraph (a) of subsection 6; or

(3) Consent by means of mail, the Internet, other electronic means or other means pursuant to 15 U.S.C. § 1681b(b)(2), and any regulations adopted pursuant thereto.

Sec. 2. This act becomes effective upon passage and approval.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 771 to Assembly Bill No. 417 makes the bill effective upon passage and approval.

Amendment adopted.

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

Assembly Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 808.

SUMMARY—Revises provisions relating to construction. (BDR 3-841)

AN ACT relating to construction; ~~[revising the definition of "constructional defect";]~~ revising provisions relating to the information required to be included in a notice of a constructional defect; removing provisions requiring the presence of an expert during an inspection of an alleged constructional defect;

establishing provisions relating to a claimant pursuing a claim under a builder's warranty; ~~[revising]~~ removing certain provisions governing the tolling of statutes of limitation and repose regarding actions for constructional defects; revising provisions relating to the recovery of damages proximately caused by a constructional defect; increasing the period during which an action for the recovery of certain damages may be commenced; revising the prohibition against a unit-owners' association pursuing an action for a constructional defect unless the action pertains exclusively to the common elements of the association; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill revises the existing definition of "constructional defect" to provide that a constructional defect is a defect which: (1) is done in violation of law and is reasonably likely to cause personal injury or property damage; (2) proximately causes physical damage to the residence, appurtenance or real property to which the residence or appurtenance is affixed; (3) is not completed in a good and workmanlike manner in accordance with the generally accepted standard of care in the industry and is reasonably likely to cause personal injury or property damage; or (4) presents an unreasonable risk of injury to a person or property.]~~

Existing law provides that before a claimant commences an action or amends a complaint to add a cause of action for a constructional defect against a contractor, subcontractor, supplier or design professional, the claimant: (1) is required to give written notice to the contractor; and (2) if the contractor is no longer licensed or acting as a contractor in this State, is authorized to give notice to any subcontractor, supplier or design professional known to the claimant who may be responsible for the constructional defect. Existing law also requires that such a notice identify in specific detail each defect, damage and injury to each residence or appurtenance that is the subject of the claim. (NRS 40.645) Section 2 of this bill instead requires that such a notice specify in reasonable detail the defects or any damages or injuries to each residence or appurtenance that is the subject of the claim.

Existing law requires that after notice of a constructional defect is given by a claimant to a contractor, subcontractor, supplier or design professional, the claimant and, if the notice includes an expert opinion concerning the alleged constructional defect, the expert or his or her representative with knowledge of the alleged defect must: (1) be present when a contractor, subcontractor, supplier or design professional conducts an inspection of the alleged constructional defect; and (2) identify the exact location of each alleged constructional defect. (NRS 40.647) Section 3 of this bill removes the requirement that an expert who provided an opinion concerning the alleged constructional defect or his or her representative be present at an inspection and revises certain other requirements.

Existing law provides that if a residence or appurtenance that is the subject of a claim is covered by a homeowner's warranty purchased by or on behalf of the claimant: (1) the claimant is prohibited from sending notice of a

constructional defect or pursuing a claim for a constructional defect unless the claimant has submitted a claim under the homeowner's warranty and the insurer has denied the claim; and (2) notice of a constructional defect may only include claims that were denied by the insurer. (NRS 40.650) Section 4 of this bill removes such provisions, and section 1.5 of this bill replaces the term "homeowner's warranty" with "builder's warranty" and clarifies that such a warranty is not a type of insurance. Section 4 provides that if a residence or appurtenance that is the subject of a claim is covered by a builder's warranty, the claimant is required to diligently pursue a claim under the builder's warranty. Section 5.5 of this bill makes conforming changes.

Existing law also provides that if a residence or appurtenance that is the subject of a claim is covered by a homeowner's warranty purchased by or on behalf of the claimant, statutes of limitation or repose are tolled from the time the claimant submits a claim under the homeowner's warranty until 30 days after the insurer rejects the claim, in whole or in part. (NRS 40.650) Section 4 removes this provision. ~~[Existing law additionally provides that, unless good cause is shown to a court to toll the statute of limitation or repose for a longer period, statutes of limitation or repose applicable to a claim based on a constructional defect are tolled from the time notice of the claim is given until the earlier of: (1) 1 year after notice of the claim is given; or (2) 30 days after mediation is concluded or waived in writing. (NRS 40.695) Section 6 of this bill revises such provisions and provides that such statutes of limitation or repose are tolled from the time notice of claim is given until 30 days after mediation is concluded or waived in writing.]~~

Existing law establishes the damages proximately caused by a constructional defect that a claimant is authorized to recover, including additional costs reasonably incurred by the claimant for constructional defects proven by the claimant. (NRS 40.655) Section 5 of this bill removes the requirement that such costs be limited to constructional defects proven by the claimant.

Existing law prohibits an action for the recovery of certain damages against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property, from being commenced more than 6 years after the substantial completion of such an improvement. (NRS 11.202) Section 7 of this bill increases such a period to ~~[8]~~ 10 years after the substantial completion of such an improvement. Section 7 also : (1) authorizes such an action to be commenced at any time after the substantial completion of such an improvement if any ~~[intentional]~~ act of fraud caused a deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement ~~[that was fraudulently concealed.]~~ ; and (2) exempts lower-tiered subcontractors from such an action in certain circumstances.

Existing law prohibits a unit-owners' association from instituting, defending or intervening in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or units' owners relating to an action for a constructional defect unless the action pertains exclusively to common elements. (NRS 116.3102) Section 8 of this bill requires that such an action for a constructional defect pertain to common elements or any portion of the common-interest community that the association owns or has an obligation to maintain, repair or replace.

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

Section 1. ~~[NRS 40.615 is hereby amended to read as follows:~~

~~40.615 "Constructional defect" means a defect in the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance and includes, without limitation, the design, construction, manufacture, repair or landscaping of a new residence, of an alteration of or addition to an existing residence, or of an appurtenance:~~

~~1. Which [presents an unreasonable risk of injury to a person or property; or] *is done in violation of law, including, without limitation, in violation of local codes or ordinances, and is reasonably likely to cause personal injury or property damage;*~~

~~2. Which [is not completed in a good and workmanlike manner and] proximately causes physical damage to the residence, an appurtenance or the real property to which the residence or appurtenance is affixed [.] ;~~

~~*3. Which is not completed in a good and workmanlike manner in accordance with the generally accepted standard of care in the industry for that type of design, construction, manufacture, repair or landscaping and is reasonably likely to cause personal injury or property damage; or*~~

~~*4. Which presents an unreasonable risk of injury to a person or property.]~~

(Deleted by amendment.)

Sec. 1.5. NRS 40.625 is hereby amended to read as follows:

40.625 ~~[~~"Homeowner's~~]~~ *"Builder's* warranty" means a warranty ~~[or policy of insurance:~~

~~1. Issued]~~ *issued* or purchased by or on behalf of a contractor for the protection of a claimant . ~~[; or~~

~~2. Purchased by or on behalf of a claimant pursuant to NRS 690B.100 to 690B.180, inclusive.~~

~~➥]~~ The term ~~[includes]~~ *:*

1. Includes a warranty contract issued by *or on behalf of a contractor whose liability pursuant to the warranty contract is subsequently insured by* a risk retention group that operates in compliance with chapter 695E of NRS and insures all or any part of the liability of a contractor for the cost to repair a constructional defect in a residence.

2. Does not include a policy of insurance for home protection as defined in NRS 690B.100 or a service contract as defined in NRS 690C.080.

Sec. 2. NRS 40.645 is hereby amended to read as follows:

40.645 1. Except as otherwise provided in this section and NRS 40.670, before a claimant commences an action or amends a complaint to add a cause of action for a constructional defect against a contractor, subcontractor, supplier or design professional, the claimant:

(a) Must give written notice by certified mail, return receipt requested, to the contractor, at the contractor's address listed in the records of the State Contractors' Board or in the records of the office of the county or city clerk or at the contractor's last known address if the contractor's address is not listed in those records; and

(b) May give written notice by certified mail, return receipt requested, to any subcontractor, supplier or design professional known to the claimant who may be responsible for the constructional defect, if the claimant knows that the contractor is no longer licensed in this State or that the contractor no longer acts as a contractor in this State.

2. The notice given pursuant to subsection 1 must:

(a) Include a statement that the notice is being given to satisfy the requirements of this section;

(b) ~~[Identify]~~ *Specify* in ~~[specific]~~ *reasonable* detail ~~[each defect, damage and injury]~~ *the defects or any damages or injuries* to each residence or appurtenance that is the subject of the claim ~~[, including, without limitation, the exact location of each such defect, damage and injury;]~~ *;*

(c) Describe in reasonable detail the cause of the defects if the cause is known and the nature and extent that is known of the damage or injury resulting from the defects; and

(d) Include a signed statement, by each named owner of a residence or appurtenance in the notice, that each such owner verifies that each such defect, damage and injury specified in the notice exists in the residence or appurtenance owned by him or her. If a notice is sent on behalf of a homeowners' association, the statement required by this paragraph must be signed under penalty of perjury by a member of the executive board or an officer of the homeowners' association.

3. A representative of a homeowners' association may send notice pursuant to this section on behalf of an association if the representative is acting within the scope of the representative's duties pursuant to chapter 116 or 117 of NRS.

4. Notice is not required pursuant to this section before commencing an action if:

(a) The contractor, subcontractor, supplier or design professional has filed an action against the claimant; or

(b) The claimant has filed a formal complaint with a law enforcement agency against the contractor, subcontractor, supplier or design professional for threatening to commit or committing an act of violence or a criminal offense against the claimant or the property of the claimant.

Sec. 3. NRS 40.647 is hereby amended to read as follows:

40.647 1. After notice of a constructional defect is given pursuant to NRS 40.645, before a claimant may commence an action or amend a complaint to add a cause of action for a constructional defect against a contractor, subcontractor, supplier or design professional, the claimant must:

(a) Allow an inspection of the alleged constructional defect to be conducted pursuant to NRS 40.6462;

(b) Be present *or have a representative of the claimant present* at an inspection conducted pursuant to NRS 40.6462 and *, to the extent possible, reasonably* identify the ~~[exact location of each alleged constructional defect]~~ *proximate locations of the defects, damages or injuries* specified in the notice *;* ~~[and, if the notice includes an expert opinion concerning the alleged constructional defect, the expert, or a representative of the expert who has knowledge of the alleged constructional defect, must also be present at the inspection and identify the exact location of each alleged constructional defect for which the expert provided an opinion;]~~ and

(c) Allow the contractor, subcontractor, supplier or design professional a reasonable opportunity to repair the constructional defect or cause the defect to be repaired if an election to repair is made pursuant to NRS 40.6472.

2. If a claimant commences an action without complying with subsection 1 or NRS 40.645, the court shall:

(a) Dismiss the action without prejudice and compel the claimant to comply with those provisions before filing another action; or

(b) If dismissal of the action would prevent the claimant from filing another action because the action would be procedurally barred by the statute of limitations or statute of repose, the court shall stay the proceeding pending compliance with those provisions by the claimant.

Sec. 4. NRS 40.650 is hereby amended to read as follows:

40.650 1. If a claimant unreasonably rejects a reasonable written offer of settlement made as part of a response pursuant to paragraph (b) of subsection 2 of NRS 40.6472 and thereafter commences an action governed by NRS 40.600 to 40.695, inclusive, the court in which the action is commenced may:

(a) Deny the claimant's attorney's fees and costs; and

(b) Award attorney's fees and costs to the contractor.

➥ Any sums paid under a ~~[homeowner's]~~ *builder's* warranty, other than sums paid in satisfaction of claims that are collateral to any coverage issued to or by the contractor, must be deducted from any recovery.

2. If a contractor, subcontractor, supplier or design professional fails to:

(a) Comply with the provisions of NRS 40.6472;

(b) Make an offer of settlement;

(c) Make a good faith response to the claim asserting no liability;

(d) Agree to a mediator or accept the appointment of a mediator pursuant to NRS 40.680; or

(e) Participate in mediation,

➥ the limitations on damages and defenses to liability provided in NRS 40.600 to 40.695, inclusive, do not apply and the claimant may commence an action or amend a complaint to add a cause of action for a constructional defect without satisfying any other requirement of NRS 40.600 to 40.695, inclusive.

3. If a residence or appurtenance that is the subject of the claim is covered by a ~~[homeowner's]~~ *builder's* warranty ~~[that is purchased by or on behalf of a claimant pursuant to NRS 690B.100 to 690B.180, inclusive:~~

~~(a) A claimant may not send a notice pursuant to NRS 40.645 or pursue a claim pursuant to NRS 40.600 to 40.695, inclusive, unless the claimant has first submitted a claim under the homeowner's warranty and the insurer has denied the claim.~~

~~(b) A claimant may include in a notice given pursuant to NRS 40.645 only claims for the constructional defects that were denied by the insurer.~~

~~(c)~~ *, a claimant shall diligently pursue a claim under the* ~~[If coverage under a homeowner's warranty is denied by an insurer in bad faith, the homeowner and the contractor, subcontractor, supplier or design professional have a right of action for the sums that would have been paid if coverage had been provided, plus reasonable attorney's fees and costs.~~

~~(d) Statutes of limitation or repose applicable to a claim based on a constructional defect governed by NRS 40.600 to 40.695, inclusive, are tolled from the time notice of the claim under the homeowner's warranty is submitted to the insurer until 30 days after the insurer rejects the claim, in whole or in part, in writing.]~~ *builder's warranty.*

4. Nothing in this section prohibits an offer of judgment pursuant to Rule 68 of the Nevada Rules of Civil Procedure or NRS 40.652.

Sec. 5. NRS 40.655 is hereby amended to read as follows:

40.655 1. Except as otherwise provided in NRS 40.650, in a claim governed by NRS 40.600 to 40.695, inclusive, the claimant may recover only the following damages to the extent proximately caused by a constructional defect:

(a) The reasonable cost of any repairs already made that were necessary and of any repairs yet to be made that are necessary to cure any constructional defect that the contractor failed to cure and the reasonable expenses of temporary housing reasonably necessary during the repair;

(b) The reduction in market value of the residence or accessory structure, if any, to the extent the reduction is because of structural failure;

(c) The loss of the use of all or any part of the residence;

(d) The reasonable value of any other property damaged by the constructional defect;

(e) Any additional costs reasonably incurred by the claimant , ~~[for constructional defects proven by the claimant,]~~ including, but not limited to, any costs and fees incurred for the retention of experts to:

(1) Ascertain the nature and extent of the constructional defects;

(2) Evaluate appropriate corrective measures to estimate the value of loss of use; and

(3) Estimate the value of loss of use, the cost of temporary housing and the reduction of market value of the residence; and

(f) Any interest provided by statute.

2. If a contractor complies with the provisions of NRS 40.600 to 40.695, inclusive, the claimant may not recover from the contractor, as a result of the constructional defect, any damages other than damages authorized pursuant to NRS 40.600 to 40.695, inclusive.

3. This section must not be construed as impairing any contractual rights between a contractor and a subcontractor, supplier or design professional.

4. As used in this section, "structural failure" means physical damage to the load-bearing portion of a residence or appurtenance caused by a failure of the load-bearing portion of the residence or appurtenance.

Sec. 5.5. NRS 40.687 is hereby amended to read as follows:

40.687 Notwithstanding any other provision of law:

1. A ~~[claimant shall, within 10 days after commencing an action against a contractor, disclose to the contractor all information about any homeowner's warranty that is applicable to the claim.~~

~~2. The]~~ contractor shall, no later than 10 days after a response is made pursuant to this chapter, disclose to the claimant any information about insurance agreements that may be obtained by discovery pursuant to rule 26(b)(2) of the Nevada Rules of Civil Procedure. Such disclosure does not affect the admissibility at trial of the information disclosed.

~~[3.]~~ *2.* Except as otherwise provided in subsection ~~[4,]~~ *3,* if ~~[either party]~~ *the contractor* fails to provide the information required pursuant to subsection 1 ~~[or 2]~~ within the time allowed, the ~~[other party]~~ *claimant* may petition the court to compel production of the information. Upon receiving such a petition, the court may order the ~~[party]~~ *contractor* to produce the required information and may award the ~~[petitioning party]~~ *claimant* reasonable attorney's fees and costs incurred in petitioning the court pursuant to this subsection.

~~[4.]~~ *3.* The parties may agree to an extension of time *for the contractor* to produce the information required pursuant to this section.

~~[5.]~~ *4.* For the purposes of this section, "information about insurance agreements" is limited to any declaration sheets, endorsements and contracts of insurance issued to the contractor from the commencement of construction of the residence of the claimant to the date on which the request for the information is made and does not include information concerning any disputes between the contractor and an insurer or information concerning any reservation of rights by an insurer.

Sec. 6. ~~[NRS 40.695 is hereby amended to read as follows:~~

~~40.695 1. Except as otherwise provided in [subsections] *subsection* 2, [and 3,] statutes of limitation or repose applicable to a claim based on a constructional defect governed by NRS 40.600 to 40.695, inclusive, are tolled from the time notice of the claim is given, until [the earlier of:~~

~~(a) One year after notice of the claim is given; or~~

~~(b) Thirty~~] *30* days after mediation is concluded or waived in writing ~~pursuant to NRS 40.680.~~

~~2. [Statutes of limitation and repose may be tolled under this section for a period longer than 1 year after notice of the claim is given only if, in an action for a constructional defect brought by a claimant after the applicable statute of limitation or repose has expired, the claimant demonstrates to the satisfaction of the court that good cause exists to toll the statutes of limitation and repose under this section for a longer period.~~

~~3.] Tolling under this section applies to a third party regardless of whether the party is required to appear in the proceeding.]~~ (Deleted by amendment.)

Sec. 7. NRS 11.202 is hereby amended to read as follows:

11.202 1. No action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property more than ~~[6 8]~~ *10* years after the substantial completion of such an improvement, for the recovery of damages for:

(a) ~~[Any]~~ *Except as otherwise provided in subsection 2, any* deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement;

(b) Injury to real or personal property caused by any such deficiency; or

(c) Injury to or the wrongful death of a person caused by any such deficiency.

2. ~~*[An]*~~ *Except as otherwise provided in this subsection, an action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property at any time after the substantial completion of such an improvement, for the recovery of damages for any ~~[intentional]~~ act of fraud in causing a deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement . ~~[which he or she fraudulently concealed.]~~ The provisions of this subsection do not apply to any lower-tiered subcontractor who performs work that covers up a defect or deficiency in another contractor's trade if the lower-tiered subcontractor does not know, and should not reasonably know, of the existence of the alleged defect or deficiency at the time of performing such work. As used in this subsection, "lower-tiered subcontractor" has the meaning ascribed to it in NRS 624.608.*

3. The provisions of this section do not apply:

(a) To a claim for indemnity or contribution.

(b) In an action brought against:

(1) The owner or keeper of any hotel, inn, motel, motor court, boardinghouse or lodging house in this State on account of his or her liability as an innkeeper.

(2) Any person on account of a defect in a product.

Sec. 8. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in this chapter, and subject to the provisions of the declaration, the association:

(a) Shall adopt and, except as otherwise provided in the bylaws, may amend bylaws and may adopt and amend rules and regulations.

(b) Shall adopt and may amend budgets in accordance with the requirements set forth in NRS 116.31151, may collect assessments for common expenses from the units' owners and may invest funds of the association in accordance with the requirements set forth in NRS 116.311395.

(c) May hire and discharge managing agents and other employees, agents and independent contractors.

(d) May institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community. The association may not institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or units' owners with respect to an action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive, unless the action pertains ~~[exclusively]~~ to common elements ~~[.]~~ *or any portion of the common-interest community that the association owns or has an obligation to maintain, repair or replace.*

(e) May make contracts and incur liabilities. Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.

(f) May regulate the use, maintenance, repair, replacement and modification of common elements.

(g) May cause additional improvements to be made as a part of the common elements.

(h) May acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) May grant easements, leases, licenses and concessions through or over the common elements.

(j) May impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) May impose charges for late payment of assessments pursuant to NRS 116.3115.

(l) May impose construction penalties when authorized pursuant to NRS 116.310305.

(m) May impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) May impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) May provide for the indemnification of its officers and executive board and maintain directors and officers liability insurance.

(p) May assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) May exercise any other powers conferred by the declaration or bylaws.

(r) May exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) May direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) May exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not limit the power of the association to deal with the declarant if the limit is more restrictive than the limit imposed on the power of the association to deal with other persons.

3. The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commence an action for a violation of the declaration, bylaws or rules, including whether to compromise any claim for unpaid assessments or other claim made by or

against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:

(a) The association's legal position does not justify taking any or further enforcement action;

(b) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with current law;

(c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or

(d) It is not in the association's best interests to pursue an enforcement action.

4. The executive board's decision under subsection 3 not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but the executive board may not be arbitrary or capricious in taking enforcement action.

5. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. 1. ~~[The provisions of NRS 40.615 and 40.655, as amended by sections 1 and 5 of this act, respectively, apply to any claim for which a notice of constructional defect is given on or after October 1, 2019.~~

~~2.]~~ The provisions of NRS 40.645 and 40.650, as amended by sections 2 and 4 of this act, respectively, apply to a notice of constructional defect given on or after October 1, 2019.

~~[3.]~~ 2. The provisions of NRS 40.647, as amended by section 3 of this act, apply to an inspection conducted pursuant to NRS 40.6462 on or after October 1, 2019.

3. The provisions of NRS 40.655, as amended by section 5 of this act, apply to any claim for which a notice of constructional defect is given on or after October 1, 2019.

4. The period of limitations on actions set forth in NRS 11.202, as amended by section 7 of this act, apply retroactively to actions in which the substantial completion of the improvement to the real property occurred before October 1, 2019.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 808 to Assembly Bill No. 421 deletes section 1 of the bill concerning statutes of limitation and repose in regard to constructional defects; deletes other revisions to the definition of a constructional defect; revises upward from eight to ten years the period during which an action may be commenced concerning certain defects in section 7; deletes the phrases "intentional act" and "was fraudulently concealed" in section 7 and replaces them with "fraud". Finally, it exempts lower-tiered subcontractors from construction defect actions in certain circumstances, also in section 7.

Amendment adopted.

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

Assembly Bill No. 434.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 772.

SUMMARY—Revises various provisions relating to offenses. (BDR 14-428)

AN ACT relating to offenses; ~~[removing the time limitation on the imposition of certain administrative assessments for the provision of court facilities;]~~ revising provisions relating to imprisonment or community service ordered for a convicted person; establishing various provisions relating to the commission of certain traffic offenses; revising provisions relating to the payment of administrative assessments, fines and court fees and the collection of delinquent assessments, fines and fees; requiring any fine paid or forfeiture of bail by a person who commits certain offenses to be credited to the State Permanent School Fund; revising provisions relating to speeding violations; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law provides that a county or city may authorize, by ordinance, the justices or judges of the justice or municipal courts within its jurisdiction to impose for a period of not longer than 50 years an administrative assessment for the provision of court facilities. (NRS 176.0611) Section 1 of this bill removes the 50-year limitation on the imposition of such an administrative assessment.]~~

Existing law authorizes a court to impose a collection fee against a defendant for any delinquent fine, administrative assessment, fee or restitution. Existing law authorizes a state or local entity that is responsible for collecting such a delinquent fine, administrative assessment, fee or restitution ~~[owed by a defendant to contract]~~ to take certain actions, including reporting the delinquency to credit reporting agencies and contracting with a licensed collection agency to collect the delinquent amount. Existing law also authorizes the court to take certain actions, including: (1) entering a civil judgment for the amount due in favor of the state or local entity responsible for collecting the delinquent amount; (2) requesting that a prosecuting attorney undertake collection of the delinquency by attachment or garnishment of the

property of the defendant, wages or other money receivable; (3) ordering the suspension of the driver's license of the defendant or prohibiting the defendant from applying for a driver's license for a specified period; and (4) for a delinquent fine or administrative assessment, ordering the confinement of the person in the appropriate prison, jail or detention facility. (NRS 176.064)

Section 1.3 of this bill revises provisions relating to the procedure for collecting such delinquent fines, administrative assessments, fees or restitution. Section 1.3 removes the ability of a state or local entity responsible for collecting a delinquent amount to report the delinquency to credit reporting agencies and provides that such a state or local entity may ~~[take such action]~~ contract with a licensed collection agency to collect the delinquent amount if the defendant has been found guilty of the offense for which the fine, administrative assessment, fee or restitution was imposed. Section 1.3 also removes the ability of the court to request that a prosecuting attorney undertake collection of the delinquency. Section 1.3 additionally specifies that a court may only order the suspension of the driver's license of a defendant or prohibit a defendant from applying for a driver's license for a specified period if the court determines that the defendant: (1) has the ability to pay the amount due and is willfully avoiding payment; or (2) was given the opportunity to perform community service to satisfy the amount due because the defendant is indigent and the defendant has failed to perform such community service. Section 1.3 thereby authorizes a state or local entity responsible for collecting a delinquent amount to: (1) request that the court enter a civil judgment for the amount due in favor of the state or local entity, suspend the driver's license of the defendant or prohibit the defendant from applying for a driver's license in such specified circumstances and, for a delinquent fine or administrative assessment, if the court determines that the defendant has the ability to pay the amount due and is willfully avoiding payment, order the confinement of the defendant in the appropriate prison, jail or detention facility; and (2) contract with a licensed collection agency to collect the delinquent amount and the collection fee.

Existing law provides that if a person other than an indigent person is delinquent in the payment of an administrative assessment, fine or forfeiture, the court may order the person to be imprisoned for a period of 1 day for each $75 of the amount owed. (NRS 176.065, 176.075) Sections 1.7 and 2 of this bill increase the amount of credit received for each day of imprisonment to $150 and establish the circumstances in which a person is considered to be indigent. ~~[Section]~~ Sections 1.7 and 2 also ~~[authorizes]~~ authorize the imprisonment of an indigent person if he or she was provided with the opportunity to perform community service to satisfy the entire amount owed and failed to perform such community service.

Existing law authorizes a court to order a convicted person to perform supervised community service in certain circumstances. (NRS 176.087) Section 3 of this bill provides that for each hour of community service performed by a person, the court is required to provide a credit of $10 or the amount of the state minimum wage if health insurance is not offered,

whichever is greater, toward the payment of any fine that was imposed against the person for the commission of the offense for which community service was ordered.

Section 5.1 of this bill establishes the intent of the Legislature to provide that the incarceration of a person for failing to appear in court or failing to pay any administrative assessment, fine or court fee imposed for the commission of a traffic violation should generally be disfavored unless failing to incarcerate such a person would substantially jeopardize public safety.

Section 5.3 of this bill establishes a presumption that a person arrested for the commission of certain traffic violations should be released on his or her own recognizance ~~[.]~~ , but also establishes the circumstances in which such a presumption does not apply.

Section 5.5 of this bill provides that certain convictions for a traffic violation are not criminal convictions for the purpose of applying for employment, a professional license or any educational opportunities.

Section 5.7 of this bill requires that a grace period of not less than 30 calendar days must be provided in certain circumstances to a person who has failed to appear in court or failed to pay any administrative assessment, fine or court fee imposed for certain traffic violations before a warrant can be issued for such a failure to appear or failure to pay. Section 5.8 of this bill prohibits a warrant from being issued for such a failure to pay unless the person has been provided with the opportunity to perform community service to satisfy the entire amount owed and has failed to perform such community service.

Sections 1.3 and 5.9 of this bill require collection fees imposed for certain delinquent amounts owed by a defendant and certain fees assessed by a court to be assessed on a per case basis and not on a per charge basis.

Section 6 of this bill provides that if a court imposes upon a person an administrative assessment, ~~[fine or]~~ court fee or fine for a violation of any provision of chapters 484A to 484E, inclusive, of NRS, and the court allows any such administrative assessment, ~~[fine or]~~ court fee or fine to be paid in installments, the payments must be applied first to the unpaid balance of an administrative assessment, then to the unpaid balance of a ~~[fine]~~ court fee and finally to the unpaid balance of a ~~[court fee,]~~ fine. Section 7 of this bill provides that if a traffic citation issued to a person contains more than one offense charged, or if a person has been issued more than one traffic citation that is outstanding, any payment made by the person must be applied to one offense or one citation, as applicable, in chronological order beginning with the citation that was issued first and in accordance with section 6, until all administrative assessments, ~~[fines and]~~ court fees and fines due for the offense or citation are paid in full. Section 7 also generally provides that payments must be applied first to traffic violations and then to any violations that are not traffic violations. Section 7 further provides that payments must continue to be applied in such a manner until all administrative assessments, ~~[fines and]~~ court

fees and fines due for all offenses charged or all outstanding traffic citations are paid in full.

Section 8 of this bill establishes provisions relating to fees which courts authorize a defendant to pay in lieu of requiring the defendant to complete a course of traffic safety for the purpose of reducing the demerit points accumulated by the defendant and sets forth the purposes for which such money must be used.

Existing law prohibits a local authority from enacting certain ordinances relating to traffic offenses. (NRS 484A.400) Section 9 of this bill provides that if a person commits any offense for which a local authority is prohibited from enacting an ordinance, any fine paid or forfeiture of bail by the person must be paid into the State Treasury for credit to the State Permanent School Fund.

Existing law prohibits a person from driving or operating a vehicle at a rate of speed that exceeds the posted speed limit or is otherwise improper under the circumstances. (NRS 484B.600) Section 28 of this bill additionally prohibits a person from driving or operating a vehicle at a rate of speed that results in the injury of another person or of any property. Section 28 generally provides that if a person is issued a traffic citation for speeding, the court has the discretion to reduce the violation from a moving traffic violation to a violation that is not a moving traffic violation. Section 28 establishes a presumption in favor of reducing the violation if the person pays the entire amount of the fine and all fees due before the date on which the person is first required to make an appearance relating to the citation, but also provides that such a presumption can be overcome if the person's driving record demonstrates a pattern of moving traffic violations. Section 28 also requires that any fine imposed for speeding, other than speeding that results in the injury of another person or of any property, must not exceed $20 for each mile per hour a person travels above the posted speed limit or the proper rate of speed at which the person should be traveling, as applicable.

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

Section 1. ~~[NRS 176.0611 is hereby amended to read as follows:~~

~~"176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the justice or municipal courts within its jurisdiction to impose , [for not longer than 50 years,] in addition to the administrative assessments imposed pursuant to NRS 176.059, 176.0613 and 176.0623, an administrative assessment for the provision of court facilities.~~

~~2. Except as otherwise provided in subsection 3, in any jurisdiction in which an administrative assessment for the provision of court facilities has been authorized, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of $10 as an administrative assessment for the provision of court facilities and render a judgment against the defendant for the assessment.~~

~~If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.~~

~~3. The provisions of subsection 2 do not apply to:~~

~~(a) An ordinance regulating metered parking; or~~

~~(b) An ordinance that is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.~~

~~4. The money collected for an administrative assessment for the provision of court facilities must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.~~

~~5. If the justice or judge permits the fine and administrative assessment for the provision of court facilities to be paid in installments, the payments must be applied in the following order:~~

~~(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;~~

~~(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to this section;~~

~~(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613;~~

~~(d) To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to NRS 176.0623; and~~

~~(e) To pay the fine.~~

~~6. The money collected for administrative assessments for the provision of court facilities in municipal courts must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall deposit the money received in a special revenue fund. The city may use the money in the special revenue fund only to:~~

~~(a) Acquire land on which to construct additional facilities for the municipal courts or a regional justice center that includes the municipal courts.~~

~~(b) Construct or acquire additional facilities for the municipal courts or a regional justice center that includes the municipal courts.~~

~~(c) Renovate or remodel existing facilities for the municipal courts.~~

~~(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the municipal courts or a regional justice center that includes the municipal courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.~~

~~(e) Acquire advanced technology for use in the additional or renovated facilities.~~

~~(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the municipal courts or a regional justice center that includes the municipal courts.~~

~~5. Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the municipal general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.~~

~~7. The money collected for administrative assessments for the provision of court facilities in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall deposit the money received to a special revenue fund. The county may use the money in the special revenue fund only to:~~

~~(a) Acquire land on which to construct additional facilities for the justice courts or a regional justice center that includes the justice courts.~~

~~(b) Construct or acquire additional facilities for the justice courts or a regional justice center that includes the justice courts.~~

~~(c) Renovate or remodel existing facilities for the justice courts.~~

~~(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the justice courts or a regional justice center that includes the justice courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.~~

~~(e) Acquire advanced technology for use in the additional or renovated facilities.~~

~~(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the justice courts or a regional justice center that includes the justice courts.~~

~~8. Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the county general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the~~

~~construction or acquisition of court facilities or improvements to court facilities. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.~~

~~8. If money collected pursuant to this section is to be used to acquire land on which to construct a regional justice center, to construct a regional justice center or to pay debt service on bonds issued for these purposes, the county and the participating cities shall, by interlocal agreement, determine such issues as the size of the regional justice center, the manner in which the center will be used and the apportionment of fiscal responsibility for the center.]~~ (Deleted by amendment.)

Sec. 1.3. NRS 176.064 is hereby amended to read as follows:

176.064 1. If a fine, administrative assessment, fee or restitution is imposed upon a defendant pursuant to this chapter, whether or not the fine, administrative assessment, fee or restitution is in addition to any other punishment, and the fine, administrative assessment, fee or restitution or any part of it remains unpaid after the time established by the court for its payment, the defendant is liable for a collection fee, to be imposed by the court at the time it finds that the fine, administrative assessment, fee or restitution is delinquent, of:

(a) Not more than $100, if the amount of the delinquency is less than $2,000.

(b) Not more than $500, if the amount of the delinquency is $2,000 or greater, but is less than $5,000.

(c) Ten percent of the amount of the delinquency, if the amount of the delinquency is $5,000 or greater.

2. A state or local entity that is responsible for collecting a delinquent fine, administrative assessment, fee or restitution may, in addition to attempting to collect the fine, administrative assessment, fee or restitution through any other lawful means, take any or all of the following actions:

(a) ~~[Report the delinquency to reporting agencies that assemble or evaluate information concerning credit.~~

~~(b)]~~ Request that the court take appropriate action pursuant to subsection 3.

~~[(c) Contract]~~

(b) If the defendant has been found guilty of the offense for which the fine, administrative assessment, fee or restitution was imposed, contract with a collection agency licensed pursuant to NRS 649.075 to collect the delinquent amount and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 1, in accordance with the provisions of the contract.

3. The court may, on its own motion or at the request of a state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution, take any or all of the following actions, in the following order of priority if practicable:

(a) Enter a civil judgment for the amount due in favor of the state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution. A civil judgment entered pursuant to this paragraph may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money rendered in a civil action. If the court has entered a civil judgment pursuant to this paragraph and the person against whom the judgment is entered is not indigent and has not satisfied the judgment within the time established by the court, the person may be dealt with as for contempt of court.

(b) ~~[Request that a prosecuting attorney undertake collection of the delinquency, including, without limitation, the original amount of the civil judgment entered pursuant to paragraph (a) and the collection fee, by attachment or garnishment of the defendant's property, wages or other money receivable.~~

~~— (c) Order]~~ *If the court determines that the defendant has the ability to pay the amount due and is willfully avoiding payment, or if the defendant was given the opportunity to perform community service to satisfy the amount due because the defendant is indigent and the defendant has failed to perform such community service, order* the suspension of the driver's license of the defendant. If the defendant does not possess a driver's license, the court may prohibit the defendant from applying for a driver's license for a specified period. If the defendant is already the subject of a court order suspending or delaying the issuance of the defendant's driver's license, the court may order the additional suspension or delay, as appropriate, to apply consecutively with the previous order. At the time the court issues an order suspending the driver's license of a defendant pursuant to this paragraph, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the court issues an order pursuant to this paragraph delaying the ability of a defendant to apply for a driver's license, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the defendant's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.

~~[(d)]~~ *(c)* For a delinquent fine or administrative assessment, *if the court determines that the defendant has the ability to pay the amount due and is willfully avoiding payment,* order the confinement of the ~~[person]~~ *defendant* in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

4. Money collected from a collection fee imposed pursuant to subsection 1 must be distributed in the following manner:

(a) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a municipal court, the money must be deposited in a special fund in the appropriate city treasury. The city may use the money in the fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution and to hire additional personnel necessary for the success of such a program.

(b) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a justice court or district court, the money must be deposited in a special fund in the appropriate county treasury. The county may use the money in the special fund only to:

(1) Develop and implement a program for the collection of fines, administrative assessments, fees and restitution and to hire additional personnel necessary for the success of such a program; or

(2) Improve the operations of a court by providing funding for:

(I) A civil law self-help center; or

(II) Court security personnel and equipment for a regional justice center that includes the justice courts of that county.

(c) Except as otherwise provided in paragraph (d), if the money is collected by a state entity, the money must be deposited in an account, which is hereby created in the State Treasury. The Court Administrator may use the money in the account only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution in this State and to hire additional personnel necessary for the success of such a program.

(d) If the money is collected by a collection agency, after the collection agency has been paid its fee pursuant to the terms of the contract, any remaining money must be deposited in the state, city or county treasury, whichever is appropriate, to be used only for the purposes set forth in paragraph (a), (b) or (c) of this subsection.

5. Any collection fee imposed pursuant to subsection 1 must be assessed on a per case basis and not on a per charge basis. The provisions of this subsection must not be construed to apply to any credit card processing fees that are assessed solely for the purpose of recouping any costs incurred to process a credit card payment. As used in this subsection, "case" means a single complaint, citation, information or indictment naming a single defendant that is based on the same act or transaction or based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

Sec. 1.7. NRS 176.065 is hereby amended to read as follows:

176.065 1. Except as otherwise provided in subsection 2, when a person is sentenced to both fine and imprisonment, or to pay a forfeiture in addition to imprisonment, the court may, pursuant to NRS 62B.420 or 176.064, order that the person be confined in the state prison, the city or county jail or a detention facility, whichever is designated in the person's sentence of imprisonment, for an additional period of 1 day for each ~~[$75]~~ *$150* of the amount until the administrative assessment and the fine or forfeiture are

satisfied or the maximum term of imprisonment prescribed by law for the offense committed has elapsed, whichever is earlier, but the person's eligibility for parole is governed only by the person's sentence of imprisonment.

2. The provisions of this section do not apply to indigent persons ~~[.]~~ *unless an indigent person has been provided with the opportunity to perform community service to satisfy the entire amount owed and has failed to perform such community service. For the purposes of this subsection, a person is indigent if the person:*

(a) Receives public assistance, as that term is defined in NRS 422A.065;

(b) Resides in public housing, as that term is defined in NRS 315.021; or

(c) Has a household income that is less than 200 percent of the federally designated level signifying poverty.

Sec. 2. NRS 176.075 is hereby amended to read as follows:

176.075 1. Except as otherwise provided in subsection 2, when a person is sentenced to pay a fine or forfeiture without an accompanying sentence of imprisonment, the court may, pursuant to NRS 62B.420 or 176.064, order that the person be confined in the city or county jail or detention facility for a period of not more than 1 day for each ~~[$75]~~ *$150* of the amount until the administrative assessment and the fine or forfeiture are satisfied.

2. The provisions of this section do not apply to indigent persons ~~[.]~~ *unless an indigent person has been provided with the opportunity to perform community service to satisfy the entire amount owed and has failed to perform such community service. For the purposes of this subsection, a person is indigent if the person:*

(a) Receives public assistance, as that term is defined in NRS 422A.065;

(b) Resides in public housing, as that term is defined in NRS 315.021; or

(c) Has a household income that is less than 200 percent of the federally designated level signifying poverty . ~~[; or~~

~~*(d) Is housed in a public or private mental health facility.]*~~

Sec. 3. NRS 176.087 is hereby amended to read as follows:

176.087 1. Except where the imposition of a specific criminal penalty is mandatory, a court may order a convicted person to perform supervised community service:

(a) In lieu of all or a part of any fine or imprisonment that may be imposed for the commission of a misdemeanor; or

(b) As a condition of probation granted for another offense.

2. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

3. The court may require the convicted person to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which the person performs the community

service, unless, in the case of industrial insurance, it is provided by the authority for which the person performs the community service.

4. The following conditions apply to any such community service imposed by the court:

(a) The court must fix the period of community service that is imposed as punishment or a condition of probation and distribute the period over weekends or over other appropriate times that will allow the convicted person to continue employment and to care for the person's family. The period of community service fixed by the court must not exceed, for a:

(1) Misdemeanor, 200 hours;

(2) Gross misdemeanor, 600 hours; or

(3) Felony, 1,000 hours.

(b) A supervising authority listed in subsection 2 must agree to accept the convicted person for community service before the court may require the convicted person to perform community service for that supervising authority. The supervising authority must be located in or be the town or city of the convicted person's residence or, if that placement is not possible, one located within the jurisdiction of the court or, if that placement is not possible, the authority may be located outside the jurisdiction of the court.

(c) Community service that a court requires pursuant to this section must be supervised by an official of the supervising authority or by a person designated by the authority.

(d) The court may require the supervising authority to report periodically to the court or to a probation officer the convicted person's performance in carrying out the punishment or condition of probation.

5. For each hour of community service that is performed by a person pursuant to this section, the court must provide a credit of $10 or the amount of the state minimum wage if health insurance is not offered, whichever is greater, toward the payment of any fine that was imposed against the person for the commission of the offense for which the person was ordered to perform community service.

Sec. 4. (Deleted by amendment.)

Sec. 5. Chapter 484A of NRS is hereby amended by adding thereto the provisions set forth as sections 5.1 to 9, inclusive, of this act.

Sec. 5.1. *The Legislature hereby finds and declares that the incarceration of a person for failing to appear in court or failing to pay any administrative assessment, fine or court fee imposed for the commission of a minor traffic violation should generally be disfavored unless a court determines that failing to incarcerate such a person would substantially jeopardize public safety.*

Sec. 5.3. *1. Except as otherwise provided in subsection 2, after a person is arrested for the commission of a traffic violation pursuant to chapters 484A to 484E, inclusive, of NRS, there is a presumption that the person should be released on his or her own recognizance.*

2. The presumption established in subsection 1 does not apply if ~~[(a)]~~ :

(a) A person is arrested for:

~~[(a)]~~ (1) Reckless driving in violation of NRS 484B.653;

~~[(b)]~~ (2) Vehicular manslaughter in violation of NRS 484B.657; or

~~[(c)]~~ (3) Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 488.410, as applicable ~~[.]~~ ; or

(b) The court determines that a person is willfully refusing to satisfy any obligations imposed by the court, including, without limitation, willfully refusing to pay any amount owed or willfully refusing to perform community service.

Sec. 5.5. *1. Notwithstanding any other provision of law, and except as otherwise provided in subsection 2, any conviction for a traffic violation pursuant to chapters 484A to 484E, inclusive, of NRS is not a criminal conviction for the purpose of applying for employment, a professional license or any educational opportunity.*

2. The provisions of subsection 1 do not apply if a person is convicted of:

(a) Reckless driving in violation of NRS 484B.653;

(b) Vehicular manslaughter in violation of NRS 484B.657; or

(c) Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 488.410, as applicable.

Sec. 5.7. *1. Except as otherwise provided in subsection 2, and subject to the limitation imposed by section 5.8 of this act, a grace period of not less than 30 calendar days must be provided to a person who has failed to appear in court or failed to pay any administrative assessment, fine or court fee imposed upon the person for a violation of any provision of chapters 484A to 484E, inclusive, of NRS before a warrant can be issued for such a failure to appear or failure to pay.*

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

(a) The court determines that providing such a grace period would substantially jeopardize public safety; ~~[or]~~

(b) The person was issued a traffic citation for:

(1) Reckless driving in violation of NRS 484B.653;

(2) Vehicular manslaughter in violation of NRS 484B.657; or

(3) Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 488.410, as applicable ~~[.]~~ ; or

(c) During the immediately preceding 30 calendar days, the person was released from custody and given a date to return to court but failed to appear in court.

Sec. 5.8. *If a person has failed to pay any administrative assessment, fine or court fee imposed upon the person for a violation of any provision of chapters 484A to 484E, inclusive, of NRS, a warrant must not be issued unless the person has been provided with the opportunity to perform community service to satisfy the entire amount due and has failed to perform such community service.*

Sec. 5.9. *1. Any fee assessed by a court pursuant to chapters 484A to 484E, inclusive, of NRS that is not expressly authorized by statute or is not solely for the purpose of recovering any costs incurred relating to the participation of a person in a specialty court program must be assessed on a per case basis and not on a per charge basis. The provisions of this subsection must not be construed to apply to any credit card processing fees that are assessed solely for the purpose of recouping any costs incurred to process a credit card payment.*

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

(a) "Case" means a single complaint, citation, information or indictment naming a single defendant that is based on the same act or transaction or based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or who abuse alcohol or drugs ~~*[.]*~~ *or are homeless. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.*

Sec. 6. *In accordance with section 7 of this act and any provision of law that further specifies the order in which more than one administrative assessment,* ~~*[fine or]*~~ *court fee or fine that is imposed upon a person must be paid, including, without limitation, NRS 176.0611 and 176.0613, if a court imposes upon a person an administrative assessment,* ~~*[fine or]*~~ *court fee or fine for a violation of any provision of chapters 484A to 484E, inclusive, of NRS, and the court permits any such administrative assessment,* ~~*[fine or]*~~ *court fee or fine to be paid in installments, the payments must be applied in the following order:*

1. To pay the unpaid balance of an administrative assessment;

2. To pay the unpaid balance of a ~~*[fine;]*~~ *court fee; and*

3. To pay the unpaid balance of a ~~*[court fee.]*~~ *fine.*

Sec. 7. *1. If a traffic citation that is issued to a person contains more than one offense charged, or if a person has been issued more than one traffic citation that is outstanding, any payment made by the person must be applied, in accordance with the provisions of subsection 3 and section 6 of this act, to one offense or one citation, as applicable, in chronological order beginning with the citation that was issued first until all administrative assessments,* ~~*[fines and]*~~ *court fees and fines due for that offense or citation are paid in full.*

2. Once all administrative assessments, ~~[fines and]~~ court fees and fines due for an offense or citation are paid in full, any remaining portion of a payment made by a person must be applied to the next offense or citation, as applicable, until all administrative assessments, ~~[fines and]~~ court fees and fines due for that offense or citation are paid in full.

3. Except as otherwise provided in this subsection, in addition to the manner in which payments must be applied pursuant to subsections 1 and 2, payments must be applied first to traffic violations and then to any violations that are not traffic violations. If the application of any payment pursuant to this subsection would conflict with the provisions of subsections 1 and 2, the requirement set forth in this subsection does not apply.

4. Payments made by a person must continue to be applied in the manner set forth in this section until all administrative assessments, ~~[fines and]~~ court fees and fines due for all offenses charged or all outstanding traffic citations are paid in full.

Sec. 8. *1. Except as otherwise provided in this section, if a court authorizes a defendant who pleads guilty, guilty but mentally ill or nolo contendere to, or who is found guilty or guilty but mentally ill of, a violation of chapters 484A to 484E, inclusive, of NRS to pay a fee for the purpose of reducing demerit points, in lieu of requiring the defendant to complete a course of traffic safety for the purpose of reducing demerit points, the court must include the fee in the sentence, in addition to any other penalty or administrative assessment provided by law, and render a judgment against the defendant for the fee.*

2. The money collected for the fee imposed pursuant to this section must not be deducted from any fine imposed by the court but must be collected from the defendant in addition to the fine. The money collected for such a fee must be stated separately on the court's docket. If the court cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the fee remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay them. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of any amount of the fine or fee that the defendant has paid.

3. A court shall, if requested by a defendant, allow a fee imposed pursuant to this section to be paid in installments under terms established by the court.

4. The money collected for a fee pursuant to this section in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit:

(a) Twenty-five percent of the money received for each such fee with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

(b) Seventy-five percent of the money received for each such fee in a special revenue fund. The city may use the money in the special revenue fund only to:

(1) Fund local specialty court programs; or

(2) Pay for upgrades to court information technology.

5. The money collected for a fee pursuant to this section in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit:

(a) Twenty-five percent of the money received for each such fee with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

(b) Seventy-five percent of the money received for each such fee in a special revenue fund. The county may use the money in the special revenue fund only to:

(1) Fund local specialty court programs; or

(2) Pay for upgrades to court information technology.

6. Money that is apportioned to a court from specialty courts fees pursuant to this section must be used by the court to:

(a) Pay for any level of treatment, including, without limitation, psychiatric care, required for successful completion and testing of persons who participate in the program; ~~[and]~~

(b) Pay for the transportation to and from the program of persons who participate in the program; and

(c) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Providing for ~~[district attorney]~~ prosecutor and public defender representation;

(7) Acquiring or using appropriate technology;

(8) Providing capital for building facilities necessary to house persons who participate in the program;

(9) Providing funding for employment programs for persons who participate in the program; and

(10) Providing funding for statewide public information campaigns necessary to deter driving under the influence of intoxicating liquor or a controlled substance.

7. As used in this section:

(a) "Office of Court Administrator" means the Office of Court Administrator created by NRS 1.320; and

(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental

illness or who abuse alcohol or drugs ~~[.]~~ or are homeless. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 9. *If a person commits any offense for which a local authority is prohibited from enacting an ordinance pursuant to subsection 3 of NRS 484A.400, any fine paid or forfeiture of bail by the person must be paid into the State Treasury for credit to the State Permanent School Fund.*

Sec. 10. (Deleted by amendment.)

Sec. 10.5. NRS 484A.670 is hereby amended to read as follows:

484A.670 1. Regardless of the disposition of the charge for which a traffic citation was originally issued, it is unlawful for a person to:

(a) Violate a written promise to appear in court given to a peace officer upon the issuance of a traffic citation prepared by the peace officer; or

(b) Fail to appear at the time and place set forth in a notice to appear in court that is contained in a traffic citation prepared by a peace officer.

2. Except as otherwise provided in this subsection, a person may comply with a written promise to appear in court or a notice to appear in court by an appearance by counsel. A person who has been convicted of two or more moving traffic violations in unrelated incidents within a 12-month period and is subsequently arrested or issued a citation within that 12-month period shall appear personally in court with or without counsel.

3. ~~[A]~~ *Except as otherwise provided in section 5.7 of this act, a* warrant may issue upon a violation of a written promise to appear in court or a failure to appear at the time and place set forth in a notice to appear in court.

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. NRS 484B.600 is hereby amended to read as follows:

484B.600 1. It is unlawful for any person to drive or operate a vehicle of any kind or character at:

(a) A rate of speed greater than is reasonable or proper, having due regard for the traffic, surface and width of the highway, the weather and other highway conditions.

(b) Such a rate of speed as to endanger the life, limb or property of any person.

(c) A rate of speed greater than that posted by a public authority for the particular portion of highway being traversed.

(d) *A rate of speed that results in the injury of another person or of any property.*

(e) In any event, a rate of speed greater than 80 miles per hour.

2. If, while violating any provision of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.

3. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130 or 484B.135.

4. Except as otherwise provided by law, if a person is issued a traffic citation for a violation of any provision of subsection 1, the court may, in its discretion, reduce the violation from a moving traffic violation to a violation that is not a moving traffic violation. There is a presumption in favor of reducing the violation if the person pays the entire amount of the fine and all fees due before the date on which the person is first required to make an appearance relating to the citation, whether by personal appearance or through his or her counsel, but such a presumption may be overcome if the driving record of the person demonstrates a pattern of moving traffic violations.

5. Any fine imposed pursuant to paragraph (a), (b), (c) or (e) of subsection 1 must not exceed $20 for each mile per hour a person travels above the posted speed limit or the proper rate of speed at which the person should be traveling, as applicable. The provisions of this subsection apply regardless of whether a person pays the entire amount of the fine and all fees due in accordance with subsection 4.

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. (Deleted by amendment.)

Sec. 42. The amendatory provisions of:

1. Sections 1.3 to 3, inclusive, of this act apply to any fine, administrative assessment, fee, restitution or forfeiture, as applicable, imposed before, on or after October 1, 2019.

2. Sections 5.1, 5.5, 5.7 and subsection 4 of section 28 of this act apply to offenses committed before, on or after October 1, 2019.

3. Section 5.3 of this act apply to offenses committed on or after October 1, 2019.

4. Section 5.8 of this act apply to offenses committed before October 1, 2019, if a warrant has not been issued on October 1, 2019.

5. Section 5.9 of this act apply to any fee assessed by the court on or after October 1, 2019.

6. Sections 6 and 7 of this act apply to any payments toward the unpaid balance of any administrative assessment, court fee or fine that are made by a person on or after October 1, 2019.

7. Section 8 of this act apply to offenses committed before October 1, 2019, if the person is sentenced on or after October 1, 2019.

8. Section 9 of this act apply to any fine paid or forfeiture of bail on or after October 1, 2019.

9. Subsection 5 of section 28 of this act apply to any fine imposed on or after October 1, 2019.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 772 to Assembly Bill No. 434 deletes section 1 entirely, as those provisions have already been approved in a different measure this Session. It provides that a court may suspend a defendant's driver's license or order confinement in certain circumstances if the defendant willfully avoids payment of an amount due or avoids performing community service in lieu of paying the amount due. It removes the presumption that a person should be released on his or her own recognizance if a court determines that the person has willfully refused to satisfy any obligations imposed by the court, including paying any amount owed or performing community service. It provides that a 30-day grace period concerning the issuance of a warrant is not extended if, in the preceding 30 calendar days, the person failed to appear in court after being given a court date.

It also requires payments must be applied first to both moving and nonmoving violations before being applied to nontraffic offenses; replaces "district attorney" with "prosecutor" where appropriate; adds homeless persons to those for whom a specialty court program may be established; provides that the presumption in favor of reducing a moving violation to a nonmoving violation only applies if the person pays all fines and fees due, and clarifies the effective dates of various amendatory provisions of the bill.

Amendment adopted.

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

Assembly Bill No. 439.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 773.

SUMMARY—Revises provisions relating to ~~[the imposition of certain fees, costs and administrative assessments in juvenile proceedings.]~~ juvenile justice. (BDR 5-1093)

AN ACT relating to juvenile justice; revising provisions relating to the imposition of certain fees, costs and administrative assessments in juvenile proceedings; enacting provisions relating to the cost of medical care incurred by a child in the custody of certain facilities for the detention of children; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a child becomes subject to the jurisdiction of the juvenile court and the child receives ancillary services that are administered or financed by a county, the county is entitled to reimbursement from the parent or guardian of the child for all money expended by the county for such services. (NRS 62B.110) Section ~~[1]~~ 1.5 of this bill requires the juvenile court: (1) to the extent possible, to arrange for the child to receive such services from an approved provider that receives a sufficient amount of federal or state funding to offset the remainder of the costs of such services; (2) to arrange for the billing of any available public or private medical insurance to pay for such services; and (3) not to order the parent or guardian of the child to reimburse the county for the costs of such services unless the child receives such services from a provider that is not approved or the child seeks additional services beyond those recommended for the child, in which case the parent or guardian of the child shall pay the costs of such services.

Existing law authorizes the juvenile court to order a parent or guardian of a child to pay the costs of supporting the child if the child is committed to the custody of a person other than the parent or guardian or to the custody of a public or private institution or agency. (NRS 62B.120) Section ~~[1.5]~~ 1.7 of this bill eliminates the authority of the juvenile court to order a parent or guardian of a child to pay for such costs.

Existing law provides that if a child is committed to the custody of a regional facility for the treatment and rehabilitation of children, the juvenile court may order the county where the child has a legal residence to pay the expenses incurred for the support of the child in an amount equal to any money paid for that purpose by the Division of Child and Family Services of the Department of Health and Human Services. The juvenile court may order the parent or guardian of the child to reimburse the county for such costs. (NRS 62B.140) Section 2 of this bill eliminates the authority of the juvenile court to order a parent or guardian of a child to reimburse the county for such costs.

Existing law provides that if the juvenile court enters a civil judgment for any payment owed by a child or a parent or guardian of the child, the person or persons against whom the judgment is issued is liable for a collection fee. (NRS 62B.420) Section 3 of this bill eliminates the authority to impose such a collection fee.

Section 1 of this bill requires a local facility for the detention of children to arrange for the administration of medical care for any child in its custody.

Section 1 also requires the county to pay for the cost of certain types of medical care for the child if the parent or legal guardian of the child does not have medical insurance for the child or the child is not otherwise eligible for Medicaid. Section 1 provides that if the parent or legal guardian of the child has medical insurance for the child or the child is otherwise eligible for Medicaid, then the parent or legal guardian is required to pay for such medical care. Section 1 also provides that regardless of whether the parent or legal guardian has medical insurance for the child or whether the child is eligible for Medicaid, the parent or legal guardian is responsible for the costs of certain types of medical care received by the child while the child is in the custody of such a facility.

Existing law provides that if a child is placed under informal supervision, the child may be required to participate in a program of restitution through work or a program of cognitive training and human development. The child or the parent or guardian of the child may be ordered to pay the costs associated with the participation of the child in such programs. (NRS 62C.210) Section 4 of this bill provides that, under such circumstances: (1) the child and the parent or guardian of the child must not be ordered to pay such costs; and (2) unless the parent or guardian of the child signs a waiver of liability, the program or the ~~[employer]~~ entity for which the child performs the work, as applicable, shall provide policies of insurance against liability for personal injury and damage to property or industrial insurance, or both, during those periods in which the child participates in the program or performs work.

Existing law provides that if the juvenile court appoints an attorney to represent a child and the parent or guardian of the child is not indigent, the parent or guardian must pay the reasonable fees and expenses of the attorney. If the parent or guardian is indigent, the juvenile court may order the parent or guardian to reimburse the county for such fees and expenses in accordance with the ability of the parent or guardian to pay. (NRS 62D.030) Section 5 of this bill provides that the parent or guardian of a child must not be required to pay the reasonable fees and expenses of an attorney appointed by the juvenile court.

Existing law provides that if the juvenile court orders a child or the parent or guardian of the child, or both, to perform community service, the juvenile court may order the child or the parent or guardian of the child, or both, to pay for the cost of certain insurance during those periods in which the work is performed. (NRS 62E.180) Section 7 of this bill provides that: (1) the juvenile court must not order the child or the parent or guardian of the child to pay such costs; and (2) unless the parent or guardian of the child signs a waiver of liability, the authority for which the work is performed must provide policies of insurance against liability for personal injury and damage to property or industrial insurance, or both, during those periods in which the work is performed.

Existing law provides that if a child is ordered to participate in a program of cognitive training and human development, a program for the arts or a program of sports and physical fitness, the juvenile court may order the child or the parent or guardian of the child, or both, to pay the costs of participation in such programs or to work on projects or perform community service. (NRS 62E.210) Section 8 of this bill: (1) eliminates the authority of the juvenile court to order the child or the parent or guardian of the child, or both, to pay such costs or perform such work or community service; and (2) provides that unless the parent or guardian of the child signs a waiver of liability, the program in which the child participates must provide policies of insurance against liability for personal injury and damage to property during those periods in which the child participates in the program.

Existing law provides that if the juvenile court orders that a child be provided with medical, psychiatric, psychological or other care or treatment after the parent or guardian of the child fails to provide such care or treatment, the expense of such care or treatment is a charge upon the county, but the juvenile court may order the person having the duty under law to support the child to pay part or all of the expenses of such care or treatment. (NRS 62E.280) Section 9 of this bill revises the authority of the juvenile court to order the payment of such expenses and provides that the juvenile court shall: (1) to the extent possible, arrange for the child to receive such care or treatment from an approved provider that receives a sufficient amount of federal or state funding to offset the remainder of the costs of such care or treatment; (2) arrange for the billing of any available public or private medical insurance to pay for such care or treatment; and (3) not order the parent or guardian of the child to pay the costs of such care or treatment unless the child receives such care or treatment from a provider that is not approved or the child seeks additional care or treatment beyond that recommended for the child, in which case the parent or guardian of the child shall pay the costs of such care or treatment.

Existing law provides that if a child ordered to attend and complete a tobacco awareness and cessation program, the juvenile court may order the child or the parent or guardian of the child, or both, to pay the reasonable cost for the child to attend the program. (NRS 62E.440) Section 11 of this bill eliminates the authority of the juvenile court to order the child or the parent or guardian of the child to pay such costs.

Existing law provides that if the juvenile court orders a child to participate in a program of restitution through work, the juvenile court may order the child or the parent or guardian of the child, or both, to pay the costs associated with the participation of the child in the program or order the child to work on projects or perform community service. (NRS 62E.600) Section 12 of this bill: (1) provides that the juvenile court must not order the child or the parent or guardian of the child to pay such costs; (2) eliminates the authority of the juvenile court to order the child to perform such work or community service; and (3) provides that unless the parent or guardian of the child signs a waiver

of liability, the program or the ~~[employer]~~ entity for which the child performs the work, as applicable, must provide policies of insurance against liability for personal injury and damage to property or industrial insurance, or both, during those periods in which the child participates in the program or performs work.

Existing law provides that when the juvenile court orders a child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs, the juvenile court is required to order the child or the parent or guardian of the child, or both, to pay any charges relating to the evaluation and treatment of the child. (NRS 62E.620) Section 13 of this bill provides that the juvenile court: (1) shall, to the extent possible, arrange for the child to receive such evaluation and treatment from an approved provider that receives a sufficient amount of federal or state funding to offset the remainder of the costs of such evaluation and treatment; (2) shall arrange for the billing of any available public or private medical insurance to pay for such evaluation and treatment; and (3) shall not order the child or the parent or guardian of the child to pay such charges unless the child receives such evaluation and treatment from a provider that is not approved or the child seeks additional evaluation or treatment beyond that recommended for the child, in which case the parent or guardian of the child shall pay the charges for such evaluation and treatment.

Existing law provides that if a child is adjudicated delinquent for an unlawful act that involves cruelty to or torture of an animal, the juvenile court is required to order the child to participate in counseling or other psychological treatment and the child or the parent or guardian of the child, or both, to pay the cost of the child to participate in the counseling or other psychological treatment. (NRS 62E.680) Section 15 of this bill provides that the juvenile court: (1) shall, to the extent possible, arrange for the child to receive such counseling or treatment from an approved provider that receives a sufficient amount of federal or state funding to offset the remainder of the costs of such counseling or treatment; (2) shall arrange for the billing of any available public or private medical insurance to pay for such counseling or treatment; and (3) shall not order the child or the parent or guardian of the child to pay such costs unless the child receives such counseling or treatment from a provider that is not approved or the child seeks additional counseling or treatment beyond that recommended for the child, in which case the parent or guardian of the child shall pay the costs of such counseling or treatment.

Existing law provides that if the juvenile court orders a child to participate in a program of visitation to the office of the county coroner, the juvenile court may order the child, or the parent or guardian of the child, or both, to pay a fee of not more than $45 based on the ability of the child or the parent or guardian of the child, or both, to pay for the costs associated with the participation of the child in the program of visitation. (NRS 62E.720) Section 17 of this bill provides that the court shall not order the child or the parent or guardian of the child to pay such costs.

Existing law: (1) requires a child or the parent or guardian of a child to pay an administrative assessment if the juvenile court imposes a fine against the child; and (2) authorizes the juvenile court to order a parent or guardian of a child to pay expenses of juvenile proceedings and costs of support of a child committed to the custody of the Division of Child and Family Services. (NRS 62B.130, 62E.270, 62E.300, 62E.540) Existing law also authorizes a juvenile court who commits a child to a state facility for the detention of children to require the parents or guardian of the child to pay, in whole or in part, for the support of the child while the child is in the custody of the state facility. (NRS 63.430) Section 19 of this bill repeals those provisions of existing law.

Sections 6, 10, 16 and 18 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 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every local facility for the detention of children shall arrange for the administration of medical care required by any child who is in the custody of the facility.

2. The county shall pay for the costs of the medical care for the child if:

(a) The parent or legal guardian of the child does not have medical insurance for the child or the child is not otherwise eligible for medical assistance under Medicaid; and

(b) The medical care required is:

(1) Treatment for injuries incurred by the child while the child was in the custody of the facility;

(2) Treatment for any infectious, contagious or communicable disease the child contracted while in the custody of the facility; or

(3) A medical examination required by law or court order, unless the court order otherwise provides that the cost must be paid from a source other than the county.

3. If the parent or legal guardian of the child has medical insurance for the child or the child is otherwise eligible for medical assistance under Medicaid, the parent or legal guardian, as applicable, is responsible for the cost of the medical care described in subsection 2.

4. Regardless of whether the parent or legal guardian of the child has medical insurance for the child or whether the child is otherwise eligible for medical assistance under Medicaid, the parent or guardian, as applicable, shall pay for the costs of the medical care for the child if such care is required for:

(a) Injuries incurred by the child during the violation of any state or local law, ordinance, or rule or regulation having the force of law;

(b) Injuries incurred by the child during or pursuant to being taken into custody;

(c) Injuries or illnesses which existed before the child was taken into the custody of the facility;

(d) Injuries that were self-inflicted by the child while in the custody of the facility; and

(e) Except as otherwise provided in subsection 2, any other injury or illness incurred by the child while in the custody of the facility.

~~[Section 1.]~~ *Sec. 1.5.* NRS 62B.110 is hereby amended to read as follows:

62B.110 ~~[1. If]~~ *Except as otherwise provided in section 1 of this act, if* a child becomes subject to the jurisdiction of the juvenile court and the child receives ancillary services that are administered or financed by a county, including, but not limited to, transportation or psychiatric, psychological or medical services, the ~~[county is entitled to reimbursement from the parent or guardian of the child for all money expended by the county for such services.~~

~~2. To determine the amount that the parent or guardian of the child must reimburse the county for such services:~~

~~(a) The board of county commissioners may adopt a sliding scale based on the ability of the parent or guardian to pay; and~~

~~(b) The juvenile court shall review each case and make a finding as to the reasonableness of the charge in relation to the ability of the parent or guardian to pay.~~

~~3. If the parent or guardian of the child fails or refuses to reimburse the county, the board of county commissioners may recover from the parent or guardian, by appropriate legal action, all money due plus interest thereon at the rate of 7 percent per annum commencing 30 days after an itemized statement of all money due is submitted to the parent or guardian.]~~ *juvenile court shall:*

1. To the extent possible, arrange for the child to receive such services from an approved provider that receives a sufficient amount of federal or state funding to offset the remainder of the costs of such services.

2. Arrange for the billing of any available public or private medical insurance to pay for such services.

3. Not order the parent or guardian of the child to reimburse the county for the costs of such services unless the child receives such services from a provider that is not approved or the child seeks additional services beyond those recommended for the child, in which case the parent or guardian of the child shall pay the costs of such services.

~~[Sec. 1.5.]~~ *Sec. 1.7.* NRS 62B.120 is hereby amended to read as follows:

62B.120 ~~[1. Except as otherwise provided in this chapter, if]~~ *If* the juvenile court commits a child to the custody of a person who is not the parent or guardian of the child or to the custody of a public or private institution or agency, and no provision is otherwise made by law for the support of the child, the expenses incurred for the support of the child while in such custody, if approved by an order of the juvenile court, are a charge upon the county where the child has a legal residence.

~~[2. Notwithstanding any other statute providing for the support of such a child, after the parent or guardian of the child has been given notice and a reasonable opportunity to be heard, the juvenile court may order the parent or guardian to pay, in such a manner as the juvenile court may direct and within the ability of the parent or guardian to pay, money to cover in whole or in part the support of the child.~~

~~3. If the parent or guardian of the child willfully fails or refuses to pay the money due, the juvenile court may proceed against the parent or guardian for contempt.~~

~~4. If the juvenile court orders the parent or guardian of the child to pay for the support of the child pursuant to this section, the money must be paid to the superintendent of the county school district or fiscal officer of the institution to which the child is committed, or the chief administrative officer of the agency to whom the child is committed.]~~

Sec. 2. NRS 62B.140 is hereby amended to read as follows:

62B.140 1. Except as otherwise provided in this ~~[subsection,]~~ chapter, if a child is committed to the custody of a regional facility for the treatment and rehabilitation of children, the juvenile court may order the county where the child has a legal residence to pay the expenses incurred for the support of the child in an amount equal to any money paid for that purpose by the Division of Child and Family Services. Such an order may not be entered if the county maintains the facility to which the child is committed.

2. ~~[The juvenile court may order the parent or guardian of the child to reimburse the county, in whole or in part, for any money expended by the county for the support of the child.~~

~~3.]~~ This section does not prohibit the juvenile court from providing for the support of the child in any other manner authorized by law.

Sec. 3. NRS 62B.420 is hereby amended to read as follows:

62B.420 1. Except as otherwise provided in this subsection, if, pursuant to this title, a child or a parent or guardian of a child is ordered by the juvenile court to pay a fine ~~[, administrative assessment, fee]~~ or restitution or to make any other payment and the fine, ~~[administrative assessment, fee,]~~ restitution or other payment or any part of it remains unpaid after the time established by the juvenile court for its payment, the juvenile court may enter a civil judgment against the child or the parent or guardian of the child for the amount due in favor of the victim, the state or local entity to whom the amount is owed or both. The juvenile court may not enter a civil judgment against a person who is a child unless the person has attained the age of 18 years, the person is a child who is determined to be outside the jurisdiction of the juvenile court pursuant to NRS 62B.330 or 62B.335 or the person is a child who is certified for proper criminal proceedings as an adult pursuant to NRS 62B.390.

2. Notwithstanding the termination of the jurisdiction of the juvenile court pursuant to NRS 62B.410 or the termination of any period of supervision or probation ordered by the juvenile court, the juvenile court retains jurisdiction over any civil judgment entered pursuant to subsection 1 and retains

jurisdiction over the person against whom a civil judgment is entered pursuant to subsection 1. The juvenile court may supervise the civil judgment and take any of the actions authorized by the laws of this State.

3. A civil judgment entered pursuant to subsection 1 may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money rendered in a civil action. A judgment which requires a parent or guardian of a child to pay restitution does not expire until the judgment is satisfied. An independent action to enforce a judgment that requires a parent or guardian of a child to pay restitution may be commenced at any time.

4. ~~[If the juvenile court enters a civil judgment pursuant to subsection 1, the person or persons against whom the judgment is issued is liable for a collection fee, to be imposed by the juvenile court at the time the civil judgment is issued, of:~~

~~(a) Not more than $100, if the amount of the judgment is less than $2,000.~~

~~(b) Not more than $500, if the amount of the judgment is $2,000 or greater, but is less than $5,000.~~

~~(c) Ten percent of the amount of the judgment, if the amount of the judgment is $5,000 or greater.~~

~~5.]~~ In addition to attempting to collect the judgment through any other lawful means, a victim, a representative of the victim or a state or local entity that is responsible for collecting a civil judgment entered pursuant to subsection 1 may take any or all of the following actions:

(a) Except as otherwise provided in this paragraph, report the judgment to reporting agencies that assemble or evaluate information concerning credit. If the judgment was entered against a person who was less than 21 years of age at the time the judgment was entered, the judgment cannot be reported pursuant to this paragraph until the person reaches 21 years of age.

(b) Request that the juvenile court take appropriate action pursuant to subsection ~~[6.]~~ *5*.

(c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the judgment . ~~[and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 4, in accordance with the provisions of the contract.~~

~~6.]~~ *5.* If the juvenile court determines that a child or the parent or guardian of a child against whom a civil judgment has been entered pursuant to subsection 1 has failed to make reasonable efforts to satisfy the civil judgment, the juvenile court may take any of the following actions:

(a) Order the suspension of the driver's license of a child for a period not to exceed 1 year. If the child is already the subject of a court order suspending the driver's license of the child, the juvenile court may order the additional suspension to apply consecutively with the previous order. At the time the juvenile court issues an order suspending the driver's license of a child pursuant to this paragraph, the juvenile court shall require the child to

surrender to the juvenile court all driver's licenses then held by the child. The juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the driving record of a child, but such a suspension must not be considered for the purpose of rating or underwriting.

(b) If a child does not possess a driver's license, prohibit the child from applying for a driver's license for a period not to exceed 1 year. If the child is already the subject of a court order delaying the issuance of a license to drive, the juvenile court may order any additional delay in the ability of the child to apply for a driver's license to apply consecutively with the previous order. At the time the juvenile court issues an order pursuant to this paragraph delaying the ability of a child to apply for a driver's license, the juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order.

(c) If the civil judgment was issued for a delinquent fine , ~~[or administrative assessment,]~~ order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

(d) Enter a finding of contempt against a child or the parent or guardian of a child and punish the child or the parent or guardian for contempt in the manner provided in NRS 62E.040. A person who is indigent may not be punished for contempt pursuant to this ~~[subsection.~~

~~7. Money collected from a collection fee imposed pursuant to subsection 4 must be deposited and used in the manner set forth in subsection 4 of NRS 176.064.]~~ *paragraph.*

Sec. 4. NRS 62C.210 is hereby amended to read as follows:

62C.210 1. An agreement for informal supervision may require the child to:

(a) Perform community service, provide restitution to any victim of the acts for which the child was referred to the probation officer or make a monetary contribution to a restitution contribution fund established pursuant to NRS 62E.175;

(b) Participate in a program of restitution through work that is established pursuant to NRS 62E.580 if the child:

(1) Is 14 years of age or older;

(2) Has never been found to be within the purview of this title for an unlawful act that involved the use or threatened use of force or violence against a victim and has never been found to have committed such an unlawful act in any other jurisdiction, unless the probation officer determines that the child would benefit from the program;

(3) Is required to provide restitution to a victim; and

(4) Voluntarily agrees to participate in the program of restitution through work;

(c) Complete a program of cognitive training and human development pursuant to NRS 62E.220 if:

(1) The child has never been found to be within the purview of this title; and

(2) The unlawful act for which the child is found to be within the purview of this title did not involve the use or threatened use of force or violence against a victim; or

(d) Engage in any combination of the activities set forth in this subsection.

2. If the agreement for informal supervision requires the child to participate in a program of restitution through work or complete a program of cognitive training and human development, the ~~[agreement may also require any or all of the following, in the following order of priority if practicable:~~

~~(a) The]~~ child or the parent or guardian of the child ~~[, or both, to the extent of their financial ability,]~~ *must not be required* to pay the costs associated with the participation of the child in the program . ~~[, including, but not limited to:~~

~~(1) A reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property during those periods in which the child participates in the program or performs work; and~~

~~(2) In the case of a program of restitution through work, for industrial insurance, unless the industrial insurance is provided by the employer for which the child performs the work; or~~

~~(b) The child to work on projects or perform community service for a period that reflects the costs associated with the participation of the child in the program.]~~ *Unless the parent or guardian of the child signs a waiver of liability, the program or the ~~[employer]~~ entity for which the child performs the work, as applicable, shall provide policies of insurance against liability for personal injury and damage to property or industrial insurance, or both, during those periods in which the child participates in the program or performs work.*

Sec. 5. NRS 62D.030 is hereby amended to read as follows:

62D.030 1. If a child is alleged to be delinquent or in need of supervision, the juvenile court shall advise the child and the parent or guardian of the child that the child is entitled to be represented by an attorney at all stages of the proceedings.

2. If a parent or guardian of a child is indigent, the parent or guardian may request the appointment of an attorney to represent the child pursuant to the provisions in NRS 171.188.

3. Except as otherwise provided in this section, the juvenile court shall appoint an attorney for a child if the parent or guardian of the child does not retain an attorney for the child and is not likely to retain an attorney for the child.

4. A child may waive the right to be represented by an attorney if:

(a) A petition is not filed and the child is placed under informal supervision pursuant to NRS 62C.200; or

(b) A petition is filed and the record of the juvenile court shows that the waiver of the right to be represented by an attorney is made knowingly,

intelligently, voluntarily and in accordance with any applicable standards established by the juvenile court.

5. Except as otherwise provided in ~~[subsection 6 and]~~ NRS 424.085, if the juvenile court appoints an attorney to represent a child , ~~[and:~~

~~(a) The parent or guardian of the child is not indigent,]~~ the parent or guardian ~~[shall]~~ *must not be required to* pay the reasonable fees and expenses of the attorney.

~~[(b) The parent or guardian of the child is indigent, the juvenile court may order the parent or guardian to reimburse the county or State in accordance with the ability of the parent or guardian to pay.~~

~~6. For the purposes of paragraph (b) of subsection 5, the juvenile court shall find that the parent or guardian of the child is indigent if:~~

~~(a) The parent or guardian:~~

~~(1) Receives public assistance, as that term is defined in NRS 422A.065;~~

~~(2) Resides in public housing, as that term is defined in NRS 315.021;~~

~~(3) Has a household income that is less than 200 percent of the federally designated level signifying poverty;~~

~~(4) Is incarcerated pursuant to a sentence imposed upon conviction of a crime; or~~

~~(5) Is housed in a public or private mental health facility; or~~

~~(b) After considering the particular circumstances of the parent or guardian, including, without limitation, the seriousness of the charges against the child, the monthly expenses of the parent or guardian and the rates for attorneys in the area in which the juvenile court is located, the juvenile court determines that the parent or guardian is financially unable, without substantial hardship to the parent or guardian or his or her dependents, to obtain qualified and competent legal counsel.~~

~~7.]~~ *6.* Each attorney, other than a public defender, who is appointed under the provisions of this section is entitled to the same compensation and expenses from the county as is provided in NRS 7.125 and 7.135 for attorneys appointed to represent persons charged with criminal offenses.

Sec. 6. NRS 62D.035 is hereby amended to read as follows:

62D.035 Subject to the provisions of subsection ~~[7]~~ *6* of NRS 62D.030 and chapter 260 of NRS, a public defender or any other attorney who represents a child in proceedings pursuant to the provisions of this title may consult with and seek appointment of:

1. Any social worker licensed pursuant to chapter 641B of NRS;
2. Any qualified mental health professional, as defined in NRS 458A.057;
3. Any educator; and
4. Any other expert the attorney deems appropriate.

Sec. 7. NRS 62E.180 is hereby amended to read as follows:

62E.180 1. The juvenile court may order a child or the parent or guardian of the child, or both, to perform community service.

2. If the juvenile court orders a child or the parent or guardian of the child, or both, to perform community service pursuant to the provisions of this title,

~~[the juvenile court may order the child or]~~ *unless* the parent or guardian of the child ~~[, or both, to deposit with the juvenile court a reasonable sum of money to pay for the cost of]~~ *signs a waiver of liability, the authority for which the work is performed shall provide* a policy ~~[for]~~ *of* insurance against liability for personal injury and damage to property or ~~[for]~~ industrial insurance, or both, during those periods in which the work is performed . ~~[, unless, in the case of industrial insurance, it is provided by the authority for which the work is performed.]~~

Sec. 8. NRS 62E.210 is hereby amended to read as follows:

62E.210 1. If a child has not previously been adjudicated delinquent or in need of supervision and the unlawful act committed by the delinquent child did not involve the use or threatened use of force or violence against a victim, the juvenile court may order a child to complete any or all of the following programs:

(a) A program of cognitive training and human development established pursuant to NRS 62E.220.

(b) A program for the arts as described in NRS 62E.240.

(c) A program of sports or physical fitness as described in NRS 62E.240.

2. If the juvenile court orders the child to participate in a program of cognitive training and human development, a program for the arts or a program of sports or physical fitness, the juvenile court may order ~~[any or all of the following, in the following order of priority if practicable:~~

~~(a) The child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay the costs associated with the participation of the child in the program, including, but not limited to, a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property during those periods in which the child participates in the program;~~

~~(b) The child to work on projects or perform community service for a period that reflects the costs associated with the participation of the child in the program; or~~

~~(c) The]~~ *the* county in which the petition alleging the child to be in need of supervision is filed to pay the costs associated with the participation of the child in the program.

3. Unless the parent or guardian of the child signs a waiver of liability, the program in which the child participates shall provide policies of insurance against liability for personal injury and damage to property during those periods in which the child participates in the program.

Sec. 9. NRS 62E.280 is hereby amended to read as follows:

62E.280 1. The juvenile court may:

(a) Order such medical, psychiatric, psychological or other care and treatment for a child as the juvenile court deems to be in the best interests of the child; and

(b) Cause the child to be examined by a physician, psychiatrist, psychologist or other qualified person.

2. If the child appears to be in need of medical, psychiatric, psychological or other care or treatment:

(a) The juvenile court may order the parent or guardian of the child to provide such care or treatment; and

(b) If, after due notice, the parent or guardian fails to provide such care or treatment, the juvenile court may order that the child be provided with the care or treatment. When approved by the juvenile court, the expense of such care or treatment is a charge upon the county . ~~[, but the juvenile court may order the person having the duty under the law to support the child to pay part or all of the expenses of such care or treatment.]~~

3. The juvenile court shall:

(a) To the extent possible, arrange for the child to receive such care or treatment from an approved provider that receives a sufficient amount of federal or state funding to offset the remainder of the costs of such care or treatment.

(b) Arrange for the billing of any available public or private medical insurance to pay for such care or treatment.

(c) Not order the parent or guardian of the child to pay the costs of such care or treatment unless the child receives such care or treatment from a provider that is not approved or the child seeks additional care or treatment beyond that recommended for the child, in which case the parent or guardian of the child shall pay the costs of such care or treatment.

Sec. 10. NRS 62E.430 is hereby amended to read as follows:

62E.430 1. If a child is adjudicated to be in need of supervision because the child is a habitual truant, the juvenile court shall:

(a) The first time the child is adjudicated to be in need of supervision because the child is a habitual truant:

(1) Order:

(I) The child to pay a fine of not more than $100 ~~[and the administrative assessment required by NRS 62E.270]~~ or , if the parent or guardian of the child knowingly induced the child to be a habitual truant, order the parent or guardian to pay the fine *;* ~~[and the administrative assessment;]~~ or

(II) The child to perform not less than 8 hours but not more than 16 hours of community service; and

(2) If the child is 14 years of age or older, order the suspension of the driver's license of the child for at least 30 days but not more than 6 months. If the child does not possess a driver's license, the juvenile court shall prohibit the child from applying for a driver's license for 30 days:

(I) Immediately following the date of the order if the child is eligible to apply for a driver's license; or

(II) After the date the child becomes eligible to apply for a driver's license if the child is not eligible to apply for a driver's license.

(b) The second or any subsequent time the child is adjudicated to be in need of supervision because the child is a habitual truant:

(1) Order:

(I) The child to pay a fine of not more than $200 ~~[and the administrative assessment required by NRS 62E.270]~~ or , if the parent or guardian of the child knowingly induced the child to be a habitual truant, order the parent or guardian to pay the fine *;* ~~[and the administrative assessment;]~~

(II) The child to perform not more than 10 hours of community service; or

(III) Compliance with the requirements set forth in both sub-subparagraphs (I) and (II); and

(2) If the child is 14 years of age or older, order the suspension of the driver's license of the child for at least 60 days but not more than 1 year. If the child does not possess a driver's license, the juvenile court shall prohibit the child from applying for a driver's license for 60 days:

(I) Immediately following the date of the order if the child is eligible to apply for a driver's license; or

(II) After the date the child becomes eligible to apply for a driver's license if the child is not eligible to apply for a driver's license.

2. The juvenile court may suspend the payment of a fine ordered pursuant to paragraph (a) of subsection 1 if the child attends school for 60 consecutive school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the imposition of the fine, or has a valid excuse acceptable to the child's teacher or the principal for any absence from school within that period.

3. The juvenile court may suspend the payment of a fine ordered pursuant to this section if the parent or guardian of a child is ordered to pay a fine by another court of competent jurisdiction in a case relating to or arising out of the same circumstances that caused the juvenile court to adjudicate the child in need of supervision.

4. The community service ordered pursuant to this section must be performed at the child's school of attendance, if practicable.

Sec. 11. NRS 62E.440 is hereby amended to read as follows:

62E.440 1. If a child is adjudicated to be in need of supervision because the child has committed an offense related to tobacco, the juvenile court may:

(a) The first time the child is adjudicated to be in need of supervision because the child has committed an offense related to tobacco, order the child to:

(1) Pay a fine of $25; and

(2) Attend and complete a tobacco awareness and cessation program.

(b) The second time the child is adjudicated to be in need of supervision because the child has committed an offense related to tobacco, order the child to:

(1) Pay a fine of $50; and

(2) Attend and complete a tobacco awareness and cessation program.

(c) The third or any subsequent time the child is adjudicated to be in need of supervision because the child has committed an offense related to tobacco, order:

(1) The child to pay a fine of $75;

(2) The child to attend and complete a tobacco awareness and cessation program; and

(3) That the driver's license of the child be suspended for at least 30 days but not more than 90 days or, if the child does not possess a driver's license, prohibit the child from receiving a driver's license for at least 30 days but not more than 90 days:

(I) Immediately following the date of the order, if the child is eligible to receive a driver's license.

(II) After the date the child becomes eligible to apply for a driver's license, if the child is not eligible to receive a license on the date of the order.

2. ~~[If the juvenile court orders a child to attend and complete a tobacco awareness and cessation program, the juvenile court may order the child or the parent or guardian of the child, or both, to pay the reasonable cost for the child to attend the program.~~

~~3. If the juvenile court orders a child to pay a fine pursuant to this section, the juvenile court shall order the child to pay an administrative assessment pursuant to NRS 62E.270.~~

~~4.]~~ If the juvenile court orders a child to pay a fine ~~[and administrative assessment]~~ pursuant to this section and the child willfully fails to pay the fine , ~~[or administrative assessment,]~~ the juvenile court may order that the driver's license of the child be suspended for at least 30 days but not more than 90 days or, if the child does not possess a driver's license, prohibit the child from receiving a driver's license for at least 30 days but not more than 90 days:

(a) Immediately following the date of the order, if the child is eligible to receive a driver's license.

(b) After the date the child becomes eligible to apply for a driver's license, if the child is not eligible to receive a license on the date of the order.

➥ If the child is already the subject of a court order suspending or delaying the issuance of the driver's license of the child, the juvenile court shall order the additional suspension or delay, as appropriate, to apply consecutively with the previous order.

~~[5.]~~ *3.* If the juvenile court suspends the driver's license of a child pursuant to this section, the juvenile court may order the Department of Motor Vehicles to issue a restricted driver's license pursuant to NRS 483.490 permitting the child to drive a motor vehicle:

(a) To and from work or in the course of his or her work, or both;

(b) To and from school; or

(c) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself, herself or a member of his or her immediate family.

Sec. 12. NRS 62E.600 is hereby amended to read as follows:

62E.600 1. The juvenile court may order a delinquent child to participate in a program of restitution through work that is established pursuant to NRS 62E.580 if the child:

(a) Is 14 years of age or older;

(b) Has never been adjudicated delinquent for an unlawful act that involved the use or threatened use of force or violence against a victim and has never been found to have committed such an unlawful act in any other jurisdiction, unless the juvenile court determines that the child would benefit from the program;

(c) Is ordered to provide restitution to a victim; and

(d) Voluntarily agrees to participate in the program of restitution through work.

2. If the juvenile court orders a child to participate in a program of restitution through work, the juvenile court ~~[may order any or all of the following, in the following order of priority if practicable:~~

~~(a) The]~~ *must not order the* child or the parent or guardian of the child ~~[, or both, to the extent of their financial ability,]~~ to pay the costs associated with the participation of the child in the program . ~~[, including, but not limited to, a reasonable sum of money to pay for the cost of]~~ *Unless the parent or guardian of the child signs a waiver of liability, the program or the ~~[employer]~~ entity for which the child performs the work, as applicable, shall provide* policies of insurance against liability for personal injury and damage to property or ~~[for]~~ industrial insurance, or both, during those periods in which the child participates in the program or performs work . ~~[, unless, in the case of industrial insurance, it is provided by the employer for which the child performs the work; or~~

~~(b) The child to work on projects or perform community service for a period that reflects the costs associated with the participation of the child in the program.]~~

Sec. 13. NRS 62E.620 is hereby amended to read as follows:

62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:

(a) An unlawful act in violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430;

(b) The unlawful act of using, possessing, selling or distributing a controlled substance; or

(c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.

2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:

(a) A clinical alcohol and drug abuse counselor who is licensed, an alcohol and drug abuse counselor who is licensed or certified, or an alcohol and drug abuse counselor intern or a clinical alcohol and drug abuse counselor intern who is certified, pursuant to chapter 641C of NRS, to make that classification; or

(b) A physician who is certified to make that classification by the Board of Medical Examiners.

3. If the child resides in this State but the nearest location at which an evaluation may be conducted is in another state, the court may allow the evaluation to be conducted in the other state if the person conducting the evaluation:

(a) Possesses qualifications that are substantially similar to the qualifications described in subsection 2;

(b) Holds an appropriate license, certificate or credential issued by a regulatory agency in the other state; and

(c) Is in good standing with the regulatory agency in the other state.

4. The evaluation of the child may be conducted at an evaluation center.

5. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.

6. The juvenile court shall:

(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.

(b) Require the treatment provider to submit monthly reports on the treatment of the child pursuant to this section.

~~[(c) Order]~~

7. Except as otherwise provided in this subsection, the juvenile court shall not order the child or the parent or guardian of the child ~~[, or both, to the extent of their financial ability,]~~ to pay any charges relating to the evaluation and treatment of the child pursuant to this section. ~~[If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:~~

~~(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment provider which receives a sufficient amount of federal or state money to offset the remainder of the costs; and~~

~~(2) The juvenile court may order the child, in lieu of paying the charges relating to the child's evaluation and treatment, to perform community service.~~

~~7.]~~ *The juvenile court shall:*

(a) To the extent possible, arrange for the child to receive such evaluation and treatment from an approved provider that receives a sufficient amount of federal or state funding to offset the remainder of the costs of such evaluation and treatment.

(b) Arrange for the billing of any available public or private medical insurance to pay for such evaluation and treatment.

(c) Not order the parent or guardian of the child to pay the costs for such evaluation and treatment unless the child receives such evaluation and treatment from a provider that is not approved or the child seeks additional evaluation or treatment beyond that recommended for the child, in which case the parent or guardian of the child shall pay the costs of such evaluation and treatment.

8. After a treatment provider has certified a child's successful completion of a program of treatment ordered pursuant to this section, the treatment provider is not liable for any damages to person or property caused by a child who:

(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engages in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.

~~[8.]~~ *9.* The provisions of this section do not prohibit the juvenile court from:

(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Division of Public and Behavioral Health of the Department of Health and Human Services. The evaluation may be conducted at an evaluation center.

(b) Ordering the child to attend a program of treatment which is administered by a private company.

~~[9.]~~ *10.* Except as otherwise provided in NRS 239.0115, all information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title or the juvenile court, must not be disclosed to any person other than:

(a) The juvenile court;

(b) The child;

(c) The attorney for the child, if any;

(d) The parents or guardian of the child;

(e) The district attorney; and

(f) Any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.

~~[10.]~~ *11.* A record of any finding that a child has violated the provisions of NRS 484C.110, 484C.120, 484C.130 or 484C.430 must be included in the driver's record of that child for 7 years after the date of the offense.

Sec. 14. (Deleted by amendment.)

Sec. 15. NRS 62E.680 is hereby amended to read as follows:

62E.680 1. If a child is adjudicated delinquent for an unlawful act that involves cruelty to or torture of an animal, the juvenile court shall order the child to participate in counseling or other psychological treatment.

2. ~~[The]~~ *Except as otherwise provided in this subsection, the* juvenile court shall *not* order the child or the parent or guardian of the child ~~[, or both, to the extent of their financial ability,]~~ to pay the cost of the child to participate in the counseling or other psychological treatment. *The juvenile court shall:*

(a) To the extent possible, arrange for the child to receive such counseling or treatment from an approved provider that receives a sufficient amount of

federal or state funding to offset the remainder of the costs of such counseling or treatment.

(b) Arrange for the billing of any available public or private medical insurance to pay for such counseling or treatment.

(c) Not order the parent or guardian of the child to pay the costs of such counseling or treatment unless the child receives such counseling or treatment from a provider that is not approved or the child seeks additional counseling or treatment beyond that recommended for the child, in which case the parent or guardian of the child shall pay the costs of such counseling or treatment.

3. As used in this section:

(a) "Animal" does not include the human race, but includes every other living creature.

(b) "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

Sec. 16. NRS 62E.685 is hereby amended to read as follows:

62E.685 If a child is adjudicated delinquent for an unlawful act involving the killing or possession of certain animals in violation of NRS 501.376, the juvenile court may do any or all of the following:

1. Order the child to pay a fine. ~~[If the juvenile court orders the child to pay a fine, the juvenile court shall order the child to pay an administrative assessment pursuant to NRS 62E.270.]~~ If, because of financial hardship, the child is unable to pay the fine, the juvenile court may order the child to perform community service.

2. Order the child or the parent or guardian of the child, or both, to pay a civil penalty pursuant to NRS 501.3855.

3. Order that any license issued to the child pursuant to chapter 502 of NRS be revoked by the Department of Wildlife. The juvenile court shall order the child to surrender to the court any license issued to the child pursuant to chapter 502 of NRS then held by the child and, not later than 5 days after issuing the order, forward to the Department of Wildlife any license surrendered by the child and a copy of the order.

4. Order that the child must not receive a license to hunt, fish or trap within the 2 years immediately following the date of the order or until the child is 18 years of age, whichever is later.

5. Order the child placed on probation and impose such conditions as the juvenile court deems proper.

Sec. 17. NRS 62E.720 is hereby amended to read as follows:

62E.720 1. The juvenile court may order a delinquent child to participate in a program of visitation to the office of the county coroner that is established pursuant to this section.

2. In determining whether to order the child to participate in such a program, the juvenile court shall consider whether the unlawful act committed by the child involved the use or threatened use of force or violence against the child or others or demonstrated a disregard for the safety or well-being of the child or others.

3. The juvenile court may establish a program of visitation to the office of the county coroner in cooperation with the coroner of the county pursuant to this section.

4. Before a delinquent child may participate in a program of visitation, the parent or guardian of the child must provide to the juvenile court on a form provided by the juvenile court:

(a) Written consent for the child to participate in the program of visitation; and

(b) An executed release of liability for any act or omission, not amounting to gross negligence or willful misconduct of the juvenile court, the county coroner, or any other person administering or conducting a program of visitation, that causes personal injury or illness of the child during the period in which the child participates in the program of visitation.

5. A program of visitation must include, but is not limited to:

(a) A visit to the office of the county coroner at times and under circumstances determined by the county coroner.

(b) A course to instruct the child concerning:

(1) The consequences of the child's actions; and

(2) An awareness of the child's own mortality.

(c) An opportunity for each participant in a program of visitation to evaluate each component of the program.

6. The juvenile court ~~[may]~~ *shall not* order the child ~~[,]~~ or the parent or guardian of the child ~~[, or both,]~~ to pay ~~[a fee of not more than $45 based on the ability of the child or the parent or guardian of the child, or both, to pay]~~ for the costs associated with the participation of the child in the program of visitation.

Sec. 18. NRS 62E.730 is hereby amended to read as follows:

62E.730 1. The juvenile court may order a delinquent child to pay a fine.

2. ~~[If the juvenile court orders a delinquent child to pay a fine, the juvenile court shall order the child to pay an administrative assessment pursuant to NRS 62E.270.~~

~~3.]~~ If a delinquent child is less than 17 years of age, the juvenile court may order the parent or guardian of the child to pay any fines and penalties that the juvenile court imposes for the unlawful act committed by the child.

~~[4.]~~ *3.* If, because of financial hardship, the parent or guardian is unable to pay any fines and penalties that the juvenile court imposes for the unlawful act committed by the child, the juvenile court may order the parent or guardian to perform community service.

Sec. 19. NRS 62B.130, 62E.270, 62E.300 , ~~[and]~~ 62E.540 and 63.430 are hereby repealed.

Sec. 20. This act becomes effective on July 1, 2019.

LEADLINES OF REPEALED SECTIONS

62B.130 Parent or guardian to reimburse county for support of child during detention in local facility for detention of children; civil remedy.

62E.270 Administrative assessment to be ordered when fine is imposed against certain persons.

62E.300 Payment of expenses of proceedings by parent or guardian.

62E.540 Commitment of child to Division of Child and Family Services: Payment of expenses by parent or guardian.

63.430 Parent or guardian may be ordered to pay for support of child.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 773 to Assembly Bill No. 439 adds provisions to section 1 of the bill concerning who will pay the costs of certain medical expenses for a child who is in the custody of a juvenile detention facility to clarify responsibility depending upon insurance coverage and other matters. It changes "employer" to "entity" in sections 4 and 12 of the bill. And, it repeals provisions of existing law that allow a court to order a parent or guardian to pay for all or part of the support of a child while the child is in custody.

Amendment adopted.

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

Assembly Joint Resolution No. 1.

Resolution read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 836.

SUMMARY—Expresses objection to the transfer of radioactive plutonium to this State. (BDR R-977)

ASSEMBLY JOINT RESOLUTION—Expressing objection to the transfer of radioactive plutonium to this State.

WHEREAS, Since 1954, when the Atomic Energy Act was passed by Congress, the Federal Government has been responsible for the regulation of nuclear materials, yet few environmental challenges have proven more daunting than the problems posed by the storage and disposal of nuclear materials; and

WHEREAS, The transportation of highly radioactive, weapons-grade plutonium to the Nevada National Security Site in southern Nevada poses serious and unacceptable risks to the environment, the economy and the health and welfare of the residents of the State of Nevada; and

WHEREAS, The United States Department of Energy failed to fulfill its statutory obligations pursuant to 50 U.S.C. § 2566(c)(1), causing a federal district court in South Carolina to order the removal of highly radioactive, weapons-grade plutonium , often referred to as "defense plutonium," from the State of South Carolina by January 1, 2020; and

WHEREAS, In April 2018, the Department of Energy informed the State of Nevada of a potential proposal to ship defense plutonium from the State of South Carolina to the State of Nevada; and

WHEREAS, In August 2018, the Department of Energy publicly announced in the release of the "Supplement Analysis for the Removal of One Metric Ton of Plutonium from the State of South Carolina to Nevada, Texas,

and New Mexico" its intent to transfer up to 1 metric ton of plutonium from South Carolina to Nevada or Texas; and

WHEREAS, Pursuant to 42 U.S.C. § 4332, federal agencies are required, "to the fullest extent possible," to prepare an environmental impact statement for all "major Federal actions significantly affecting the quality of the human environment"; and

WHEREAS, In its Supplement Analysis from August 2018, the United States Department of Energy declined to prepare an environmental impact statement for the transportation to and indefinite storage of up to 1 metric ton of highly radioactive, weapons-grade plutonium in this State, failing to consider any of at least five alternatives which would pose a lower risk of environmental damage and failing to update previous studies to account for the health and safety risks of the indefinite storage of 1 metric ton of highly radioactive, weapons-grade plutonium at the Nevada National Security Site, less than 100 miles away from the Las Vegas metropolitan area which hosts over 2,200,000 residents and more than 42,000,000 tourists each year; and

WHEREAS, The Supplement Analysis also made use of antiquated information regarding the Las Vegas metropolitan area and thus failed to account for significant changes in population, population density, highway construction, traffic flows, accident rates and a variety of other factors related to minimizing the tremendous risks inherent in transporting hazardous and dangerous materials, like highly radioactive, weapons-grade plutonium; and

WHEREAS, The State of Nevada expressed its strong opposition to a transfer of South Carolina defense plutonium to the State and commenced discussions with the Department of Energy to address the concerns of the State with the transfer of the South Carolina defense plutonium, during which the Department of Energy assured the State of Nevada that the Department would not commence the shipment of the plutonium; and

WHEREAS, On November 30, 2018, the State of Nevada filed a complaint in federal district court and requested a preliminary injunction to halt the transfer of the plutonium into this State; and

WHEREAS, On January 30, 2019, the United States Department of Energy informed the United States District Court for the District of Nevada that one-half metric ton of the plutonium had already been transferred to the Nevada National Security Site sometime before November 2018, and before the commencement of the litigation; and

WHEREAS, On January 30, 2019, the United States District Court for the District of Nevada denied the State of Nevada's request for a preliminary injunction to halt the transfer of the plutonium into the State; and

WHEREAS, On February 4, 2019, the State of Nevada announced its intent to appeal the District Court's denial of the request for a preliminary injunction to the United States Court of Appeals for the Ninth Circuit; and

WHEREAS, The State of Nevada was neither properly informed of nor consented to the transfer of the plutonium into this State; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature protests, in the strongest possible terms, any transfer of South Carolina defense plutonium or any other highly radioactive ~~[waste or]~~ materials , including, without limitation, high-level radioactive waste as defined in NRS 459.910, to the Nevada National Security Site in southern Nevada; and be it further

RESOLVED, That the Nevada Legislature formally calls on James Richard "Rick" Perry, the United States Secretary of Energy, to halt immediately any future shipments of South Carolina defense plutonium or any other highly radioactive ~~[waste or]~~ materials , including, without limitation, high-level radioactive waste as defined in NRS 459.910, to the State of Nevada, to inform appropriate officials of the State of Nevada of a timeline for the removal from this State of the plutonium shipped from the State of South Carolina and to adequately and timely inform appropriate officials of the State of Nevada of any future plans of the United States Department of Energy to transfer South Carolina defense plutonium or ~~[other]~~ any highly radioactive ~~[waste or]~~ materials , including, without limitation, high-level radioactive waste as defined in NRS 459.910, to this State; and be it further

RESOLVED That the Nevada Legislature formally restates its strong and unyielding opposition to the storage or disposal of ~~[nuclear materials]~~ South Carolina defense plutonium or any other highly radioactive materials, including without limitation, high-level radioactive waste as defined in NRS 459.910, in the State of Nevada without its knowledge or consent; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives, the United States Secretary of Energy and each member of the Nevada Congressional Delegation; and be it further

RESOLVED That this resolution becomes effective upon approval.

Senator Ohrenschall moved the adoption of the amendment.

Remarks by Senator Ohrenschall.

Amendment No. 836 to Assembly Joint Resolution No. 1 clarifies the type and source of the plutonium referenced in the resolution and ensures the resolution is not limited in scope by referring to the definition of "high-level radioactive waste" as set forth in Nevada Revised Statute 459.910.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 299.

Bill read third time.

The following amendment was proposed by Senator Ohrenschall:

Amendment No. 892.

SUMMARY—Revises provisions governing certain powers of attorney. (BDR 13-691)

AN ACT relating to powers of attorney; defining the term "nondurable" for certain purposes relating to powers of attorney; revising provisions relating to powers of attorney for certain financial matters and health care; revising provisions relating to the Nevada Lockbox; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the Uniform Power of Attorney Act which authorizes a person to grant authority to an agent to act for the person in certain matters relating to financial decisions. (NRS 162A.200-162A.660) Existing law also sets forth provisions governing durable powers of attorney for health care decisions. (NRS 162A.700-162A.865) Existing law provides that "durable" means a power of attorney is not terminated by the incapacity of a principal. (NRS 162A.040) Additionally, existing law sets forth the circumstances under which a guardian may be appointed after a power of attorney has been executed. (NRS 162A.250, 162A.800)

Section 1 of this bill defines the term "nondurable" as a power of attorney that terminates upon the incapacity of a principal. Section 2.5 of this bill revises the term "incapacity" to provide that such incapacity must be ~~[judicially]~~ determined ~~[,]~~ by a court of competent jurisdiction or, if an instrument executed pursuant to chapter 162A of NRS specifically provides a different method for determining incapacity, by the method set forth in that instrument. Sections 3 and 4 of this bill set forth the circumstances under which a guardian is appointed after the proper execution of a: (1) durable power of attorney for both financial matters and health care; and (2) nondurable power of attorney for both financial matters and health care.

Existing law establishes provisions relating to the Nevada Lockbox, which is a registry authorized to be established and maintained on the Secretary of State's Internet website in which a person may register a will or certain other documents. (NRS 225.300-225.440) Existing law specifically provides a form for a power of attorney for health care. (NRS 162A.860) Section 5 of this bill revises the form by informing the principal that the principal may request a power of attorney for health care be electronically stored in the Nevada Lockbox to allow access by authorized providers of health care. Section 5 also provides additional desires specific to possible health care decisions.

Section 7 of this bill provides that a durable power of attorney for health care, executed pursuant to existing law, constitutes a valid declaration governing the withholding or withdrawal of life-sustaining treatment.

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

Section 1. Chapter 162A of NRS is hereby amended by adding thereto a new section to read as follows:

"Nondurable," with respect to a power of attorney, means terminated by the principal's incapacity.

Sec. 2. NRS 162A.010 is hereby amended to read as follows:

162A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 162A.020 to 162A.160, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 2.5. NRS 162A.070 is hereby amended to read as follows:

162A.070 "Incapacity" means the ~~[judicially determined]~~ inability of an individual to manage property or business affairs because the individual:

1. Has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

2. Is:

(a) Missing;

(b) Detained, including incarcerated in a penal system; or

(c) Outside the United States and unable to return ~~[.]~~ ,

➥ *as determined by a court of competent jurisdiction or, if an instrument executed pursuant to this chapter specifically provides a different method for determining the incapacity of an individual for the purposes of this chapter, as determined by the method set forth in that instrument.*

Sec. 3. NRS 162A.250 is hereby amended to read as follows:

162A.250 1. In a power of attorney, a principal may nominate a guardian of the principal's estate for consideration by the court if guardianship proceedings for the principal's estate or person are begun after the principal executes the power of attorney.

2. If, after a principal *properly* executes a *nondurable* power of attorney ~~[,]~~ *pursuant to NRS 162A.220,* a court appoints a guardian of the principal's estate, the *nondurable* power of attorney is terminated . ~~[, unless the]~~

3. If, after a principal properly executes a durable power of attorney pursuant to NRS 162A.220, a court appoints a guardian of the principal's estate, the durable power of attorney is suspended and the agent's authority is not exercisable unless the court orders the termination of the guardianship, and the power of attorney has not otherwise been terminated pursuant to NRS 162A.270. Upon the court ordering such a termination of the guardianship, the durable power of attorney is effective and no longer suspended pursuant to this subsection and the agent's authority is exercisable.

4. Except as otherwise provided in subsection 3, the court ~~[allows]~~ *may issue an order allowing* the agent to retain specific powers conferred by the power of attorney. In the event the court allows the agent to retain specific powers, the agent shall file an accounting with the court and the guardian on a quarterly basis or such other period as the court may designate.

Sec. 4. NRS 162A.800 is hereby amended to read as follows:

162A.800 1. In a power of attorney for health care, a principal may nominate a guardian of the principal's person for consideration by the court if guardianship proceedings for the principal's person are begun after the principal executes the power of attorney.

2. If, after a principal *properly* executes a *nondurable* power of attorney for health care ~~[,]~~ *pursuant to NRS 162A.790,* a court appoints a guardian of

the principal's person, the *nondurable* power of attorney is terminated. The guardian shall follow any provisions contained in the *nondurable* power of attorney for health care delineating the principal's wishes for medical and end-of-life care.

3. If, after a principal properly executes a durable power of attorney for health care pursuant to NRS 162A.790, a court appoints a guardian of the principal's person, the durable power of attorney for health care is suspended and the agent's authority is not exercisable unless the court orders the termination of the guardianship, and the power of attorney has not otherwise been terminated pursuant to NRS 162A.270. Upon the court ordering such a termination of the guardianship, the durable power of attorney for health care is effective and no longer suspended pursuant to this subsection and the agent's authority is exercisable.

Sec. 5. NRS 162A.860 is hereby amended to read as follows:

162A.860 Except as otherwise provided in NRS 162A.865, the form of a power of attorney for health care may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:

DURABLE POWER OF ATTORNEY
FOR HEALTH CARE DECISIONS
WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL OF CONSENT OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO MAINTAIN, DIAGNOSE OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR NOT

GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

7. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, HOSPITAL OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

8. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

9. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

10. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

11. YOU MAY REQUEST THAT THE NEVADA SECRETARY OF STATE ELECTRONICALLY STORE WITH THE NEVADA LOCKBOX A COPY OF THIS DOCUMENT TO ALLOW ACCESS BY AN AUTHORIZED PROVIDER OF HEALTH CARE AS DEFINED IN NRS 629.031.

1. DESIGNATION OF HEALTH CARE AGENT.

I, ...

(insert your name) do hereby designate and appoint:

Name: .....
Address: .....
Telephone Number: .....
as my agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4. SPECIAL PROVISIONS AND LIMITATIONS.

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of treatment or placement that you do not want your agent's authority to give consent for or other restrictions you wish to place on his or her agent's authority, you should list them in the space below. If you do not write any limitations, your agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my agent is subject to the following special provisions and limitations: .....
.....
.....
.....
.....

5. DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this power of attorney end on the following date:

6. STATEMENT OF DESIRES.

(With respect to decisions to withhold or withdraw life-sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)

	(If the statement reflects your desires, initial the box next to the statement.)
1. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures.	[.....]
2. If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments not be used. ~~[(Also should utilize provisions of NRS 449A.400 to 449A.481, inclusive, if this subparagraph is initialed.)].~~	[.....]
3. If I have an incurable or terminal condition or illness and no reasonable	

hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments not be used. ~~[(Also should utilize provisions of NRS 449A.400 to 449A.481, inclusive, if this subparagraph is initialed.)]~~. [.....]

4. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other Treatment is withheld. [.....]

5. I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life. [.....]

6. If I have an incurable or terminal condition, including late stage dementia, or illness and no reasonable hope of long-term recovery or survival, I desire my attending physician to administer any medication to alleviate suffering without regard that the medication is likely to cause addiction or reduce the extension of my life [.....]

(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires: .....
.....
.....
.....
.....
.....

7. DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same health care decisions as the agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her

designation as your agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my agent is unable to make health care decisions for me, then I designate the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternative Agent

Name: .....

Address: .....

Telephone Number: .....

B. Second Alternative Agent

Name: .....

Address: .....

Telephone Number: .....

8. PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

9. WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

10. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

11. NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, proceedings seeking an adjudication of incapacity are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

12. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on ..... (date) at ..... (city), ... (state)

.....
(Signature)

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT
OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }
}ss.
County of ..... }

On this..... day of....., in the year.., before me,..... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL .....
(Signature of Notary Public)

STATEMENT OF WITNESSES

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the

operator of a health care facility or an employee of an operator of a health care facility.

Signature: ..... Residence Address: .....
Print Name: ....
Date: ....
Signature: ..... Residence Address: .....
Print Name: ....
Date: ....

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: .....
Signature: .....
Names: ..... Address: .....
Print Name: ....
Date: ....

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care. *This includes requesting the Nevada Secretary of State to electronically store this document with the Nevada Lockbox to allow access by authorized providers of health care.*

Sec. 6. NRS 225.330 is hereby amended to read as follows:

225.330 "Other document" means a document registered with the Secretary of State pursuant to NRS 225.370 and may include, without limitation, a passport, a birth certificate, a marriage license , ~~[or]~~ a form requesting to nominate a guardian that is executed in accordance with NRS 159.0753 ~~[.]~~ *or a power of attorney for health care that is properly executed pursuant to NRS 162A.790.*

Sec. 7. NRS 449A.433 is hereby amended to read as follows:

449A.433 1. A person of sound mind and 18 or more years of age may execute at any time a declaration governing the withholding or withdrawal of life-sustaining treatment. The declarant may designate another natural person of sound mind and 18 or more years of age to make decisions governing the withholding or withdrawal of life-sustaining treatment. The declaration must be signed by the declarant, or another at the declarant's direction, and attested by two witnesses.

2. A physician or other provider of health care who is furnished a copy of the declaration shall make it a part of the declarant's medical record and, if unwilling to comply with the declaration, promptly so advise the declarant and any person designated to act for the declarant.

3. A durable power of attorney for health care properly executed pursuant to NRS 162A.790 regarding the withholding or withdrawal of life-sustaining treatment constitutes for the purposes of NRS 449A.400 to 449A.481, inclusive, a properly executed declaration pursuant to this section.

Senator Ohrenschall moved the adoption of the amendment.

Remarks by Senator Ohrenschall.

Amendment No. 892 to Assembly Bill No. 299 amends section 2.5 of the bill to require if the person is to be determined to have lost their capacity, it would either be determined by a court of competent jurisdiction, or if there was a testamentary instrument that had been drafted pursuant to Nevada Revised Statutes 162.A, in the power of attorney, guardianship section, that would be the method used.

Amendment adopted.

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

REPORTS OF COMMITTEE

Madam President:

Your Committee on Finance, to which was re-referred Senate Bill No. 314, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Senator Cannizzaro moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 4:09 p.m.

SENATE IN SESSION

At 4:52 p.m.

President Marshall presiding.

Quorum present.

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Assembly Standing Committee on Legislative Operations and Elections.

For: Senate Bill No. 50.

To Waive:

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: Thursday, May 23, 2019.

NICOLE CANNIZZARO
Senate Majority Leader

JASON FRIERSON
Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 9.

Resolution read.

Senator Ohrenschall moved the adoption of the resolution.

Remarks by Senator Ohrenschall.

Senate Concurrent Resolution No. 9 directs the Legislative Commission to conduct an interim study of requirements for the reapportionment and redistricting of election districts for Nevada's members of the State Legislature, the United States House of Representatives and the Board of

Regents of the Nevada System of Higher Education. The study must include an examination and monitoring of any redistricting systems established or recommended by the Nevada Legislature; a review of pertinent case law; a review of redistricting programs and plans used in other states, and the continuation of Nevada's participation in programs of the United States Census Bureau, including participation in the decennial census to ensure a complete and accurate count of all Nevadans. The Legislative Commission must report to the 2021 Legislature the results of the study and any action to be taken in preparation for and recommendations concerning reapportionment and redistricting. This an interim study to deal with the technical issues that lead up to the census, which happens every ten years. I urge your support.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

SECOND READING AND AMENDMENT

Senate Bill No. 544.

Bill read second time.

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

Amendment No. 863.

SUMMARY—Creates the Patient Protection Commission. (BDR 40-1221)

AN ACT relating to health care; creating the Patient Protection Commission; providing for the appointment of certain employees of the Commission; prescribing the duties of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes: (1) the Office for Consumer Health Assistance to assist and inform consumers and injured employees regarding certain issues relating to health insurance and workers' compensation; and (2) the Bureau for Hospital Patients to resolve disputes between patients and hospitals. (NRS 232.451-232.462) Section 5 of this bill creates the Patient Protection Commission, prescribes the membership of the Commission and establishes procedures of the Commission. Section 6 of this bill authorizes the Commission to establish subcommittees and enter into contracts with consultants to assist the Commission in the performance of its duties. Section 7 of this bill requires the Governor to appoint an Executive Director of the Commission to perform the administrative duties of the Commission and such other duties as may be assigned by the Commission. Section 7 authorizes the Executive Director to hire additional employees within the limits of available money. Section 7 also authorizes the Executive Director to access information maintained by state agencies, including information that is otherwise confidential. Sections 7 and 12 of this bill require the Executive Director to maintain the confidentiality of such information. Section 8 of this bill requires the Commission to systematically review issues related to the health care needs of the residents of this State and the quality, accessibility and affordability of health care in this State. Section 9 of this bill requires the Commission to: (1) perform certain additional duties to facilitate collaboration between entities that study or address issues relating to the quality, accessibility and affordability of health care; and (2) submit a report concerning the activities

of the Commission to the Governor and the Legislature twice each year. Section 10 of this bill authorizes the Commission to request the drafting of not more than ~~[two]~~ three legislative measures for each regular session, and section 11 of this bill makes a conforming change.

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 2 to 9, inclusive, of this act.

Sec. 2. *As used in sections 2 to 9, inclusive, of this act, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Commission" means the Patient Protection Commission created by section 5 of this act.*

Sec. 4. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 5. *1. The Patient Protection Commission is hereby created. The Commission consists of:*

(a) The following 11 voting members appointed by the Governor:

(1) Two persons who have expertise and experience in advocating on behalf of patients.

(2) Two representatives of providers of health care.

(3) Two representatives of hospitals.

(4) Two representatives of health insurers.

(5) One person who engages in the academic study of health care policy or public health.

(6) One representative of the prescription drug industry.

(7) One representative of the general public.

(b) The Director of the Department, the Commissioner of Insurance and the Executive Director of the Silver State Health Insurance Exchange as ex officio, nonvoting members.

2. The Governor shall:

(a) Appoint two of the voting members of the Commission described in paragraph (a) of subsection 1 from a list of persons nominated by the Majority Leader of the Senate;

(b) Appoint two of the voting members of the Commission described in paragraph (a) of subsection 1 from a list of persons nominated by the Speaker of the Assembly; and

Ensure that the members appointed by the Governor to the Commission reflect the geographic diversity of this State.

3. Members of the Commission serve without compensation or per diem but are entitled to receive reimbursement for travel expenses in the same amount provided for state officers and employees generally.

4. After the initial terms, the term of each voting member is 2 years, except that the Governor may remove a voting member at any time and for any reason. A member may be reappointed.

5. If a vacancy occurs during the term of a voting member, the Governor shall appoint a person similarly qualified to replace that member for the remainder of the unexpired term.

6. The Governor shall annually designate a voting member to serve as the Chair of the Commission.

7. A majority of the voting members of the Commission constitutes a quorum for the transaction of business, and a majority of the members of a quorum present at any meeting is sufficient for any official action taken by the Commission.

Sec. 6. *1. The Commission shall meet at the call of the Chair.*

2. The Commission may:

(a) Establish subcommittees consisting of members of the Commission or other persons to assist the Commission in the performance of its duties. Each subcommittee expires 6 months after it is created but may be continued with approval of the Commission. Not more than six subcommittees may exist at any time.

(b) To the extent that money is available for this purpose, enter into contracts with consultants to assist the Commission in the performance of its duties.

3. Within the limits of available resources, state agencies, boards and commissions shall, upon the request of the Executive Director of the Commission, provide advice and technical assistance to the Commission.

Sec. 7. *1. The Governor shall appoint the Executive Director of the Commission within the Office of the Governor. The Executive Director:*

(a) Must have experience in health care or health insurance;

(b) Is in the unclassified service of the State; and

(c) Serves at the pleasure of the Governor.

2. The Executive Director shall:

(a) Perform the administrative duties of the Commission and such other duties as are directed by the Commission; and

(b) To the extent that money is available for this purpose, appoint employees to assist the Executive Director in carrying out the duties prescribed in paragraph (a). Such employees serve at the pleasure of the Executive Director and are in the unclassified service of the State.

3. The Executive Director may request any information maintained by a state agency that is necessary for the performance of his or her duties, including, without limitation, information that is otherwise declared confidential by law. To the extent authorized by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and the regulations adopted pursuant thereto, an agency from which such information is requested shall provide the information to the Executive Director.

4. The Executive Director:

(a) Shall maintain any information obtained pursuant to subsection 3 under the same conditions as the information is maintained by the agency that provided the information; and

(b) Except as otherwise provided in this paragraph, shall not disclose any confidential information obtained pursuant to subsection 3 to any other person or entity, including, without limitation, the Commission or a member thereof. The Executive Director may disclose or publish aggregated information in a manner that does not reveal the identity of any person.

Sec. 8. *1. The Commission shall systematically review issues related to the health care needs of residents of this State and the quality, accessibility and affordability of health care, including, without limitation, prescription drugs, in this State. The review must include, without limitation:*

(a) Comprehensively examining the system for regulating health care in this State, including, without limitation, the licensing and regulation of health care facilities and providers of health care and the role of professional licensing boards, commissions and other bodies established to regulate or evaluate policies related to health care.

(b) Identifying gaps and duplication in the roles of such boards, commissions and other bodies.

(c) Examining the cost of health care and the primary factors impacting those costs.

(d) Examining disparities in the quality and cost of health care between different groups, including, without limitation, minority groups and other distinct populations in this State.

(e) Reviewing the adequacy and types of providers of health care who participate in networks established by health carriers in this State and the geographic distribution of the providers of health care who participate in each such network.

(f) Reviewing the availability of health benefit plans, as defined in NRS 687B.470, in this State.

(g) Reviewing the effect of any changes to Medicaid, including, without limitation, the expansion of Medicaid pursuant to the Patient Protection and Affordable Care Act, Public Law 111-148, on the cost and availability of health care and health insurance in this State.

(h) Reviewing proposed and enacted legislation, regulations and other changes to state and local policy related to health care in this State.

(i) Researching possible changes to state or local policy in this State that may improve the quality, accessibility or affordability of health care in this State, including, without limitation:

(1) The use of purchasing pools to decrease the cost of health care;

(2) Increasing transparency concerning the cost or provision of health care;

(3) Regulatory measures designed to increase the accessibility and the quality of health care, regardless of geographic location or ability to pay;

(4) Facilitating access to data concerning insurance claims for medical services to assist in the development of public policies;

(5) Resolving problems relating to the billing of patients for medical services;

(6) Leveraging the expenditure of money by the Medicaid program and reimbursement rates under Medicaid to increase the quality and accessibility of health care for low-income persons; and

(7) Increasing access to health care for uninsured populations in this State, including, without limitation, retirees and children.

(j) Monitoring and evaluating proposed and enacted federal legislation and regulations and other proposed and actual changes to federal health care policy to determine the impact of such changes on the cost of health care in this State.

(k) Evaluating the degree to which the role, structure and duties of the Commission facilitate the oversight of the provision of health care in this State by the Commission and allow the Commission to perform activities necessary to promote the health care needs of residents of this State.

(l) Making recommendations to the Governor, the Legislature, the Department of Health and Human Services, local health authorities and any other person or governmental entity to increase the quality, accessibility and affordability of health care in this State, including, without limitation, recommendations concerning the items described in this subsection.

2. As used in this section:

(a) "Health carrier" has the meaning ascribed to it in NRS 687B.625.

(b) "Network" has the meaning ascribed to it in NRS 687B.640.

Sec. 9. *1. In addition to conducting the review described in section 8 of this act, the Commission shall attempt to:*

(a) Identify and facilitate collaboration between existing state governmental entities that study or address issues relating to the quality, accessibility and affordability of health care in this State, including, without limitation, the regional behavioral health policy boards created by NRS 433.429; and

(b) Coordinate with such entities to reduce any duplication of efforts among and between those entities and the Commission.

2. On or before January 1 and July 1 of each year, the Commission shall:

(a) Compile a report describing the meetings of the Commission and the activities of the Commission during the immediately preceding 6 months. The report must include, without limitation, a description of any issues identified as negatively impacting the quality, accessibility or affordability of health care in this State and any recommendations for legislation, regulations or other changes to policy or budgets to address those issues.

(b) Submit the report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to:

(1) In January of odd-numbered years, the next regular session of the Legislature.

(2) In all other cases, to the Legislative Committee on Health Care.

3. Upon receiving a report pursuant to subsection 2, the Governor shall post the report on an Internet website maintained by the Governor.

4. The Commission may prepare and publish additional reports on specific topics at the direction of the Chair.

Sec. 10. Chapter 218D of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Patient Protection Commission created by section 5 of this act may request the drafting of not more than ~~[two]~~ three legislative measures which relate to matters within the scope of the Commission. Any such request must be submitted to the Legislative Counsel on or before September 1 preceding a regular session.

2. A request made pursuant to this section must be on a form prescribed by the Legislative Counsel. A legislative measure requested pursuant to this section must be prefiled on or before the third Wednesday in November preceding a regular session. A legislative measure that is not prefiled on or before that day shall be deemed withdrawn.

Sec. 11. NRS 218D.100 is hereby amended to read as follows:

218D.100 1. The provisions of NRS 218D.100 to 218D.220, inclusive, *and section 10 of this act* apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to 218D.220, inclusive, *and section 10 of this act* for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to 218D.220, inclusive, *and section 10 of this act* but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(b) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

Sec. 12. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925,

209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,

676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600 ~~[,]~~ *and section 7 of this act,* sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 13. As soon as practicable after the effective date of this act, the Governor shall appoint the voting members of the Patient Protection Commission created by section 5 of this act as follows:

1. One member described in subparagraph (1) of paragraph (a) of subsection 1 of section 5 of this act, one member described in subparagraph (2) of paragraph (a) of subsection 1 of section 5 of this act, one member described in subparagraph (3) of paragraph (a) of subsection 1 of section 5 of this act, one member described in subparagraph (4) of paragraph (a) of subsection 1 of

section 5 of this act and the member described in subparagraph (6) of paragraph (a) of subsection 1 of section 5 of this act to initial terms that expire on July 1, 2020; and

2. One member described in subparagraph (1) of paragraph (a) of subsection 1 of section 5 of this act, one member described in subparagraph (2) of paragraph (a) of subsection 1 of section 5 of this act, one member described in subparagraph (3) of paragraph (a) of subsection 1 of section 5 of this act, one member described in subparagraph (4) of paragraph (a) of subsection 1 of section 5 of this act, the member described in subparagraph (5) of paragraph (a) of subsection 1 of section 5 of this act and the member described in subparagraph (7) of paragraph (a) of subsection 1 of section 5 of this act to initial terms that expire on July 1, 2021.

Sec. 14. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 15. This act becomes effective upon passage and approval.

Senator Ratti moved the adoption of the amendment.

Remarks by Senator Ratti.

Amendment No. 863 to Senate Bill No. 544 increases, from two to three, the number of legislative measures the Patient Protection Commission may request.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 66.

Bill read second time.

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

Amendment No. 909.

SUMMARY— ~~[Provides for the establishment of psychiatric hospitals to provide crisis stabilization services.]~~ Revises provisions relating to mental health. (BDR ~~[39-486)]~~ 40-486)

AN ACT relating to mental health; ~~[providing for the establishment]~~ authorizing the holder of a license to operate a psychiatric ~~[hospitals to provide crisis stabilization services in certain highly populated counties;]~~ hospital that meets certain requirements to obtain an endorsement as a crisis stabilization center; providing for the licensure and regulation of providers of nonemergency secure behavioral health transport services; authorizing a licensed provider of such services to transport persons with mental illness under certain conditions; requiring certain health maintenance organizations and managed care organizations to negotiate with such hospitals to become in network providers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the operator of a psychiatric hospital to obtain a license from the Division of Public and Behavioral Health of the Department of Health and Human Services . ~~[to operate certain facilities to provide mental health~~

~~services. (NRS 433.233) Existing law also authorizes the Division to contract with certain persons and entities for the provision of mental health services and related services. (NRS 433.334-433.354)]~~ (NRS 449.030) Section 1 of this bill authorizes the Division to ~~[establish psychiatric hospitals to provide]~~ issue to the holder of such a license an endorsement as a crisis stabilization ~~[services. Section 1 also authorizes the Division to enter into a contract with a provider of behavioral health services to provide crisis stabilization services at the psychiatric hospital.]~~ center. Section 1 requires a crisis stabilization center to meet certain requirements, including providing crisis stabilization services. Section 1 defines "crisis stabilization services" to mean behavioral health services designed to: (1) de-escalate or stabilize a behavioral crisis; and (2) avoid admission of a patient to another inpatient mental health facility or hospital when appropriate. Section ~~[1.4]~~ 9 of this bill requires services provided at a ~~[psychiatric hospital established by the Division to provide]~~ crisis stabilization ~~[services]~~ center to be reimbursable under Medicaid.

Existing law authorizes certain entities to transport a person who is the subject of an application for emergency admission to a hospital or mental health facility or an involuntary court-ordered admission to a mental health facility. (NRS 433A.160, 433A.330) Section 10 of this bill requires the State Board of Health to adopt regulations providing for the licensure and regulation of providers of nonemergency secure behavioral health transport services. Section 10 defines the term "nonemergency secure behavioral health transport services" to mean the use of a motor vehicle, other than an ambulance or emergency response vehicle, that is specifically designed, equipped and staffed to transport persons with a mental illness or other behavioral health condition. Sections 11 and 12 of this bill authorize the use of such services to transport a person who is the subject of an application for emergency admission to a hospital or mental health facility or an involuntary court-ordered admission to a mental health facility.

Sections ~~[1.5]~~ 13 and ~~[1.7]~~ 15 of this bill require a health maintenance organization and managed care organization that provide health care services to recipients of Medicaid or enrollees in the Children's Health Insurance Program to negotiate in good faith to include such a psychiatric hospital in the network of providers under contract to provide services to such persons. Sections 2-9 and 14 of this bill make conforming changes. Existing law authorizes the State Board of Health to impose fees for licensing by the Division. (NRS 439.150) Therefore, the State Board will be authorized to impose a fee for the issuance or renewal of a license or endorsement issued pursuant to the provisions of this bill. (NRS 439.150)

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

Section 1. Chapter ~~[433]~~ 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Division may ~~[establish psychiatric hospitals that meet the requirements of this section to provide]~~ issue an endorsement as a crisis

stabilization ~~[services. Such]~~ center to the holder of a license to operate a psychiatric hospital that meets the requirements of this section.

2. A psychiatric hospital that wishes to obtain an endorsement as a crisis stabilization center must ~~[:]~~ submit an application in the form prescribed by the Division which must include, without limitation, proof that the applicant meets the requirements of subsection 3.

3. An endorsement as a crisis stabilization center may only be issued if the psychiatric hospital to which the endorsement will apply:

(a) ~~[Not later than 1 year after commencing the delivery of services to patients, be accredited by the Commission on Accreditation of Rehabilitation Facilities, or its successor organization, or the Joint Commission, or its successor organization;~~

~~(b) Not]~~ Does not exceed a capacity of 16 beds or ~~[be]~~ constitute an institution for mental diseases, as defined in 42 U.S.C. § 1396d;

~~[(c) Operate]~~

(b) Operates in accordance with established administrative protocols, evidenced-based protocols for providing treatment and evidence-based standards for documenting information concerning services rendered and recipients of such services in accordance with best practices for providing crisis stabilization services;

~~[(d) Deliver]~~

(c) Delivers crisis stabilization services:

(1) To patients for not less than 24 hours in an area devoted to crisis stabilization or detoxification before releasing the patient into the community, referring the patient to another facility or transferring the patient to a bed within the hospital for short-term treatment, if the psychiatric hospital has such beds;

(2) In accordance with best practices for the delivery of crisis stabilization services; and

(3) In a manner that promotes concepts that are integral to recovery for persons with mental illness, including, without limitation, hope, personal empowerment, respect, social connections, self-responsibility and self-determination;

~~[(e) Employ]~~

(d) Employs qualified persons to provide peer support services, as defined in NRS 449.01566, when appropriate;

~~[(f) Use]~~

(e) Uses a data management tool to collect and maintain data relating to admissions, discharges, diagnoses and long-term outcomes for recipients of crisis stabilization services;

~~[(g) Perform]~~

(f) Accepts all patients, without regard to:

(1) The race, ethnicity, gender, socioeconomic status, sexual orientation or place of residence of the patient;

(2) Any social conditions that affect the patient;

(3) The ability of the patient to pay; or

(4) Whether the patient is admitted voluntarily to the psychiatric hospital pursuant to NRS 433A.140 or admitted to the psychiatric hospital under an emergency admission pursuant to NRS 433A.150;

(g) Performs an initial assessment on any patient who presents at the psychiatric hospital, regardless of the severity of the behavioral health issues that the patient is experiencing;

~~*[(h) Have]*~~

(h) Has the equipment and personnel necessary to conduct a medical examination of a patient pursuant to NRS 433A.165; and

(i) ~~*[Consider]*~~ *Considers whether each patient would be better served by another facility and transfer a patient to another facility when appropriate.*

~~*[2.]*~~ *4. Crisis stabilization services that may be provided pursuant to paragraph* ~~*[(d)]*~~ *(c) of subsection 1 may include, without limitation:*

(a) Case management services, including, without limitation, such services to assist patients to obtain housing, food, primary health care and other basic needs;

(b) Services to intervene effectively when a behavioral health crisis occurs and address underlying issues that lead to repeated behavioral health crises;

(c) Treatment specific to the diagnosis of a patient; and

(d) Coordination of aftercare for patients, including, without limitation, at least one follow-up contact with a patient not later than 72 hours after the patient is discharged.

~~*[3.]*~~ *5.* ~~*[The Division may enter into a contract with an organization that specializes in the provision of behavioral health services to provide crisis stabilization services. Before entering into such a contract, the Division must consult with the regional behavioral health policy board created by NRS 433.429 for the region in which the crisis stabilization center is located concerning the scope of the contract.*~~

~~*4. A psychiatric hospital established pursuant to this section must accept all patients, without regard to:*~~

~~*(a) The race, ethnicity, gender, socioeconomic status, sexual orientation or place of residence of the patient;*~~

~~*(b) Any social conditions that affect the recipient;*~~

~~*(c) The ability of the patient to pay; or*~~

~~*(d) Whether the patient is admitted to the psychiatric hospital on a voluntary admission pursuant to NRS 433A.140 or emergency admission pursuant to NRS 433A.150.*~~

~~*5. The Division may accept gifts, grants and donations from any source for the purpose of carrying out the provisions of this section.*~~

~~*6.]*~~ *An endorsement as a crisis stabilization center must be renewed at the same time as the license to which the endorsement applies. An application to renew an endorsement as a crisis stabilization center must include, without limitation:*

(a) The information described in subsection 1; and

(b) Proof that the psychiatric hospital is accredited by the Commission on Accreditation of Rehabilitation Facilities, or its successor organization, or the Joint Commission, or its successor organization.

6. As used in this section ~~[:~~

~~(a) "Crisis]~~ , "crisis stabilization services" means behavioral health services designed to:

~~[(1)]~~ (a) De-escalate or stabilize a behavioral crisis, including, without limitation, a behavioral health crisis experienced by a person with a co-occurring substance use disorder; and

~~[(2)]~~ (b) When appropriate, avoid admission of a patient to another inpatient mental health facility or hospital and connect the patient with providers of ongoing care as appropriate for the unique needs of the patient.

~~[(b) "Psychiatric hospital" has the meaning ascribed to it in NRS 449.0165.]~~

Sec. 2. NRS 449.029 is hereby amended to read as follows:

449.029 As used in NRS 449.029 to 449.240, inclusive, *and section 1 of this act,* unless the context otherwise requires, "medical facility" has the meaning ascribed to it in NRS 449.0151 and includes a program of hospice care described in NRS 449.196.

Sec. 3. NRS 449.0301 is hereby amended to read as follows:

449.0301 The provisions of NRS 449.029 to 449.2428, inclusive, *and section 1 of this act* do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility, facility for the dependent or facility which is otherwise required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed that is operated and maintained by the United States Government or an agency thereof.

Sec. 4. NRS 449.089 is hereby amended to read as follows:

449.089 1. Each license issued pursuant to NRS 449.029 to 449.2428, inclusive, *and section 1 of this act* expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.029 to 449.2428, inclusive, *and section 1 of this act* or the standards and regulations adopted by the Board;

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, a psychiatric hospital that provides inpatient services to children, a psychiatric residential treatment facility, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, a peer support recovery organization, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5, a hospital that provides swing-bed services as described in 42 C.F.R. § 482.58 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs must include, without limitation, a statement that the facility, hospital, agency, program, pool, organization or home is in compliance with the provisions of NRS 449.115 to 449.125, inclusive, and 449.174.

3. Each reapplication for an agency to provide personal care services in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, a peer support recovery organization, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency, pool, organization or home are in compliance with the provisions of NRS 449.093.

Sec. 5. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.029 to 449.2428, inclusive, *and section 1 of this act* upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, *and section 1 of this act* or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to NRS 449.001 to 449.430, inclusive, *and section 1 of this act* and 449.435 to 449.531, inclusive, and chapter 449A of NRS if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➥ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Division pursuant to subsection 2.

Sec. 6. NRS 449.163 is hereby amended to read as follows:

449.163 1. In addition to the payment of the amount required by NRS 449.0308, if a medical facility, facility for the dependent or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, *and section 1 of this act* or any condition, standard or regulation adopted by the Board, the Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) If the license of the facility limits the occupancy of the facility and the facility has exceeded the approved occupancy, require the facility, at its own expense, to move patients to another facility that is licensed;

(d) Impose an administrative penalty of not more than $5,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(e) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (d) of subsection 1, the Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

3. The Division may require any facility that violates any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, *and section 1 of this act* or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

4. Any money collected as administrative penalties pursuant to paragraph (d) of subsection 1 must be accounted for separately and used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, *and section 1 of this act,* 449.435 to 449.531, inclusive, and chapter 449A of NRS to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards or for any other purpose authorized by the Legislature.

Sec. 7. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.029 to 449.245, inclusive ~~[.]~~ *, and section 1 of this act.*

~~[Sec. 1.3.]~~ *Sec. 8.* NRS 232.320 is hereby amended to read as follows:

232.320 1. The Director:

(a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:

(1) The Administrator of the Aging and Disability Services Division;

(2) The Administrator of the Division of Welfare and Supportive Services;

(3) The Administrator of the Division of Child and Family Services;

(4) The Administrator of the Division of Health Care Financing and Policy; and

(5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive,

422.001 to 422.410, inclusive, *and section ~~[1.4]~~ 9 of this act*, 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Division of Public and Behavioral Health or the professional line activities of the other divisions.

(c) Shall administer any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

(d) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

(1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies;

(2) Set forth priorities for the provision of those services;

(3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;

(4) Identify the sources of funding for services provided by the Department and the allocation of that funding;

(5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and

(6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.

(e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.

(f) Has such other powers and duties as are provided by law.

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department, other than the State Public Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.

~~[Sec. 1.4.]~~ *Sec. 9.* Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

The Department shall take any action necessary to ensure that crisis stabilization services provided at a psychiatric hospital established pursuant to section 1 of this act are reimbursable under Medicaid to the same extent as if the services were provided in another covered facility.

Sec. 10. Chapter 433 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Health shall adopt regulations providing for the licensure and regulation of providers of nonemergency secure behavioral health transport services by the Division.

2. As used in this section, "nonemergency secure behavioral health transport services" means the use of a motor vehicle, other than an ambulance, as defined in NRS 450B.040, or other emergency response vehicle, that is specifically designed, equipped and staffed to transport a person with a mental illness or other behavioral health condition in a manner that:

(a) Allows observation of the person being transported; and

(b) Prevents the person being transported from escaping from the vehicle or accessing the driver or the means of controlling the vehicle.

Sec. 11. NRS 433A.160 is hereby amended to read as follows:

433A.160 1. Except as otherwise provided in subsection 2, an application for the emergency admission of a person alleged to be a person with mental illness for evaluation, observation and treatment may only be made by an accredited agent of the Department, an officer authorized to make arrests in the State of Nevada or a physician, physician assistant, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse. The agent, officer, physician, physician assistant, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse may:

(a) Without a warrant:

(1) Take a person alleged to be a person with mental illness into custody to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Transport the person alleged to be a person with mental illness to a public or private mental health facility or hospital for that purpose, or arrange for the person to be transported by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority;

(III) An entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421; ~~[or]~~

(IV) *A provider of nonemergency secure behavioral health transport services licensed under the regulations adopted pursuant to section 10 of this act; or*

(V) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➥ only if the agent, officer, physician, physician assistant, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse has, based upon his or her personal observation of the person alleged to be a person with mental illness, probable cause to believe that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty.

(b) Apply to a district court for an order requiring:

(1) Any peace officer to take a person alleged to be a person with mental illness into custody to allow the applicant for the order to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Any agency, system , *provider* or service described in subparagraph (2) of paragraph (a) to transport the person alleged to be a person with mental illness to a public or private mental health facility or hospital for that purpose.

➥ The district court may issue such an order only if it is satisfied that there is probable cause to believe that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty.

2. An application for the emergency admission of a person alleged to be a person with mental illness for evaluation, observation and treatment may be made by a spouse, parent, adult child or legal guardian of the person. The spouse, parent, adult child or legal guardian and any other person who has a legitimate interest in the person alleged to be a person with mental illness may apply to a district court for an order described in paragraph (b) of subsection 1.

3. The application for the emergency admission of a person alleged to be a person with mental illness for evaluation, observation and treatment must reveal the circumstances under which the person was taken into custody and the reasons therefor.

4. Except as otherwise provided in this subsection, each person admitted to a public or private mental health facility or hospital under an emergency admission must be evaluated at the time of admission by a psychiatrist or a psychologist. If a psychiatrist or a psychologist is not available to conduct an evaluation at the time of admission, a physician or an advanced practice registered nurse who has the training and experience prescribed by the State Board of Nursing pursuant to NRS 632.120 may conduct the evaluation. Each such emergency admission must be approved by a psychiatrist.

5. As used in this section, "an accredited agent of the Department" means any person appointed or designated by the Director of the Department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.

Sec. 12. NRS 433A.330 is hereby amended to read as follows:

433A.330 1. When an involuntary court admission to a mental health facility is ordered under the provisions of this chapter, the involuntarily admitted person, together with the court orders and certificates of the

physicians, certified psychologists, advanced practice registered nurses or evaluation team and a full and complete transcript of the notes of the official reporter made at the examination of such person before the court, must be delivered to the sheriff of the county who shall:

(a) Transport the person; or

(b) Arrange for the person to be transported by:

(1) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority; ~~[or]~~

(2) *A provider of nonemergency secure behavioral health transport services licensed under the regulations adopted pursuant to section 10 of this act; or*

(3) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➥ to the appropriate public or private mental health facility.

2. No person with mental illness may be transported to the mental health facility without at least one attendant of the same sex or a relative in the first degree of consanguinity or affinity being in attendance.

~~[Sec. 1.5.]~~ *Sec. 13.* Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

A health maintenance organization that provides health care services 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 shall negotiate in good faith to enter into a contract with a psychiatric hospital ~~[established]~~ with an endorsement as a crisis stabilization center pursuant to section 1 of this act to include the psychiatric hospital in the network of providers under contract with the health maintenance organization to provide services to recipients of Medicaid or enrollees in the Children's Health Insurance Program, as applicable.

~~[Sec. 1.6.]~~ *Sec. 14.* NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, *and section ~~[1.5]~~ 13 of this act,* or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The Commissioner certifies that the health maintenance organization:

(1) Does not meet the requirements of subsection 1 of NRS 695C.080; or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees or creditors or to the general public;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

~~[Sec. 1.7.]~~ *Sec. 15.* Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

A managed care organization that provides health care services 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 shall negotiate in good faith to enter into a contract with a psychiatric hospital ~~[established]~~ with an endorsement as a crisis stabilization center pursuant to section 1 of this act to include the psychiatric hospital in the network of providers under contract with the managed care organization to provide services to recipients of Medicaid or insureds in the Children's Health Insurance Program, as applicable.

~~[Sec. 2.]~~ *Sec. 16.* This act becomes effective:

1. Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2020, for all other purposes.

Senator Ratti moved the adoption of the amendment.

Remarks by Senator Ratti.

Amendment No. 909 to Assembly Bill No. 66 authorizes the Division of Public and Behavioral Health and Department of Health and Human Services to issue the holder of a license to operate a psychiatric hospital an endorsement as a crisis-stabilization center if certain requirements are met. It deletes provisions authorizing the Division to enter into a contract with an organization that specializes in behavioral health services to provide crisis-stabilization services. It replaces references to psychiatric hospitals established by the Division with the term "crisis stabilization center." It requires the State Board of Health to adopt regulations providing for the licensure and regulation of providers of nonemergency secure behavioral health transport services to transport individuals with mental illness or other behavioral health conditions. Finally, it authorizes the use of such services to transport a person who is the subject of an application for emergency admission to a hospital or mental-health facility or an involuntary court-ordered admission to a mental-health facility.

Amendment adopted.

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

Assembly Bill No. 166.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 805.

JOINT SPONSORS: SENATORS PICKARD AND SPEARMAN

SUMMARY—Revises provisions relating to prostitution. (BDR 15-861)

AN ACT relating to crimes; establishing the crime of advancing prostitution; revising the penalties for the crime of living from the earnings of a prostitute; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that any person who, without consideration, knowingly accepts, receives, levies or appropriates any money or other valuable thing from the proceeds of a prostitute is guilty of a category D felony. (NRS 201.320) Section 3 of this bill provides that a person who commits any

such act is guilty of the crime of living from the earnings of a prostitute and shall be punished: (1) for a category C felony if physical force or the immediate threat of physical force is used in the commission of the crime; or (2) for a category D felony if no physical force or immediate threat of physical force is used in the commission of the crime.

Section 1 of this bill establishes the crime of advancing prostitution and provides that a person who owns, leases, operates, controls or manages any business or private property is guilty of such a crime if the person: (1) knows or should know that illegal prostitution is being conducted at the business or upon such private property; (2) knows or should know that one or more prostitutes engaging in such illegal prostitution are victims of involuntary servitude ; ~~[or victims of sex trafficking against whom physical force or the immediate threat of physical force is being or has been used;]~~ and (3) fails to take reasonable steps to abate such illegal prostitution within 30 days after the person knows or should know about such illegal prostitution. ~~[Section]~~ Unless a greater penalty is provided by specific statute, section 1 provides that a person who is guilty of advancing prostitution shall be punished for a category C felony.

Sections 4-18 of this bill include a reference to the crime of advancing prostitution in each section of NRS that references the crime of living from the earnings of a prostitute.

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

Section 1. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who owns, leases, operates, controls or manages any business or private property and who:

(a) Knows or should know that illegal prostitution is being conducted at the business or upon such private property;

(b) Knows or should know that one or more prostitutes engaging in such illegal prostitution are victims of ~~[:~~

~~(1) Involuntary]~~ involuntary servitude as described in NRS 200.463; ~~[or~~

~~(2) Sex trafficking as described in subsection 2 of NRS 201.300 against whom physical force or the immediate threat of physical force is being or has been used;]~~ and

(c) Fails to take reasonable steps to abate such illegal prostitution within 30 days after the date on which the person knows the circumstances set forth in paragraphs (a) and (b),

➥ is guilty of advancing prostitution.

2. ~~[A]~~ Unless a greater penalty is provided by specific statute, a person who is guilty of advancing prostitution shall be punished for a category C felony as provided in NRS 193.130.

3. For the purposes of this section, a person who owns, leases, operates, controls or manages any business or private property shall be deemed:

(a) To know that illegal prostitution is being conducted at the business or upon the private property of the person if a law enforcement agency has notified the person who owns, leases, operates, controls or manages the business or private property, in writing, of at least three incidents of illegal prostitution that occurred at the business or upon the private property of the person within a period of 180 consecutive days.

(b) To know that one or more prostitutes engaging in such illegal prostitution are victims of involuntary servitude as described in NRS 200.463 ~~*[for sex trafficking as described in subsection 2 of NRS 201.300 against whom physical force or the immediate threat of physical force is being or has been used]*~~ *if, in light of all the surrounding facts and circumstances which are known to the person at the time, a reasonable person would believe, under those facts and circumstances, that one or more prostitutes engaging in such illegal prostitution are victims of involuntary servitude as described in NRS 200.463*. ~~*[for sex trafficking as described in subsection 2 of NRS 201.300 against whom physical force or the immediate threat of physical force is being or has been used.]*~~

(c) To have taken reasonable steps to abate such illegal prostitution if the person has:

(1) Filed a report of such illegal prostitution with a law enforcement agency;

(2) Allowed a law enforcement agency to conduct surveillance or an unrestricted undercover operation;

(3) Promoted ongoing education about such illegal prostitution for employees; or

(4) Used any other available legal means to abate such illegal prostitution.

Sec. 2. NRS 201.295 is hereby amended to read as follows:

201.295 As used in NRS 201.295 to 201.440, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.

2. "Child" means a person less than 18 years of age.

3. "Induce" means to persuade, encourage, inveigle or entice.

4. "Prostitute" means a male or female person who for a fee, monetary consideration or other thing of value engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

5. "Prostitution" means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.

6. "Sexual conduct" means any of the acts enumerated in subsection 4.

7. "Transports" means to transport or cause to be transported, by any means of conveyance, into, through or across this State, or to aid or assist in obtaining such transportation.

Sec. 3. NRS 201.320 is hereby amended to read as follows:

201.320 1. A person who knowingly accepts, receives, levies or appropriates any money or other valuable thing, without consideration, from the proceeds of any prostitute, is guilty of ~~[a category D felony]~~ *living from the earnings of a prostitute* and shall be punished *:*

(a) Where physical force or the immediate threat of physical force is used, for a category C felony as provided in NRS 193.130.

(b) Where no physical force or immediate threat of physical force is used, for a category D felony as provided in NRS 193.130.

2. Any such acceptance, receipt, levy or appropriation of money or valuable thing upon any proceedings or trial for violation of this section is presumptive evidence of lack of consideration.

Sec. 4. NRS 201.325 is hereby amended to read as follows:

201.325 1. In addition to any other penalty, the court may order a person convicted of a violation of any provision of NRS 201.300 or 201.320 *or section 1 of this act* to pay restitution to the victim as provided in subsection 2.

2. Restitution ordered pursuant to this section may include, without limitation:

(a) The cost of medical and psychological treatment, including, without limitation, physical and occupational therapy and rehabilitation;

(b) The cost of transportation, temporary housing and child care;

(c) The return of property, the cost of repairing damaged property or the full value of the property if it is destroyed or damaged beyond repair;

(d) Expenses incurred by a victim in relocating away from the defendant or his or her associates, if the expenses are verified by law enforcement to be necessary for the personal safety of the victim;

(e) The cost of repatriation of the victim to his or her home country, if applicable; and

(f) Any and all other losses suffered by the victim as a result of the violation of any provision of NRS 201.300 or 201.320 ~~[.]~~ *or section 1 of this act.*

3. The return of the victim to his or her home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution.

4. As used in this section, "victim" means any person:

(a) Against whom a violation of any provision of NRS 201.300 or 201.320 *or section 1 of this act* has been committed; or

(b) Who is the surviving child of such a person.

Sec. 5. NRS 201.345 is hereby amended to read as follows:

201.345 1. The Attorney General has concurrent jurisdiction with the district attorneys of the counties in this State to prosecute any violation of NRS 201.300 or 201.320 ~~[.]~~ *or section 1 of this act.*

2. When acting pursuant to this section, the Attorney General may commence an investigation and file a criminal action without leave of court and the Attorney General has exclusive charge of the conduct of the prosecution.

Sec. 6. NRS 201.350 is hereby amended to read as follows:

201.350 It shall not be a defense to a prosecution for any of the acts prohibited in NRS 201.300 or 201.320 *or section 1 of this act* that any part of such act or acts shall have been committed outside this state, and the offense shall in such case be deemed and alleged to have been committed, and the offender tried and punished, in any county in which the prostitution was consummated, or any overt act in furtherance of the offense shall have been committed.

Sec. 7. NRS 201.351 is hereby amended to read as follows:

201.351 1. All assets derived from or relating to any violation of NRS 201.300 or 201.320 *or section 1 of this act* are subject to forfeiture pursuant to NRS 179.121 and a proceeding for their forfeiture may be brought pursuant to NRS 179.1156 to 179.121, inclusive.

2. In any proceeding for forfeiture brought pursuant to NRS 179.1156 to 179.121, inclusive, the plaintiff may apply for, and a court may issue without notice or hearing, a temporary restraining order to preserve property which would be subject to forfeiture pursuant to this section if:

(a) The forfeitable property is in the possession or control of the party against whom the order will be entered; and

(b) The court determines that the nature of the property is such that it can be concealed, disposed of or placed beyond the jurisdiction of the court before a hearing on the matter.

3. A temporary restraining order which is issued without notice may be issued for not more than 30 days and may be extended only for good cause or by consent. The court shall provide notice and hold a hearing on the matter before the order expires.

4. Any proceeds derived from a forfeiture of property pursuant to this section and remaining after the distribution required by subsection 1 of NRS 179.118 must be deposited with the county treasurer and distributed to programs for the prevention of child prostitution or for services to victims which are designated to receive such distributions by the district attorney of the county.

Sec. 8. NRS 201.352 is hereby amended to read as follows:

201.352 1. If a person is convicted of a violation of subsection 2 of NRS 201.300 or NRS 201.320 ~~[,]~~ *or section 1 of this act,* the victim of the violation is a child when the offense is committed and physical force or violence or the immediate threat of physical force or violence is used upon the child, the court may, in addition to the term of imprisonment prescribed by statute for the offense and any fine imposed pursuant to subsection 2, impose a fine of not more than $500,000.

2. If a person is convicted of a violation of subsection 2 of NRS 201.300 or NRS 201.320 ~~[,]~~ *or section 1 of this act,* the victim of the offense is a child when the offense is committed and the offense also involves a conspiracy to commit a violation of subsection 2 of NRS 201.300 or NRS 201.320 ~~[,]~~ *or section 1 of this act,* the court may, in addition to the punishment prescribed

by statute for the offense of a provision of subsection 2 of NRS 201.300 or NRS 201.320 *or section 1 of this act* and any fine imposed pursuant to subsection 1, impose a fine of not more than $500,000.

3. The provisions of subsections 1 and 2 do not create a separate offense but provide an additional penalty for the primary offense, the imposition of which is contingent upon the finding of the prescribed fact.

Sec. 9. NRS 202.876 is hereby amended to read as follows:

202.876 "Violent or sexual offense" means any act that, if prosecuted in this State, would constitute any of the following offenses:

1. Murder or voluntary manslaughter pursuant to NRS 200.010 to 200.260, inclusive.
2. Mayhem pursuant to NRS 200.280.
3. Kidnapping pursuant to NRS 200.310 to 200.340, inclusive.
4. Sexual assault pursuant to NRS 200.366.
5. Robbery pursuant to NRS 200.380.
6. Administering poison or another noxious or destructive substance or liquid with intent to cause death pursuant to NRS 200.390.
7. Battery with intent to commit a crime pursuant to NRS 200.400.
8. Administering a drug or controlled substance to another person with the intent to enable or assist the commission of a felony or crime of violence pursuant to NRS 200.405 or 200.408.
9. False imprisonment pursuant to NRS 200.460 if the false imprisonment involves the use or threatened use of force or violence against the victim or the use or threatened use of a firearm or a deadly weapon.
10. Assault with a deadly weapon pursuant to NRS 200.471.
11. Battery which is committed with the use of a deadly weapon or which results in substantial bodily harm as described in NRS 200.481 or battery which is committed by strangulation as described in NRS 200.481 or 200.485.
12. An offense involving pornography and a minor pursuant to NRS 200.710 or 200.720.
13. Intentional transmission of the human immunodeficiency virus pursuant to NRS 201.205.
14. Open or gross lewdness pursuant to NRS 201.210.
15. Lewdness with a child pursuant to NRS 201.230.
16. An offense involving pandering or sex trafficking in violation of NRS 201.300 or prostitution in violation of NRS 201.320 ~~[.]~~ *or section 1 of this act.*
17. Coercion pursuant to NRS 207.190, if the coercion involves the use or threatened use of force or violence against the victim or the use or threatened use of a firearm or a deadly weapon.
18. An attempt, conspiracy or solicitation to commit an offense listed in this section.

Sec. 10. NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;
2. Manslaughter, except vehicular manslaughter as described in NRS 484B.657;
3. Mayhem;
4. Battery which is punished as a felony;
5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery, including, without limitation, forgery of a credit card or debit card in violation of NRS 205.740;
14. Obtaining and using personal identifying information of another person in violation of NRS 205.463;
15. Establishing or possessing a financial forgery laboratory in violation of NRS 205.46513;
16. Any violation of NRS 199.280 which is punished as a felony;
17. Burglary;
18. Grand larceny;
19. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
20. Battery with intent to commit a crime in violation of NRS 200.400;
21. Assault with a deadly weapon;
22. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, except a violation of NRS 453.3393, or NRS 453.375 to 453.401, inclusive;
23. Receiving or transferring a stolen vehicle;
24. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;
25. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;
26. Receiving, possessing or withholding stolen goods valued at $650 or more;
27. Embezzlement of money or property valued at $650 or more;
28. Obtaining possession of money or property valued at $650 or more, or obtaining a signature by means of false pretenses;
29. Perjury or subornation of perjury;
30. Offering false evidence;
31. Any violation of NRS 201.300, 201.320 or 201.360 ~~[.]~~ *or section 1 of this act;*
32. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;

33. Any violation of NRS 205.506, 205.920 or 205.930;

34. Any violation of NRS 202.445 or 202.446;

35. Any violation of NRS 205.377;

36. Involuntary servitude in violation of any provision of NRS 200.463 or 200.464 or a violation of any provision of NRS 200.465; or

37. Trafficking in persons in violation of any provision of NRS 200.467 or 200.468.

Sec. 11. NRS 41.1399 is hereby amended to read as follows:

41.1399 1. Any person who is a victim of human trafficking may bring a civil action against any person who caused, was responsible for or profited from the human trafficking.

2. A civil action brought under this section may be instituted in the district court of this State in the county in which the prospective defendant resides or has committed any act which subjects him or her to liability under this section.

3. In an action brought under this section, the court may award such injunctive relief as the court deems appropriate.

4. A plaintiff who prevails in an action brought under this section may recover actual damages, compensatory damages, punitive damages or any other appropriate relief. If a plaintiff recovers actual damages in an action brought under this section and the acts of the defendant were willful and malicious, the court may award treble damages to the plaintiff. If the plaintiff prevails in an action brought under this section, the court may award attorney's fees and costs to the plaintiff.

5. The statute of limitations for an action brought under this section does not commence until:

(a) The plaintiff discovers or reasonably should have discovered that he or she is a victim of human trafficking and that the defendant caused, was responsible for or profited from the human trafficking;

(b) The plaintiff reaches 18 years of age; or

(c) If the injury to the plaintiff results from two or more acts relating to the human trafficking, the final act in the series of acts has occurred,

➥ whichever is later.

6. The statute of limitations for an action brought under this section is tolled for any period during which the plaintiff was under a disability. For the purposes of this subsection, a plaintiff is under a disability if the plaintiff is insane, a person with an intellectual disability, mentally incompetent or in a medically comatose or vegetative state.

7. A defendant in an action brought under this section is estopped from asserting that the action was not brought within the statute of limitations if the defendant, or any person acting on behalf of the defendant, has induced the plaintiff to delay bringing an action under this section by subjecting the plaintiff to duress, threats, intimidation, manipulation or fraud or any other conduct inducing the plaintiff to delay bringing an action under this section.

8. In the discretion of the court in an action brought under this section:

(a) Two or more persons may join as plaintiffs in one action if the claims of those plaintiffs involve at least one defendant in common.

(b) Two or more persons may be joined in one action as defendants if those persons may be liable to at least one plaintiff in common.

9. The consent of a victim is not a defense to a cause of action brought under this section.

10. For the purposes of this section:

(a) A victim of human trafficking is a person against whom a violation of any provision of NRS 200.463 to 200.468, inclusive, 201.300 or 201.320 ~~[,]~~ *or section 1 of this act,* or 18 U.S.C. § 1589, 1590 or 1591 has been committed.

(b) It is not necessary that the defendant be investigated, arrested, prosecuted or convicted for a violation of any provision of NRS 200.463 to 200.468, inclusive, 201.300 or 201.320 ~~[,]~~ *or section 1 of this act,* or 18 U.S.C. § 1589, 1590 or 1591 to be found liable in an action brought under this section.

Sec. 12. NRS 49.25425 is hereby amended to read as follows:

49.25425 "Human trafficking" means a violation of any provision of NRS 200.463 to 200.468, inclusive, 201.300 or 201.320 *or section 1 of this act* or 18 U.S.C. § 1589, 1590 or 1591.

Sec. 13. NRS 179.121 is hereby amended to read as follows:

179.121 1. All personal property, including, without limitation, any tool, substance, weapon, machine, computer, money or security, which is used as an instrumentality in any of the following crimes is subject to forfeiture:

(a) The commission of or attempted commission of the crime of murder, robbery, kidnapping, burglary, invasion of the home, grand larceny or theft if it is punishable as a felony;

(b) The commission of or attempted commission of any felony with the intent to commit, cause, aid, further or conceal an act of terrorism;

(c) A violation of NRS 202.445 or 202.446;

(d) The commission of any crime by a criminal gang, as defined in NRS 213.1263; or

(e) A violation of NRS 200.463 to 200.468, inclusive, 201.300, 201.320, 202.265, 202.287, 205.473 to 205.513, inclusive, 205.610 to 205.810, inclusive, 370.380, 370.382, 370.395, 370.405, 465.070 to 465.086, inclusive, 630.400, 630A.600, 631.400, 632.285, 632.291, 632.315, 633.741, 634.227, 634A.230, 635.167, 636.145, 637.090, 637B.290, 639.100, 639.2813, 640.169, 640A.230, 644A.900 or 654.200 ~~[.]~~ *or section 1 of this act.*

2. Except as otherwise provided for conveyances forfeitable pursuant to NRS 453.301 or 501.3857, all conveyances, including aircraft, vehicles or vessels, which are used or intended for use during the commission of a felony or a violation of NRS 202.287, 202.300 or 465.070 to 465.086, inclusive, are subject to forfeiture except that:

(a) A conveyance used by any person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section

unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to the felony or violation;

(b) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge, consent or willful blindness;

(c) A conveyance is not subject to forfeiture for a violation of NRS 202.300 if the firearm used in the violation of that section was not loaded at the time of the violation; and

(d) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the felony. If a conveyance is forfeited, the appropriate law enforcement agency may pay the existing balance and retain the conveyance for official use.

3. For the purposes of this section, a firearm is loaded if:

(a) There is a cartridge in the chamber of the firearm;

(b) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; or

(c) There is a cartridge in the magazine and the magazine is in the firearm or there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

4. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Sec. 14. NRS 179D.0357 is hereby amended to read as follows:

179D.0357 "Crime against a child" means any of the following offenses if the victim of the offense was less than 18 years of age when the offense was committed:

1. Kidnapping pursuant to NRS 200.310 to 200.340, inclusive, unless the offender is the parent or guardian of the victim.

2. False imprisonment pursuant to NRS 200.460, unless the offender is the parent or guardian of the victim.

3. Involuntary servitude of a child pursuant to NRS 200.4631, unless the offender is the parent or guardian of the victim.

4. An offense involving sex trafficking pursuant to subsection 2 of NRS 201.300 or prostitution pursuant to NRS 201.320 ~~[.]~~ *or section 1 of this act*.

5. An attempt to commit an offense listed in this section.

6. An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this section. This subsection includes, without limitation, an offense prosecuted in:

(a) A tribal court.

(b) A court of the United States or the Armed Forces of the United States.

7. An offense against a child committed in another jurisdiction, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as an offender who has committed a crime

against a child because of the offense. This subsection includes, without limitation, an offense prosecuted in:

(a) A tribal court.

(b) A court of the United States or the Armed Forces of the United States.

(c) A court having jurisdiction over juveniles.

Sec. 15. NRS 179D.115 is hereby amended to read as follows:

179D.115 "Tier II offender" means an offender convicted of a crime against a child or a sex offender, other than a Tier III offender, whose crime against a child is punishable by imprisonment for more than 1 year or whose sexual offense:

1. If committed against a child, constitutes:

(a) Luring a child pursuant to NRS 201.560, if punishable as a felony;

(b) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;

(c) An offense involving sex trafficking pursuant to NRS 201.300 or prostitution pursuant to NRS 201.320 ~~[;]~~ *or section 1 of this act;*

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive; or

(e) Any other offense that is comparable to or more severe than the offenses described in ~~[42 U.S.C. § 16911(3);]~~ *34 U.S.C. § 20911(3);*

2. Involves an attempt or conspiracy to commit any offense described in subsection 1;

3. If committed in another jurisdiction, is an offense that, if committed in this State, would be an offense listed in this section. This subsection includes, without limitation, an offense prosecuted in:

(a) A tribal court; or

(b) A court of the United States or the Armed Forces of the United States; or

4. Is committed after the person becomes a Tier I offender if any of the person's sexual offenses constitute an offense punishable by imprisonment for more than 1 year.

Sec. 16. NRS 217.400 is hereby amended to read as follows:

217.400 As used in NRS 217.400 to 217.475, inclusive, unless the context otherwise requires:

1. "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

2. "Division" means the Division of Child and Family Services of the Department of Health and Human Services.

3. "Domestic violence" means:

(a) The attempt to cause or the causing of bodily injury to a family or household member or the placing of the member in fear of imminent physical harm by threat of force.

(b) Any of the following acts committed by a person against a family or household member, a person with whom he or she had or is having a dating relationship or with whom he or she has a child in common, or upon his or her minor child or a minor child of that person:

(1) A battery.

(2) An assault.

(3) Compelling the other by force or threat of force to perform an act from which he or she has the right to refrain or to refrain from an act which he or she has the right to perform.

(4) A sexual assault.

(5) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, without limitation:

(I) Stalking.

(II) Arson.

(III) Trespassing.

(IV) Larceny.

(V) Destruction of private property.

(VI) Carrying a concealed weapon without a permit.

(6) False imprisonment.

(7) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

4. "Family or household member" means a spouse, a former spouse, a parent or other adult person who is related by blood or marriage or is or was actually residing with the person committing the act of domestic violence.

5. "Participant" means an adult, child or incapacitated person for whom a fictitious address has been issued pursuant to NRS 217.462 to 217.471, inclusive.

6. "Victim of domestic violence" includes the dependent children of the victim.

7. "Victim of human trafficking" means a person who is a victim of:

(a) Involuntary servitude as set forth in NRS 200.463 or 200.464.

(b) A violation of any provision of NRS 200.465.

(c) Trafficking in persons in violation of any provision of NRS 200.467 or 200.468.

(d) Sex trafficking in violation of any provision of NRS 201.300.

(e) A violation of NRS 201.320 ~~[.]~~ *or section 1 of this act.*

8. "Victim of sexual assault" means a person who has been sexually assaulted as defined in NRS 200.366 or a person upon whom a sexual assault has been attempted.

9. "Victim of stalking" means a person who is a victim of the crime of stalking or aggravated stalking as set forth in NRS 200.575.

Sec. 17. NRS 217.520 is hereby amended to read as follows:

217.520 "Victim of human trafficking" means a person who is a victim of:

1. Involuntary servitude as set forth in NRS 200.463 or 200.464.

2. A violation of any provision of NRS 200.465.

3. Trafficking in persons in violation of any provision of NRS 200.467 or 200.468.

4. Pandering in violation of any provision of NRS 201.300.

5. A violation of NRS 201.320 ~~[.]~~ *or section 1 of this act.*

Sec. 18. NRS 432.157 is hereby amended to read as follows:

432.157 1. The Office of Advocate for Missing or Exploited Children is hereby created within the Office of the Attorney General. The Advocate for Missing or Exploited Children may be known as the Children's Advocate.

2. The Attorney General shall appoint the Children's Advocate. The Children's Advocate is in the unclassified service of the State.

3. The Children's Advocate:

(a) Must be an attorney licensed to practice law in this state;

(b) Shall advise and represent the Clearinghouse on all matters concerning missing or exploited children in this state; and

(c) Shall advocate the best interests of missing or exploited children before any public or private body.

4. The Children's Advocate may:

(a) Appear as an amicus curiae on behalf of missing or exploited children in any court in this state;

(b) If requested, advise a political subdivision of this state concerning its duty to protect missing or exploited children;

(c) Recommend legislation concerning missing or exploited children; and

(d) Investigate and prosecute any alleged crime involving the exploitation of children, including, without limitation, sex trafficking in violation of subsection 2 of NRS 201.300 or a violation of NRS 201.320 ~~[.]~~ *or section 1 of this act.*

5. Upon request by the Children's Advocate, a district attorney or local law enforcement agency in this state shall provide all information and assistance necessary to assist the Children's Advocate in carrying out the provisions of this section.

6. The Children's Advocate may apply for any available grants and accept gifts, grants, bequests, appropriations or donations to assist the Children's Advocate in carrying out his or her duties pursuant to this section. Any money received by the Children's Advocate must be deposited in the Special Account for the Support of the Office of Advocate for Missing or Exploited Children, which is hereby created in the State General Fund.

7. Interest and income earned on money in the Special Account must be credited to the Special Account.

8. Money in the Special Account may only be used for the support of the Office of Advocate for Missing or Exploited Children and its activities pursuant to subsection 2 of NRS 201.300, NRS 201.320 and 432.150 to 432.220, inclusive ~~[.]~~ *, and section 1 of this act.*

9. Money in the Special Account must remain in the Special Account and must not revert to the State General Fund at the end of any fiscal year.

Sec. 19. The amendatory provisions of this act apply to an offense committed on or after the effective date of this act.

Sec. 20. This act becomes effective upon passage and approval.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 805 to Assembly Bill No. 166 strikes references to "sex trafficking" in the bill and replaces that phrase with "unless a greater penalty is provided by specific statute" in order to ensure this bill does not interfere with the ability to prosecute certain sex trafficking violations and adds Senators Spearman and Pickard as sponsors.

Amendment adopted.

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

Assembly Bill No. 376.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 803.

SUMMARY—Revises provisions relating to persons in custody. (BDR 14-675)

AN ACT relating to persons in custody; requiring certain entities to report annually to the Legislature certain statistics relating to transfers of persons to the custody of federal agencies; providing that before a prisoner who is the subject of a detainer for certain immigration purposes and who is in the custody of a county or city jail or detention facility is questioned about his or her immigration status, the prisoner must be informed about the purpose of such questions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the collection and reporting to the Legislature of certain statistical data concerning certain crimes, such as crimes related to prejudice and crimes committed against older persons. (NRS 179A.175, 179A.450) Section 1 of this bill requires certain entities to submit reports to the Legislature relating to the transfer of persons to the custody of federal agencies by that entity for the purposes of immigration enforcement during the previous calendar year. Section 1 requires each report to include: (1) the total number of persons without a prior conviction, except for a conviction of a misdemeanor other than a crime of violence, who were transferred to the custody of a federal agency for the purposes of immigration enforcement and the specific reasons for those transfers; (2) the ~~[nonfelony crimes]~~ misdemeanors other than a crime of violence for which those persons were arrested ~~[,]~~ or convicted, including the total number of persons arrested or convicted for each specific ~~[nonfelony crime;]~~ misdemeanor; (3) whether those persons had an active judicial warrant for a ~~[crime other than a felony; and]~~ misdemeanor other than a crime of violence; (4) if those persons were held in custody beyond the date on which they would have otherwise been released had they not been held in custody for the purpose of being transferred to the custody of a federal agency, the number of days they were held in

custody beyond the date on which they would have otherwise been released and the cost for holding them in custody for those days ~~[.]~~ ; and (5) certain demographic information concerning those persons transferred. Under section 1, the data acquired or reported must be used only for research or statistical purposes and must not contain any information that may : (1) reveal the identity of any person transferred to the custody of a federal agency ~~[.]~~ ; or (2) concern any person not described in the section.

Section 1.5 of this bill provides that before questioning a prisoner who is the subject of a detainer for certain immigration purposes and who is in the custody of a county or city jail or detention facility regarding his or her immigration status, the person seeking to question the prisoner shall inform the prisoner of the purpose of the questions regarding the immigration status of the prisoner.

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

Section 1. Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Within 60 days following the end of the previous calendar year, each designated entity shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, to the Legislative Commission, a report relating to the transfer of persons to the custody of federal agencies by that designated entity for the purposes of immigration enforcement during the previous calendar year.

2. The report must include the following information:

(a) The total number of persons without a prior conviction, except for a conviction of a misdemeanor other than a crime of violence, who were transferred to the custody of a federal agency for the purposes of immigration enforcement and the specific reasons for those transfers, such as whether the transfers were made pursuant to ~~[a judicial warrant for a crime other than a felony,]~~ a program implemented pursuant to section 287(g) of the Immigration and Nationality Act, 8 U.S.C. § 1357(g), a detainer issued by the United States Immigration and Customs Enforcement of the Department of Homeland Security or a request by a local law enforcement agency.

(b) The ~~[crimes other than felonies]~~ misdemeanors other than a crime of violence for which those persons were ~~[arrested,]~~ :

(1) Arrested, including the total number of persons arrested for each specific ~~[nonfelony crime.]~~ misdemeanor.

(2) Convicted, including the total number of persons convicted for each specific misdemeanor.

(c) Whether those persons had an active judicial warrant for a ~~[crime other than a felony]~~ misdemeanor other than a crime of violence at the time of being transferred.

(d) If those persons were held in custody beyond the date on which they would have otherwise been released had they not been held in custody for the purpose of being transferred to the custody of a federal agency, the number of days they were held in custody beyond the date on which they would have

otherwise been released and the cost for holding them in custody for those days.

(e) The demographic information concerning those persons transferred, including, age, race, gender, place of birth and primary language.

3. Data acquired or reported pursuant to this section must be used only for research or statistical purposes and must not contain any information that may ~~[reveal]~~ :

(a) Reveal the identity of any person transferred to the custody of a federal agency ~~[.]~~ ; or

(b) Concern any person not described in subsection 2.

4. This section shall be deemed to apply to any designated entity, notwithstanding any agreement between a designated entity and an agency of the federal government, any other agency or governing body that may purport to set different rules regarding the collection and reporting of data other than as required pursuant to this section.

5. As used in this section ~~[, "designated]~~ :

(a) "Crime of violence" means any offense involving the use or threatened use of force or violence against the person or property of another.

(b) "Designated entity" includes:

~~[(a)]~~ (1) The sheriff's office of a county;

~~[(b)]~~ (2) A metropolitan police department;

~~[(c)]~~ (3) A police department of an incorporated city;

~~[(d)]~~ (4) A county or city jail or detention facility;

~~[(e)]~~ (5) The Department of Corrections; and

~~[(f)]~~ (6) The Division of Parole and Probation of the Department of Public Safety.

Sec. 1.5. Chapter 211 of NRS is hereby amended by adding thereto a new section to read as follows:

Before questioning a prisoner who is the subject of a detainer issued by the United States Immigration and Customs Enforcement of the Department of Homeland Security and who is in the custody of a county or city jail or detention facility regarding his or her immigration status, the person seeking to question the prisoner shall inform the prisoner of the purpose of the questions regarding the immigration status of the prisoner.

Sec. 2. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 3. 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. 4. This act becomes effective on January 1, 2020.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 803 to Assembly Bill No. 376 revises the data collection and reporting requirements of the bill to apply only to persons who are subject to a detainer issued by the United

States Immigration and Customs Enforcement Agency of the Department of Homeland Security who have no prior arrests or convictions, except for a misdemeanor other than a crime of violence. It provides that the reporting requirements in the bill are deemed to apply to any entity designated in the bill, notwithstanding any agreement to the contrary between the entity and an agency of the federal government or other governing body.

Amendment adopted.

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

Assembly Bill No. 400.

Bill read second time.

The following amendment was proposed by the Committee on Revenue and Economic Development:

Amendment No. 791.

SUMMARY—Revises provisions governing economic development. (BDR 22-803)

AN ACT relating to tax abatements; prohibiting the Office of Economic Development from approving certain abatements of the taxes imposed for the support of local schools ~~[,]~~ under certain circumstances; prohibiting the Office from approving certain partial abatements of taxes if the applicant has previously received the partial abatement of taxes; revising the period for which certain partial abatements of taxes may be approved; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Office of Economic Development to approve an abatement or a partial abatement of certain sales and use taxes in certain circumstances. (NRS 274.310, 274.320, 274.330, 360.750, 360.753, 360.754, 360.889, 360.945) Sections 5-8, ~~[11-13,]~~ 15 ~~[,]~~ and 16 ~~[and 18.5]~~ of this bill provide that such an abatement does not apply to sales and use taxes that are imposed by the Sales and Use Tax Act and the Local School Support Tax Law . ~~[if the application for the abatement is submitted on or after the passage and approval of this bill.]~~ Sections 11 and 12 of this bill provide that such an abatement for certain expanding businesses does not apply to taxes imposed by the Local School Support Tax Law, while preserving the eligibility of certain new businesses for such an abatement. Sections 11 and 12 also prohibit the Office from awarding certain partial abatements of taxes imposed on a new or expanding business if the applicant previously received such a partial abatement for locating or expanding the business in this State ~~[.]~~ , and prohibit the awarding of such an abatement to a business if the applicant has changed the name or identity of the business to evade the prohibitions on such previously awarded abatements. Section 12.5 of this bill provides that, for certain new or expanding businesses involving aircraft, the taxes imposed by the Local School Support Tax Law may be partially abated only if the Board of Economic Development approves such a partial abatement by at least a two-thirds vote, and section 13 of this bill applies that same condition for a partial abatement awarded to a new or expanding data center. Section 12.5

shortens the maximum duration of a partial abatement approved for certain new or expanding businesses involving aircraft, from 20 years to 10 years.

Finally, section 18.5 of this bill provides that the amendatory provisions of this bill do not apply to any abatement granted or any application for an abatement filed before July 1, 2019.

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. 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 chapter 279 of NRS;

(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 Office of Economic Development for a partial abatement of one or more of the taxes imposed pursuant to chapter 361 ~~[or 374]~~ of NRS ~~[.]~~ *or the local sales and use taxes.* 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. *As used in this subsection, "local sales and use taxes" means the 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 the political subdivision in which the business is located, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.*

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 Office of Economic Development. The Office shall approve the application if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Administrator pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Administrator to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which states:

(1) The date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application; and

(2) That the business will, after the date on which the abatement becomes effective:

(I) 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 chapter 279 of NRS, 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 Office, which must be at least 5 years; and

(II) 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 assets that will be retained at the location of the business in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to chapter 279 of NRS, 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 until at least the date which is 5 years after the date on which the abatement becomes effective.

4. If the Office of Economic Development approves an application for a partial abatement, the Office 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 imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business will be located.

5. If the Office of Economic Development approves an application for a partial abatement pursuant to this section:

(a) The partial abatement must be for a duration of not less than 1 year but not more than 5 years.

(b) If the abatement is from the property tax imposed pursuant to 361 of NRS, the partial abatement must not exceed 75 percent of the taxes on personal property payable by a business each year pursuant to that chapter.

6. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the eligibility requirements for the partial abatement; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,

➥ the business shall repay to the Department of Taxation or, if the partial abatement was from the property tax 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.

7. The Office of Economic Development may adopt such regulations as the Office determines to be necessary or advisable to carry out the provisions of this section.

8. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 6. 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 chapter 279 of NRS;

(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 Office of Economic Development for a partial abatement of one or more of the taxes imposed pursuant to chapter 361 ~~[or 374]~~ of NRS ~~[.]~~ *or the local sales and use taxes.* 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. *As used in this subsection, "local sales and use taxes" means the 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 the political subdivision in which the business is located, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.

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 Office of Economic Development. The Office shall approve the application if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Administrator pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Administrator to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which states:

(1) The date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application; and

(2) That the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(I) 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 chapter 279 of NRS, 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 Office, which must be at least 5 years; and

(II) 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 the Office of Economic Development approves an application for a partial abatement, the Office 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 imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business will be located.

5. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the eligibility requirements for the partial abatement; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,

➥ the business shall repay to the Department of Taxation or, if the partial abatement was from the property tax 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.

6. The Office of Economic Development may adopt such regulations as the Office determines to be necessary or advisable to carry out the provisions of this section.

7. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 6.3. 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 chapter 279 of NRS;

(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 Office of 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. *As used in this subsection, "local sales and use taxes" means the 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 the political subdivision in which the business is located, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.

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 Office of Economic Development. The Office shall approve the application if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Administrator pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Administrator to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which states:

(1) The date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application; and

(2) That the business will, after the date on which the abatement becomes effective:

(I) Continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to chapter 279 of NRS, 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 Office, which must be at least 5 years; and

(II) 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 that will be retained at the location of the business in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to chapter 279 of NRS, 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 until at least

the date which is 5 years after the date on which the abatement becomes effective.

4. If the Office of Economic Development approves an application for a partial abatement, the Office shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation; and

(b) The Nevada Tax Commission.

5. If the Office of Economic Development approves an application for a partial abatement pursuant to this section:

(a) The partial abatement must be for a duration of not less than 1 year but not more than 5 years.

(b) If the abatement is from the property tax imposed pursuant to chapter 361 of NRS, the partial abatement must not exceed 75 percent of the taxes on personal property payable by a business each year pursuant to that chapter.

6. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the eligibility requirements for the partial abatement; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,

➥ the business shall repay to the Department of Taxation 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.

7. The Office of Economic Development may adopt such regulations as the Office determines to be necessary or advisable to carry out the provisions of this section.

8. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 6.5. 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 chapter 279 of NRS;

(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 Office of 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. *As used in this subsection, "local sales and use taxes" means the 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 the political subdivision in which the business is located, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.*

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 Office of Economic Development. The Office shall approve the application if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Administrator pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Administrator to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which states:

(1) The date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application; and

(2) That the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(I) Continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to chapter 279 of NRS, 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 Office, which must be at least 5 years; and

(II) 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 Office of Economic Development approves an application for a partial abatement, the Office shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation; and

(b) The Nevada Tax Commission.

5. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the eligibility requirements for the partial abatement; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,

➥ the business shall repay to the Department of Taxation 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.

6. The Office of Economic Development may adopt such regulations as the Office determines to be necessary or advisable to carry out the provisions of this section.

7. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 7. 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 Office of Economic Development for a partial abatement of one or more of the taxes imposed pursuant to chapter 361 ~~[or 374]~~ of NRS ~~[.]~~ *or the local sales and use taxes.* 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. *As used in this subsection, "local sales and use taxes" means the 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 the political subdivision in which the business is located, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.*

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 Office of Economic Development. The Office shall approve the application if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Administrator pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Administrator to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which states:

(1) The date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application; and

(2) That the business will, after the date on which the abatement becomes effective:

(I) Continue in operation in the enterprise community for a period specified by the Office, which must be at least 5 years; and

(II) 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 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 employees and their dependents which meet the minimum requirements for medical benefits established by the Office.

4. If the Office of Economic Development approves an application for a partial abatement, the Office shall:

(a) Determine the percentage of employees of the business which meet the requirements of paragraph (d) of subsection 3 and 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 imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business is located.

5. If the Office of Economic Development approves an application for a partial abatement pursuant to this section:

(a) The partial abatement must be for a duration of not less than 1 year but not more than 5 years.

(b) If the abatement is from the property tax imposed pursuant to chapter 361 of NRS, the partial abatement must not exceed 75 percent of the taxes on personal property payable by a business each year pursuant to that chapter.

6. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the eligibility requirements for the partial abatement; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,

➥ the business shall repay to the Department of Taxation or, if the partial abatement was from the property tax 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.

7. The Office of 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 Office determines to be necessary or advisable to carry out the provisions of this section.

8. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

9. 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 or her 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. 8. 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 Office of Economic Development for a partial abatement of one or more of the taxes imposed pursuant to chapter 361 ~~[or 374]~~ of NRS ~~[.]~~ *or the local sales and use taxes.* 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. *As used in this subsection, "local sales and use taxes" means the 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 the political subdivision in which the business is located, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.*

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 Office of Economic Development. The Office shall approve the application if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Administrator pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Administrator to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which states:

(1) The date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application; and

(2) That the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(I) Continue in operation in the enterprise community for a period specified by the Office, which must be at least 5 years; and

(II) 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 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 employees and their dependents which meet the minimum requirements for medical benefits established by the Office.

4. If the Office of Economic Development approves an application for a partial abatement, the Office shall:

(a) Determine the percentage of employees of the business which meet the requirements of paragraph (d) of subsection 3 and 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 imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business is located.

5. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the eligibility requirements for the partial abatement; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,

➥ the business shall repay to the Department of Taxation or, if the partial abatement was from the property tax 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.

6. The Office of 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 Office determines to be necessary or advisable to carry out the provisions of this section.

7. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

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 or her 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. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. 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 Office of Economic Development pursuant to this section for a partial abatement of one or more of the taxes imposed on the ~~[new or expanded]~~ :

(a) New business pursuant to chapter 361 , ~~*[or]*~~ 363B or 374 of NRS .

(b) Expanded business pursuant to chapter 361 or 363B of NRS or the local sales and use taxes. As used in this ~~[subsection,]~~ paragraph, "local sales and use taxes" means the 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 the political subdivision in which the business is to be located or expanded, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.

2. The Office of Economic Development shall approve an application for a partial abatement pursuant to this section if the Office makes the following determinations:

(a) The business offers primary jobs and is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which must:

(1) Comply with the requirements of NRS 360.755;

(2) State the date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application;

(3) State that the business will, after the date on which the abatement becomes effective, continue in operation in this State for a period specified by the Office, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection;

(4) State that the business will offer primary jobs; and

(5) 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 subsection 4 or 5, the average hourly wage that will be paid by the business to its new 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.

(e) The business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, offer a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees, and the health care benefits the business offers to its employees in this State will meet the minimum requirements for health care benefits established by the Office.

(f) Except as otherwise provided in this subsection and 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 one of the following requirements:

(1) The business will have 50 or more full-time employees on the payroll of the business by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(2) Establishing the business will require the business to make, not later than the date which is 2 years after the date on which the abatement becomes effective, a capital investment of at least $1,000,000 in this State in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(g) 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, in an area of a county whose population is 100,000 or more that is located within the geographic boundaries of an area that is designated as rural by the United States Department of Agriculture and at least 20 miles outside of the geographic boundaries of an area designated as urban by the United States Department of Agriculture, or in a city whose population is less than 60,000, the business meets at least one of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(2) Establishing the business will require the business to make, not later than the date which is 2 years after the date on which the abatement becomes effective, a capital investment of at least $250,000 in this State in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(h) If the business is an existing business, the business meets at least one of the following requirements:

(1) For a business in:

(I) Except as otherwise provided in sub-subparagraph (II), a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, increase the number of employees on its payroll in that county or city by 10 percent more than it employed in the fiscal year immediately preceding the fiscal year in which the abatement becomes effective or by twenty-five employees, whichever is greater, who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective; or

(II) A county whose population is less than 100,000, an area of a county whose population is 100,000 or more that is located within the geographic boundaries of an area that is designated as rural by the United States Department of Agriculture and at least 20 miles outside of the geographic boundaries of an area designated as urban by the United States Department of Agriculture, or a city whose population is less than 60,000, the business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, increase the number of employees on its payroll in that county or city by 10 percent more than it employed in the fiscal year immediately preceding the fiscal year in which the abatement becomes effective or by six employees, whichever is greater, who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(2) The business will expand by making a capital investment in this State, not later than the date which is 2 years after the date on which the abatement becomes effective, in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the fiscal year immediately preceding the fiscal year in which the abatement becomes effective, and the capital investment will be in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective. 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.

(i) The applicant has provided in the application an estimate of the total number of new employees which the business anticipates hiring in this State by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective if the Office approves the application.

3. Notwithstanding the provisions of subsection 2, the Office of Economic Development:

(a) Shall not consider an application for a partial abatement pursuant to this section unless the Office has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) Shall consider the level of health care benefits provided by the business to its employees, the projected economic impact of the business and the projected tax revenue of the business after deducting projected revenue from the abated taxes.

(c) May, if the Office determines that such action is necessary:

(1) Approve an application for a partial abatement pursuant to this section by a business that does not meet the requirements set forth in paragraph (f), (g) or (h) of subsection 2;

(2) Make any of the requirements set forth in paragraphs (d) to (h), inclusive, of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement pursuant to this section.

4. Notwithstanding any other provision of law, the Office of Economic Development shall not approve an application for a partial abatement pursuant to this section if:

(a) The applicant intends to locate or expand in a county in which the rate of unemployment is 7 percent or more and the average hourly wage that will be paid by the applicant to its new employees in this State is less than 70 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.

(b) The applicant intends to locate or expand in a county in which the rate of unemployment is less than 7 percent and the average hourly wage that will be paid by the applicant to its new employees in this State is less than 85 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.

(c) The applicant intends to locate in a county but has already received a partial abatement pursuant to this section for locating that business in that county.

(d) The applicant intends to expand in a county but has already received a partial abatement pursuant to this section for expanding that business in that county.

(e) The applicant has changed the name or identity of the business to evade the provisions of paragraphs (c) or (d).

5. Notwithstanding any other provision of law, if the Office of Economic Development approves an application for a partial abatement pursuant to this section, in determining the types of taxes imposed on a new or expanded business for which the partial abatement will be approved and the amount of the partial abatement:

(a) If the new or expanded business is located in a county in which the rate of unemployment is 7 percent or more and the average hourly wage that will be paid by the business to its new employees in this State is less than 85 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, the Office shall not:

(1) Approve an abatement of the taxes imposed pursuant to chapter 361 of NRS which exceeds 25 percent of the taxes on personal property payable by the business each year.

(2) Approve an abatement of the taxes imposed pursuant to chapter 363B of NRS which exceeds 25 percent of the amount of tax otherwise due pursuant to NRS 363B.110.

(b) If the new or expanded business is located in a county in which the rate of unemployment is less than 7 percent and the average hourly wage that will be paid by the business to its new employees in this State is less than 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, the Office shall not:

(1) Approve an abatement of the taxes imposed pursuant to chapter 361 of NRS which exceeds 25 percent of the taxes on personal property payable by the business each year.

(2) Approve an abatement of the taxes imposed pursuant to chapter 363B of NRS which exceeds 25 percent of the amount of tax otherwise due pursuant to NRS 363B.110.

~~[(3) Approve an abatement of the taxes imposed pursuant to chapter 374 of NRS which exceeds the local sales and use taxes. As used in this~~

~~subparagraph, "local sales and use taxes" means the 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 the political subdivision in which the new or expanded business is located, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.]~~

6. If the Office of Economic Development approves an application for a partial abatement pursuant to this section, the Office 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 imposed pursuant to chapter 361 of NRS, the county treasurer.

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 Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

8. 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 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.

9. A county treasurer:

(a) Shall deposit any money that he or she receives pursuant to subsection 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.

10. The Office of Economic Development may adopt such regulations as the Office of Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

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 (f) 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.

12. An applicant for a partial abatement pursuant to this section who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

13. For the purposes of this section, an employee is a "full-time employee" if he or she is in a permanent position of employment and works an average of 30 hours per week during the applicable period set forth in subsection 2.

Sec. 12. 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 Office of Economic Development pursuant to this section for a partial abatement of one or more of the taxes imposed on the ~~[new or expanded]~~ *:*

(a) New business pursuant to chapter 361 , ~~*[or]*~~ 363B or 374 of NRS .

(b) Expanded business pursuant to chapter 361 or 363B of NRS or the local sales and use taxes. As used in this ~~[subsection,]~~ paragraph, "local sales and use taxes" means the 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 the political subdivision in which the business is to be located or expanded, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.

2. The Office of Economic Development shall approve an application for a partial abatement pursuant to this section if the Office makes the following determinations:

(a) The business offers primary jobs and is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which must:

(1) Comply with the requirements of NRS 360.755;

(2) State the date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application;

(3) State that the business will, after the date on which the abatement becomes effective, continue in operation in this State for a period specified by the Office, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection;

(4) State that the business will offer primary jobs; and

(5) 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 subsection 4 or 5, the average hourly wage that will be paid by the business to its new 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.

(e) The business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, offer a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees, and the health care benefits the business offers to its employees in this State will meet the minimum requirements for health care benefits established by the Office.

(f) Except as otherwise provided in this subsection and 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 one of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(g) 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, in an area of a county whose population is 100,000 or more that is located within the geographic boundaries of an area that is designated as rural by the United States Department of Agriculture and at least 20 miles outside of the geographic boundaries of an area designated as urban by the United States Department of Agriculture, or in a city whose population is less than 60,000, the business meets at least one of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.

(h) If the business is an existing business, the business meets at least one 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.

(i) The applicant has provided in the application an estimate of the total number of new employees which the business anticipates hiring in this State by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective if the Office approves the application.

3. Notwithstanding the provisions of subsection 2, the Office of Economic Development:

(a) Shall not consider an application for a partial abatement pursuant to this section unless the Office has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) Shall consider the level of health care benefits provided by the business to its employees, the projected economic impact of the business and the projected tax revenue of the business after deducting projected revenue from the abated taxes.

(c) May, if the Office determines that such action is necessary:

(1) Approve an application for a partial abatement pursuant to this section by a business that does not meet the requirements set forth in paragraph (f), (g) or (h) of subsection 2;

(2) Make any of the requirements set forth in paragraphs (d) to (h), inclusive, of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement pursuant to this section.

4. Notwithstanding any other provision of law, the Office of Economic Development shall not approve an application for a partial abatement pursuant to this section if:

(a) The applicant intends to locate or expand in a county in which the rate of unemployment is 7 percent or more and the average hourly wage that will be paid by the applicant to its new employees in this State is less than 70 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.

(b) The applicant intends to locate or expand in a county in which the rate of unemployment is less than 7 percent and the average hourly wage that will be paid by the applicant to its new employees in this State is less than

85 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.

(c) The applicant intends to locate in a county but has already received a partial abatement pursuant to this section for locating that business in that county.

(d) The applicant intends to expand in a county but has already received a partial abatement pursuant to this section for expanding that business in that county.

(e) The applicant has changed the name or identity of the business to evade the provisions of paragraph (c) or (d).

5. Notwithstanding any other provision of law, if the Office of Economic Development approves an application for a partial abatement pursuant to this section, in determining the types of taxes imposed on a new or expanded business for which the partial abatement will be approved and the amount of the partial abatement:

(a) If the new or expanded business is located in a county in which the rate of unemployment is 7 percent or more and the average hourly wage that will be paid by the business to its new employees in this State is less than 85 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, the Office shall not:

(1) Approve an abatement of the taxes imposed pursuant to chapter 361 of NRS which exceeds 25 percent of the taxes on personal property payable by the business each year.

(2) Approve an abatement of the taxes imposed pursuant to chapter 363B of NRS which exceeds 25 percent of the amount of tax otherwise due pursuant to NRS 363B.110.

(b) If the new or expanded business is located in a county in which the rate of unemployment is less than 7 percent and the average hourly wage that will be paid by the business to its new employees in this State is less than 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, the Office shall not:

(1) Approve an abatement of the taxes imposed pursuant to chapter 361 of NRS which exceeds 25 percent of the taxes on personal property payable by the business each year.

(2) Approve an abatement of the taxes imposed pursuant to chapter 363B of NRS which exceeds 25 percent of the amount of tax otherwise due pursuant to NRS 363B.110.

~~[(3) Approve an abatement of the taxes imposed pursuant to chapter 374 of NRS which exceeds the local sales and use taxes. As used in this subparagraph, "local sales and use taxes" means the 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 the political subdivision in which~~

~~the new or expanded business is located, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.]~~

6. If the Office of Economic Development approves an application for a partial abatement pursuant to this section, the Office 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 imposed pursuant to chapter 361 of NRS, the county treasurer.

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 Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

8. 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 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.

9. A county treasurer:

(a) Shall deposit any money that he or she receives pursuant to subsection 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.

10. The Office of Economic Development may adopt such regulations as the Office of Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

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 (f) 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.

12. An applicant for a partial abatement pursuant to this section who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

13. For the purposes of this section, an employee is a "full-time employee" if he or she is in a permanent position of employment and works an average of 30 hours per week during the applicable period set forth in subsection 2.

Sec. 12.5. NRS 360.753 is hereby amended to read as follows:

360.753 1. An owner of a business or a person who intends to locate or expand a business in this State may apply to the Office of Economic Development pursuant to this section for a partial abatement of one or more of:

(a) The personal property taxes imposed on an aircraft and the personal property used to own, operate, manufacture, service, maintain, test, repair, overhaul or assemble an aircraft or any component of an aircraft; and

(b) The local sales and use taxes imposed on the purchase of tangible personal property used to operate, manufacture, service, maintain, test, repair, overhaul or assemble an aircraft or any component of an aircraft.

2. Notwithstanding the provisions of any law to the contrary and except as otherwise provided in subsections 3 and 4, the Office of Economic Development shall approve an application for a partial abatement if the Office makes the following determinations:

(a) The applicant has executed an agreement with the Office which:

(1) Complies with the requirements of NRS 360.755;

(2) States the date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application;

(3) States that the business will, after the date on which a certificate of eligibility for the partial abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Office, which must be not less than 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(4) Binds any successor in interest of the applicant for the specified period;

(b) The business is registered pursuant to the laws of this State or the applicant commits to obtaining a valid business license and all other permits required by the county, city or town in which the business operates;

(c) The business owns, operates, manufactures, services, maintains, tests, repairs, overhauls or assembles an aircraft or any component of an aircraft;

(d) The average hourly wage that will be paid by the business to its employees in this State during the period of partial abatement is not less than

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;

(e) The business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, offer a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees, and the health care benefits the business offers to its employees in this State will meet the minimum requirements for health care benefits established by the Office;

(f) If the business is:

(1) A new business, that it will have five or more full-time employees on the payroll of the business within 1 year after receiving its certificate of eligibility for a partial abatement; or

(2) An existing business, that it will increase its number of full-time employees on the payroll of the business in this State by 3 percent or three employees, whichever is greater, within 1 year after receiving its certificate of eligibility for a partial abatement; ~~[and]~~

(g) The business meets at least one of the following requirements:

(1) The business will make a new capital investment of at least $250,000 in this State within 1 year after receiving its certificate of eligibility for a partial abatement.

(2) The business will maintain and possess in this State tangible personal property having a value of not less than $5,000,000 during the period of partial abatement.

(3) The business develops, refines or owns a patent or other intellectual property, or has been issued a type certificate by the Federal Aviation Administration pursuant to 14 C.F.R. Part 21 ~~[.]~~ *; and*

(h) If the application is for the partial abatement of the taxes imposed by the Local School Support Tax Law, the application has been approved by a vote of at least two-thirds of the members of the Board of Economic Development created by NRS 231.033.

3. The Office of Economic Development:

(a) Shall approve or deny an application submitted pursuant to this section and notify the applicant of its decision not later than 45 days after receiving the application.

(b) Must not:

(1) Consider an application for a partial abatement unless the Office has requested a letter of acknowledgment of the request for the partial abatement from any affected county, school district, city or town and has complied with the requirements of NRS 360.757; or

(2) Approve a partial abatement for any applicant for a period of more than ~~[20]~~ *10* years.

4. The Office of Economic Development must not approve a partial abatement of personal property taxes for a business whose physical property

is collectively valued and centrally assessed pursuant to NRS 361.320 and 361.3205.

5. If the Office of Economic Development approves an application for a partial abatement pursuant to this section, the Office shall immediately forward a certificate of eligibility for the partial abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from personal property taxes, the appropriate county treasurer.

6. 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 Office of 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 a business whose partial abatement has been approved pursuant to this section and whose partial abatement 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 (a) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from personal property taxes, to the appropriate county treasurer, the amount of the partial abatement 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 partial abatement required to be repaid 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. The Office of Economic Development may adopt such regulations as the Office determines to be necessary to carry out the provisions of this section.

9. The Nevada Tax Commission may adopt such regulations as the Commission determines are necessary to carry out the provisions of this section.

10. An applicant for a partial abatement who is aggrieved by a final decision of the Office of Economic Development may petition a court of competent jurisdiction to review the decision in the manner provided in chapter 233B of NRS.

11. If the Office of Economic Development approves an application for a partial abatement of local sales and use taxes pursuant to this section, the Department shall issue to the business a document certifying the partial abatement which can be presented to retailers and customers of the business at

the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of 2 percent.

12. As used in this section:

(a) "Aircraft" means any fixed-wing, rotary-wing or unmanned aerial vehicle.

(b) "Component of an aircraft" means any:

(1) Element that makes up the physical structure of an aircraft, or is affixed thereto;

(2) Mechanical, electrical or other system of an aircraft, including, without limitation, any component thereof; and

(3) Raw material or processed material, part, machinery, tool, chemical, gas or equipment used to operate, manufacture, service, maintain, test, repair, overhaul or assemble an aircraft or component of an aircraft.

(c) "Full-time employee" means a person who is in a permanent position of employment and works an average of 30 hours per week during the applicable period set forth in subparagraph (3) of paragraph (a) of subsection 2.

(d) "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 the Sales and Use Tax Act . ~~*[and the Local School Support Tax Law.]*~~

(e) "Personal property taxes" means any taxes levied on personal property by the State or a local government pursuant to chapter 361 of NRS.

Sec. 13. NRS 360.754 is hereby amended to read as follows:

360.754 1. A person who intends to locate or expand a data center in this State may apply to the Office of Economic Development pursuant to this section for a partial abatement of one or more of the taxes imposed on the new or expanded data center pursuant to chapter 361 or 374 of NRS . ~~*[or the local sales and use taxes. As used in this subsection, "local sales and use taxes" means the 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 the political subdivision in which the data center is to be located or expanded, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.]*~~

2. The Office of Economic Development shall approve an application for a partial abatement pursuant to this section if the Office makes the following determinations:

(a) The application is consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053 and any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office of Economic Development which must:

(1) Comply with the requirements of NRS 360.755;

(2) State the date on which the abatement becomes effective, as agreed to by the applicant and the Office of Economic Development, which must not be earlier than the date on which the Office received the application;

(3) State that the data center will, after the date on which the abatement becomes effective, continue in operation in this State for a period specified by the Office of Economic Development, which must be at least 10 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(4) Bind the successors in interest of the applicant for the specified period.

(c) The applicant 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 each county, city or town in which the data center operates.

(d) If the applicant is seeking a partial abatement for a period of not more than 10 years, the applicant meets the following requirements:

(1) The data center will, by not later than the date that is 5 years after the date on which the abatement becomes effective, have or have added 10 or more full-time employees who are residents of Nevada and who will be employed at the data center and will continue to employ 10 or more full-time employees who are residents of Nevada at the data center until at least the date which is 10 years after the date on which the abatement becomes effective.

(2) Establishing or expanding the data center will require the data center or any combination of the data center and one or more colocated businesses to make in each county in this State in which the data center is located, by not later than the date which is 5 years after the date on which the abatement becomes effective, a cumulative capital investment of at least $25,000,000 in capital assets that will be used or located at the data center.

(3) The average hourly wage that will be paid by the data center 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 data center will, by not later than the date which is 2 years after the date on which the abatement becomes effective, provide a health insurance plan for all employees employed at the data center that includes an option for health insurance coverage for dependents of the employees; and

(II) The health care benefits provided to employees employed at the data center will meet the minimum requirements for health care benefits established by the Office of Economic Development by regulation pursuant to subsection 12.

(4) At least 50 percent of the employees engaged in the construction of the data center are residents of Nevada, unless waived by the Executive Director of the Office of Economic Development upon proof satisfactory to the Executive Director of the Office of Economic Development that there is an insufficient number of residents of Nevada available and qualified for such employment.

(e) If the applicant is seeking a partial abatement for a period of 10 years or more but not more than 20 years, the applicant meets the following requirements:

(1) The data center will, by not later than the date that is 5 years after the date on which the abatement becomes effective, have or have added 50 or more full-time employees who are residents of Nevada and who will be employed at the data center and will continue to employ 50 or more full-time employees who are residents of Nevada at the data center until at least the date which is 20 years after the date on which the abatement becomes effective.

(2) Establishing or expanding the data center will require the data center or any combination of the data center and one or more colocated businesses to make in each county in this State in which the data center is located, by not later than the date which is 5 years after the date on which the abatement becomes effective, a cumulative capital investment of at least $100,000,000 in capital assets that will be used or located at the data center.

(3) The average hourly wage that will be paid by the data center 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 data center will, by not later than the date which is 2 years after the date on which the abatement becomes effective, provide a health insurance plan for all employees employed at the data center that includes an option for health insurance coverage for dependents of the employees; and

(II) The health care benefits provided to employees employed at the data center will meet the minimum requirements for health care benefits established by the Office of Economic Development by regulation pursuant to subsection 12.

(4) At least 50 percent of the employees engaged in the construction of the data center are residents of Nevada, unless waived by the Executive Director of the Office of Economic Development upon proof satisfactory to the Executive Director of the Office of Economic Development that there is an insufficient number of residents of Nevada available and qualified for such employment.

(f) The applicant has provided in the application an estimate of the total number of new employees which the data center anticipates hiring in this State if the Office of Economic Development approves the application.

(g) If the applicant is seeking a partial abatement of the taxes imposed by the Local School Support Tax Law, the application has been approved by a vote of at least two-thirds of the members of the Board of Economic Development created by NRS 231.033.

3. Notwithstanding the provisions of subsection 2, the Office of Economic Development:

(a) Shall not consider an application for a partial abatement pursuant to this section unless the Office of Economic Development has requested a letter of

acknowledgment of the request for the abatement from each affected county, school district, city or town.

(b) Shall consider the level of health care benefits provided to employees employed at the data center, the projected economic impact of the data center and the projected tax revenue of the data center after deducting projected revenue from the abated taxes.

(c) May, if the Office of Economic Development determines that such action is necessary:

(1) Approve an application for a partial abatement pursuant to this section by a data center that does not meet the requirements set forth in paragraph (d) or (e) of subsection 2;

(2) Make the requirements set forth in paragraph (d) and (e) of subsection 2 more stringent; or

(3) Add additional requirements that an applicant must meet to qualify for a partial abatement pursuant to this section.

4. If the Office of Economic Development approves an application for a partial abatement pursuant to this section, the Office 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 imposed pursuant to chapter 361 of NRS, the county treasurer of each county in which the data center is or will be located.

5. If the Office of Economic Development approves an application for a partial abatement pursuant to this section, the Office may also approve a partial abatement of taxes for each colocated business that enters into a contract to use or occupy, for a period of at least 2 years, all or a portion of the new or expanded data center. Each such colocated business shall obtain a state business license issued by the Secretary of State. The percentage amount of a partial abatement approved for a colocated business pursuant to this subsection must not exceed the percentage amount of the partial abatement approved for the data center. The duration of a partial abatement approved for a colocated business pursuant to this subsection must not exceed the duration of the contract or contracts entered into between the colocated business and the data center, including the duration of any contract or contracts extended or renewed by the parties. If a colocated business ceases to meet the requirements set forth in this subsection, the colocated business shall repay the amount of the abatement that was allowed in the same manner in which a data center is required by subsection 7 to repay the Department or a county treasurer. If a data center ceases to meet the requirements of subsection 2 or ceases operation before the time specified in the agreement described in paragraph (b) of subsection 2, any partial abatement approved for a colocated business ceases to be in effect, but the colocated business is not required to repay the amount of the abatement that was allowed before the date on which the abatement ceases to be in effect. A data center shall provide the Executive Director of the

Office and the Department with a list of the colocated businesses that are qualified to receive a partial abatement pursuant to this subsection and shall notify the Executive Director within 30 days after any change to the list. The Executive Director shall provide the list and any updates to the list to the Department and the county treasurer of each affected county.

6. An applicant for a partial abatement pursuant to this section or a data center whose partial abatement is in effect shall, upon the request of the Executive Director of the Office of 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 a data center 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 data center shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the abatement that was allowed pursuant to this section before the failure of the data center to comply unless the Nevada Tax Commission determines that the data center has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the data center shall, in addition to the amount of the abatement required to be repaid 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. A county treasurer:

(a) Shall deposit any money that he or she receives pursuant to subsection 5 or 7 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. An applicant for a partial abatement pursuant to this section who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

10. For an employee to be considered a resident of Nevada for the purposes of this section, a data center must maintain the following documents in the personnel file of the employee:

(a) A copy of the current and valid Nevada driver's license of the employee or a current and valid identification card for the employee issued by the Department of Motor Vehicles;

(b) If the employee is a registered owner of one or more motor vehicles in Nevada, a copy of the current motor vehicle registration of at least one of those vehicles;

(c) Proof that the employee is a full-time employee; and

(d) Proof that the employee is covered by the health insurance plan which the data center is required to provide pursuant to sub-subparagraph (I) of subparagraph (3) of paragraph (d) of subsection 2 or sub-subparagraph (I) of subparagraph (3) of paragraph (e) of subsection 2.

11. For the purpose of obtaining from the Executive Director of the Office of Economic Development any waiver of the requirements set forth in subparagraph (4) of paragraph (d) of subsection 2 or subparagraph (4) of paragraph (e) of subsection 2, a data center must submit to the Executive Director of the Office of Economic Development written documentation of the efforts to meet the requirements and documented proof that an insufficient number of Nevada residents is available and qualified for employment.

12. The Office of Economic Development:

(a) Shall adopt regulations relating to the minimum level of health care benefits that a data center must provide to its employees to meet the requirement set forth in paragraph (d) or (e) of subsection 2;

(b) May adopt such other regulations as the Office determines to be necessary to carry out the provisions of this section; and

(c) Shall not approve any application for a partial abatement submitted pursuant to this section which is received on or after January 1, 2036.

13. The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment necessary to meet the requirement set forth in paragraph (d) or (e) of subsection 2; and

(2) Any security that a data center 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.

14. As used in this section, unless the context otherwise requires:

(a) "Colocated business" means a person who enters into a contract with a data center that is qualified to receive an abatement pursuant to this section to use or occupy all or part of the data center.

(b) "Data center" means one or more buildings located at one or more physical locations in this State which house a group of networked server computers for the purpose of centralizing the storage, management and dissemination of data and information pertaining to one or more businesses and includes any modular or preassembled components, associated telecommunications and storage systems and, if the data center includes more than one building or physical location, any network or connection between such buildings or physical locations.

(c) "Full-time employee" means a person who is in a permanent position of employment and works an average of 30 hours per week during the applicable period set forth in paragraph (d) or (e) of subsection 2.

Sec. 14. (Deleted by amendment.)

Sec. 15. NRS 360.884 is hereby amended to read as follows:

360.884 "Local sales and use taxes" means only the taxes imposed pursuant to chapters ~~[374,]~~ 377, 377A and 377B of NRS 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 the county in which the qualified project is located. The term does not include any taxes imposed by the Sales and Use Tax Act . ~~*[and the Local School Support Tax Law.]*~~

Sec. 16. NRS 360.920 is hereby amended to read as follows:

360.920 "Local sales and use taxes" means only the taxes imposed pursuant to ~~[chapters 374 and]~~ *chapter* 377 of NRS on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in the county in which the qualified project is located. The term does not include the taxes imposed by the Sales and Use Tax Act . ~~*[and the Local School Support Tax Law.]*~~

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 18.5. The amendatory provisions of ~~[sections 5, 6.3, 7, 11, 12.5, 13, 15 and 16]~~ this act do not apply to any abatement granted or any application for an abatement filed before ~~[the effective date of the amendatory provisions to those sections.]~~ July 1, 2019.

Sec. 19. 1. This section and sections 5, 6.3, 7, 11, 12.5, 13, 15, 16 and 18.5 of this act become effective on ~~[passage and approval.]~~ July 1, 2019.

2. Sections 6, 6.5, 8 and 12 of this act become effective on July 1, 2032.

3. Section 15 of this act expires by limitation on June 30, 2032.

4. Section 12.5 of this act expires by limitation on June 30, 2035.

5. Section 16 of this act expires by limitation on June 30, 2036.

6. Section 13 of this act expires by limitation on December 31, 2056.

Senator Ratti moved the adoption of the amendment.

Remarks by Senator Ratti.

Amendment No. 791 to Assembly Bill No. 400 amends sections 11 and 12 of the bill governing the general abatements that may be granted by the Governor's Office of Economic Development (GOED) under Nevada Revised Statute (NRS) 360.750 to provide that a new business may be approved for an abatement of the Local School Support Tax (LSST) in addition to the abatements that may be granted under this section from the property tax, Modified Business tax (MBT) and other local sales tax rates. Pursuant to the amendment, expanding businesses are eligible to receive abatements from property taxes, the MBT and all other local sales and use taxes except the LSST.

Under the amendment, sections 11 and 12 continue to provide a business may not receive more than one abatement as a new or existing business in a county or in the State under NRS 360.750. The amendment adds additional language prohibiting a business from changing its name or identity in order to circumvent the restrictions on receiving multiple abatements. Section 12.5 is amended to reduce the maximum length from 20 years to 10 years for which abatements may be granted to aircraft-related businesses. Section 12.5 is further amended to provide aircraft-related businesses may receive an abatement of the LSST only if the GOED Board approves the abatement by a two-thirds majority.

Similarly, section 13 is amended to provide the data centers may receive an abatement of the LSST only if the GOED Board approves the abatement by a two-thirds majority.

Finally, the amendment provides the amendatory provisions of the bill do not apply to abatements granted and applications filed before July 1, 2019.

Amendment adopted.

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

Assembly Bill No. 416.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 906.

SUMMARY—Revises provisions relating to the imposition and collection of ~~[delinquent]~~ fines, administrative assessments, fees or restitution. (BDR 14-429)

AN ACT relating to criminal procedure; revising provisions relating to the collection of delinquent fines, administrative assessments, fees or restitution; authorizing a court to order the performance of community service in lieu of all or a part of any administrative assessment or fee in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court to impose a collection fee against a defendant for any delinquent fine, administrative assessment, fee or restitution. Existing law authorizes a state or local entity responsible for collecting such a delinquent fine, administrative assessment, fee or restitution to take certain actions, including reporting the delinquency to credit reporting agencies. Existing law also authorizes the court to take certain actions, including: (1) entering a civil judgment for the amount due in favor of the state or local entity responsible for collecting the delinquent amount; (2) requesting that a prosecuting attorney undertake collection of the delinquency by attachment or garnishment of the property of the defendant, wages or other money receivable; (3) ordering the suspension of the driver's license of the defendant or prohibiting the defendant from applying for a driver's license for a specified period; and (4) for a delinquent fine or administrative assessment, ordering the confinement of the person in the appropriate prison, jail or detention facility. (NRS 176.064)

Section 2 of this bill revises provisions relating to the procedure for collecting such delinquent fines, administrative assessments, fees or restitution. Section 2 removes the ability of a state or local entity responsible for collecting a delinquent amount to report the delinquency to credit reporting agencies and removes the ability of the court to request that a prosecuting attorney undertake collection of the delinquency. Section 2 also specifies that a court may only order the suspension of the driver's license of a defendant or prohibit a defendant from applying for a driver's license for a specified period if the court determines that the defendant: (1) has the ability to pay the amount due and is willfully avoiding payment; or (2) was given the opportunity to perform community service to satisfy the amount due because the defendant is indigent and the defendant has failed to perform such community service. Section 2 thereby authorizes a state or local entity responsible for collecting a delinquent amount to: (1) request that the court enter a civil judgment for the

amount due in favor of the state or local entity, suspend the driver's license of the defendant or prohibit the defendant from applying for a driver's license in such specified circumstances and, if the court determines that the defendant has the ability to pay the amount due and is willfully avoiding payment, order the confinement of the defendant in the appropriate prison, jail or detention facility; and (2) contract with a licensed collection agency to collect the delinquent amount and the collection fee.

Section 1.7 of this bill provides that any delinquent fine, administrative assessment or fee owed by a defendant is deemed to be uncollectible if after 8 years it remains impossible or impracticable to collect the delinquent amount.

Section 1.3 of this bill establishes the circumstances in which a person is presumed to be indigent and not to have the ability to pay a fine, administrative assessment or fee.

Section 2.5 of this bill additionally authorizes a court, under certain circumstances, to order a convicted person to perform community service in lieu of all or part of any administrative assessment or fee that may be imposed for the commission of a misdemeanor.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. *For the purposes of this chapter, a person is presumed to be indigent and not to have the ability to pay a fine, administrative assessment or fee imposed pursuant to this chapter if the person:*

1. Receives public assistance, as that term is defined in NRS 422A.065;

2. Resides in public housing, as that term is defined in NRS 315.021; or

3. Has a household income that is less than 200 percent of the federally designated level signifying poverty.

Sec. 1.7. *Any delinquent fine, administrative assessment or fee owed by a defendant pursuant to NRS 176.064 is deemed to be uncollectible if after 8 years it remains impossible or impracticable to collect the delinquent amount.*

Sec. 2. NRS 176.064 is hereby amended to read as follows:

176.064 1. If a fine, administrative assessment, fee or restitution is imposed upon a defendant pursuant to this chapter, whether or not the fine, administrative assessment, fee or restitution is in addition to any other punishment, and the fine, administrative assessment, fee or restitution or any part of it remains unpaid after the time established by the court for its payment, the defendant is liable for a collection fee, to be imposed by the court at the time it finds that the fine, administrative assessment, fee or restitution is delinquent, of:

(a) Not more than $100, if the amount of the delinquency is less than $2,000.

(b) Not more than $500, if the amount of the delinquency is $2,000 or greater, but is less than $5,000.

(c) Ten percent of the amount of the delinquency, if the amount of the delinquency is $5,000 or greater.

2. A state or local entity that is responsible for collecting a delinquent fine, administrative assessment, fee or restitution may, in addition to attempting to collect the fine, administrative assessment, fee or restitution through any other lawful means, take ~~[any or all of]~~ the following actions:

(a) ~~[Report the delinquency to reporting agencies that assemble or evaluate information concerning credit.~~

~~(b)]~~ Request that the court take appropriate action pursuant to subsection 3.

~~[(c)]~~ *(b)* Contract with a collection agency licensed pursuant to NRS 649.075 to collect the delinquent amount and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the collection fee imposed pursuant to subsection 1, in accordance with the provisions of the contract.

3. The court may, on its own motion or at the request of a state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution, take ~~[any or all of]~~ the following actions *:* ~~[, in the following order of priority if practicable:]~~

(a) Enter a civil judgment for the amount due in favor of the state or local entity that is responsible for collecting the delinquent fine, administrative assessment, fee or restitution. A civil judgment entered pursuant to this paragraph may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money rendered in a civil action. If the court has entered a civil judgment pursuant to this paragraph and the person against whom the judgment is entered is not indigent and has not satisfied the judgment within the time established by the court, the person may be dealt with as for contempt of court.

(b) ~~[Request that a prosecuting attorney undertake collection of the delinquency, including, without limitation, the original amount of the civil judgment entered pursuant to paragraph (a) and the collection fee, by attachment or garnishment of the defendant's property, wages or other money receivable.~~

~~(c) Order]~~ *If the court determines that the defendant has the ability to pay the amount due and is willfully avoiding payment, or if the defendant was given the opportunity to perform community service to satisfy the amount due because the defendant is indigent and the defendant has failed to perform such community service, order* the suspension of the driver's license of the defendant. If the defendant does not possess a driver's license, the court may prohibit the defendant from applying for a driver's license for a specified period. If the defendant is already the subject of a court order suspending or delaying the issuance of the defendant's driver's license, the court may order the additional suspension or delay, as appropriate, to apply consecutively with the previous order. At the time the court issues an order suspending the driver's

license of a defendant pursuant to this paragraph, the court shall require the defendant to surrender to the court all driver's licenses then held by the defendant. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. At the time the court issues an order pursuant to this paragraph delaying the ability of a defendant to apply for a driver's license, the court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the defendant's driving record, but such a suspension must not be considered for the purpose of rating or underwriting.

~~[(d) For a delinquent fine or administrative assessment,]~~

(c) If the court determines that the defendant has the ability to pay the amount due and is willfully avoiding payment, order the confinement of the ~~[person]~~ *defendant* in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

4. Money collected from a collection fee imposed pursuant to subsection 1 must be distributed in the following manner:

(a) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a municipal court, the money must be deposited in a special fund in the appropriate city treasury. The city may use the money in the fund only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution and to hire additional personnel necessary for the success of such a program.

(b) Except as otherwise provided in paragraph (d), if the money is collected by or on behalf of a justice court or district court, the money must be deposited in a special fund in the appropriate county treasury. The county may use the money in the special fund only to:

(1) Develop and implement a program for the collection of fines, administrative assessments, fees and restitution and to hire additional personnel necessary for the success of such a program; or

(2) Improve the operations of a court by providing funding for:

(I) A civil law self-help center; or

(II) Court security personnel and equipment for a regional justice center that includes the justice courts of that county.

(c) Except as otherwise provided in paragraph (d), if the money is collected by a state entity, the money must be deposited in an account, which is hereby created in the State Treasury. The Court Administrator may use the money in the account only to develop and implement a program for the collection of fines, administrative assessments, fees and restitution in this State and to hire additional personnel necessary for the success of such a program.

(d) If the money is collected by a collection agency, after the collection agency has been paid its fee pursuant to the terms of the contract, any remaining money must be deposited in the state, city or county treasury,

whichever is appropriate, to be used only for the purposes set forth in paragraph (a), (b) or (c) of this subsection.

Sec. 2.5. NRS 176.087 is hereby amended to read as follows:

176.087 1. Except where the imposition of a specific criminal penalty is mandatory, a court may order a convicted person to perform supervised community service:

(a) In lieu of all or a part of any fine *, administrative assessment, fee* or imprisonment that may be imposed for the commission of a misdemeanor; or

(b) As a condition of probation granted for another offense.

2. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

3. The court may require the convicted person to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which the person performs the community service, unless, in the case of industrial insurance, it is provided by the authority for which the person performs the community service.

4. The following conditions apply to any such community service imposed by the court:

(a) The court must fix the period of community service that is imposed as punishment or a condition of probation and distribute the period over weekends or over other appropriate times that will allow the convicted person to continue employment and to care for the person's family. The period of community service fixed by the court must not exceed, for a:

(1) Misdemeanor, 200 hours;

(2) Gross misdemeanor, 600 hours; or

(3) Felony, 1,000 hours.

(b) A supervising authority listed in subsection 2 must agree to accept the convicted person for community service before the court may require the convicted person to perform community service for that supervising authority. The supervising authority must be located in or be the town or city of the convicted person's residence or, if that placement is not possible, one located within the jurisdiction of the court or, if that placement is not possible, the authority may be located outside the jurisdiction of the court.

(c) Community service that a court requires pursuant to this section must be supervised by an official of the supervising authority or by a person designated by the authority.

(d) The court may require the supervising authority to report periodically to the court or to a probation officer the convicted person's performance in carrying out the punishment or condition of probation.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 906 to Assembly Bill No. 416 authorizes a court to order a convicted person to perform community service in lieu of all or part of any administrative assessment, fee or fine that may be imposed for the commission of a misdemeanor, unless a specific criminal penalty is mandatory.

Amendment adopted.

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

Assembly Bill No. 422.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 807.

SUMMARY—Revises provisions governing criminal procedure. (BDR 14-1096)

AN ACT relating to criminal procedure; revising provisions relating to a judge or magistrate requiring certain bail if a person fails to appear as a material witness; revising provisions relating to a court or officer issuing certain warrants for arrest if a person fails to appear as a witness; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a magistrate to require bail for a person who appears as a witness if such a person is material in a criminal proceeding and it is impracticable to secure the presence of the person by subpoena. (NRS 178.494) Section 2 of this bill requires a judge or magistrate to appoint an attorney when bail is required for such a material witness and requires such an attorney to be present, when practicable. Section 2 also prescribes certain requirements for making a determination whether a material witness should be detained or continue to be detained, including requiring the material witness to appear before a magistrate as soon as practicable but not later than 72 hours after being detained. Finally, section 2: (1) requires a material witness who is a victim of domestic violence or sexual assault to appear before a magistrate not later than 24 hours after being detained; and (2) authorizes such a determination to be made by telephone for such material witnesses.

Existing law authorizes a court or officer to issue a warrant to arrest a witness upon the failure of the witness to appear. (NRS 50.205) ~~[Section]~~ Upon such an arrest, section 3 of this bill requires a court or officer to appoint an attorney ~~[when issuing such a warrant.]~~ to represent the witness. Section 3 also prescribes certain requirements for making a determination whether a witness should be detained or continue to be detained, including requiring the witness to appear before a court or officer as soon as practicable but not later than 72 hours after being detained. Finally, section 3: (1) requires a witness who is a victim of domestic violence or sexual assault to appear before a court or officer not later than 24 hours after being detained; and (2) authorizes such a determination to be made by telephone for such witnesses.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 178.494 is hereby amended to read as follows:

178.494 1. If it appears by affidavit that the testimony of a person is material in any criminal proceeding and if it is shown that it may become impracticable to secure the person's presence by subpoena, the magistrate may require bail for the person's appearance as a witness, in an amount fixed by the magistrate. If the person fails to give bail the magistrate may:

(a) Commit the person to the custody of a peace officer pending final disposition of the proceeding in which the testimony is needed;

(b) Order the person's release if the person has been detained for an unreasonable length of time; and

(c) Modify at any time the requirement as to bail.

2. ~~[Every]~~ *Upon requiring bail for the person's appearance as a material witness, the magistrate shall appoint an attorney to represent the person and provide the attorney:*

(a) With the last known contact information of the person; and

(b) Notice of every proceeding.

3. Except as otherwise provided in subsection 4, every person detained as a material witness must be brought before a judge or magistrate ~~[within]~~ *as soon as practicable, but not later than* 72 hours after the beginning of the detention. The judge or magistrate shall *consider the least restrictive means to secure the person's presence and* make a determination whether:

(a) The amount of bail required to be given by the material witness should be modified; and

(b) The detention of the material witness should continue. *If the court determines that detention of the material witness should continue, the court must make written findings stating why detention should continue.*

4. A person detained as a material witness pursuant to this section who is a victim of domestic violence or sexual assault:

(a) Must be brought before a judge or magistrate, as soon as practicable, but not later than 24 hours after the beginning of the detention:

(b) May be detained or continue detention pursuant to a determination by telephone; and

(c) To the extent practicable, must have the attorney appointed pursuant to subsection 2 participate in any determination pursuant to this section.

~~[~~*5.* The judge or magistrate shall ~~[set]~~ *:*

(a) Set a schedule for the periodic review of whether the amount of bail required should be modified and whether detention should continue ~~[.]~~ *; and*

(b) Schedule the case in which the material witness will testify to take place as soon as possible if substantial rights of the defendant are not prejudiced.

6. As used in this section:

(a) "Domestic violence" means the commission of any act described in NRS 33.018.

(b) "Sexual assault" has the meaning ascribed to it in NRS 49.2543.

Sec. 3. NRS 50.205 is hereby amended to read as follows:

50.205 ~~[In]~~

1. In case of failure of a witness to attend, the court or officer issuing the subpoena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the county to arrest the witness and bring the witness before the court or officer where the attendance of the witness was required.

2. Upon ~~[issuing a warrant]~~ the arrest of a witness pursuant to subsection 1, the court or officer issuing the warrant shall appoint an attorney to represent the witness and provide the attorney:

(a) With the last known contact information of the witness; and

(b) Notice of every proceeding.

3. Except as otherwise provided in subsection 4, every witness detained pursuant to a warrant issued pursuant to this section must be brought before the court or officer as soon as practicable but not later than 72 hours after the beginning of the detention. The court or officer shall consider the least restrictive means to secure the presence of the witness and make a determination whether the detention of the witness should continue. If the court determines that the detention of the witness should continue, the court must make written findings stating why detention should continue.

4. A person detained as a witness pursuant to this section who is a victim of domestic violence or sexual assault:

(a) Must be brought before the court or officer as soon as practicable but not later than 24 hours after the beginning of the detention;

(b) May be detained or continue detention pursuant to a determination by telephone; and

(c) To the extent practicable, must have the attorney appointed pursuant to subsection 2 participate in any determination pursuant to this section.

5. The court or officer shall:

(a) Set a schedule for the periodic review of whether detention should continue; and

(b) Schedule the case in which the witness will testify to take place as soon as possible if substantial rights of the defendant are not prejudiced.

6. As used in this section:

(a) "Domestic violence" means the commission of any act described in NRS 33.018.

(b) "Sexual assault" has the meaning ascribed to it in NRS 49.2543.

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 807 to Assembly Bill No. 422 changes the time at which a lawyer must be appointed for a material witness from when a warrant is issued to when an arrest is made.

Amendment adopted.

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

Assembly Bill No. 477.

Bill read second time.

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

Amendment No. 736.

SUMMARY—Enacts provisions governing ~~[the accrual of interest in]~~ certain consumer form contracts ~~[.]~~ and consumer debts. (BDR 8-935)

AN ACT relating to consumer contracts; enacting the Consumer Protection from the Accrual of Predatory Interest After Default Act; prohibiting the use of certain form contracts; limiting prejudgment and postjudgment interest ~~[rates]~~ and attorney's fees under certain circumstances; prohibiting choice of law, forum selection and other provisions in certain form contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law contains various provisions governing retail installment sales. (Chapter 97 of NRS) Sections 2-19 of this bill enact the Consumer Protection from the Accrual of Predatory Interest After Default Act, which contains provisions governing the use of form contracts in certain consumer transactions. Sections 5-8 of this bill define "business," "consumer," "consumer debt" and "consumer form contract." Section 9 of this bill prohibits the use of a consumer form contract by a business that is not in compliance with the provisions of this bill. Section 10 of this bill exempts certain business organizations and other persons from the provisions of this bill. Section 11 of this bill prohibits the inclusion of a choice of law or forum selection provision in a consumer form contract. Section 12 of this bill requires any consumer form contract involving financial services be signed by the consumer in writing or electronically signed in full compliance with section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001(c). Section 13 of this bill prohibits the inclusion of certain provisions in a consumer form contract that would limit a consumer's rights. Section 14 of this bill declares that any provision in a consumer form contract that violates the provisions of this bill is void and unenforceable. Section 15 of this bill provides that if a consumer enters a consumer form contract with a person who is required to be licensed but is not, the contract is void for all purposes. Section 17 of this bill provides certain ~~[methods for calculating the rate]~~ limits on the amount of prejudgment interest and the rate of postjudgment interest under ~~[different]~~ certain circumstances. Sections 18 and 19 of this bill provide certain methods for calculating attorney's fees for the prevailing party in any action to collect a consumer debt.

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

Section 1. Title 8 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. *This chapter may be cited as the Consumer Protection from the Accrual of Predatory Interest After Default Act.*

Sec. 3. *1. The purpose of this chapter is to protect consumers.*

2. This chapter must be construed as a consumer protections statute for all purposes.

3. This chapter must be liberally construed to effectuate its purpose.

Sec. 4. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 5 to 8, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 5. *"Business" means a proprietorship, corporation, partnership, association, trust, unincorporated organization or other enterprise doing business in this State.*

Sec. 6. *"Consumer" means a natural person.*

Sec. 7. *"Consumer debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily personal, family or household purposes, whether or not such obligation has been reduced to judgment.*

Sec. 8. *1. "Consumer form contract" means a retail charge agreement or a retail installment contract involving a retail installment transaction in writing between a retail seller and a consumer buyer, or a lease in writing between a lessor and a consumer lessee, involving the sale or lease of goods or services, including, without limitation, credit or financial services, primarily for personal, family or household purposes and which has either been drafted by the business or by a third party for use with more than one consumer, unless a second consumer is the spouse of the first consumer.*

2. As used in this section:

(a) "Buyer" has the meaning ascribed to it in NRS 97.085.

(b) "Goods" has the meaning ascribed to it in NRS 97.035.

(c) "Retail charge agreement" has the meaning ascribed to it in NRS 97.095.

(d) "Retail installment contract" has the meaning ascribed to it in NRS 97.105.

(e) "Retail installment transaction" has the meaning ascribed to it in NRS 97.115.

(f) "Retail seller" has the meaning ascribed to it in NRS 97.125.

(g) "Services" has the meaning ascribed to it in NRS 97.135.

Sec. 9. *1. A business, including, without limitation, any officer, agent, employee or representative, shall not individually or in cooperation with another, solicit the execution of, receive or rely upon a consumer form contract, including, without limitation, reliance upon the consumer form contract as a basis of a suit or claim, unless the business has complied with the provisions of this chapter.*

2. The provisions of this chapter apply to any person who seeks to evade its application by any device, subterfuge or pretense.

Sec. 10. *The provisions of this chapter do not apply to:*

1. A person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage brokers, mortgage bankers, thrift companies or insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.

2. Any business:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the United States Department of Housing and Urban Development and the Department of Veterans Affairs.

3. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

4. A seller of real property who offers credit secured by a mortgage of the property sold.

5. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside this State.

6. A person while performing any act authorized pursuant to chapter 604A of NRS.

7. A motor vehicle manufacturer or distributor, or an affiliate or captive financial institution of a motor vehicle manufacturer or distributor.

Sec. 11. *If a consumer form contract is signed by the consumer or otherwise formed while the consumer resides in this State with a person operating within this State:*

1. A choice of law provision in a consumer form contract which provides that the consumer form contract is to be governed or interpreted pursuant to the laws of another state is void. Enforcement and interpretation of such a contract must be governed by the laws of this State if enforcement of the consumer form contract is sought in a court of this State.

2. A forum selection provision in a consumer form contract which provides that any claims or actions related to the consumer form contract must be litigated in a forum outside this State is void.

Sec. 12. *1. Any consumer form contract involving a loan, extension of credit, deposit account or other financial services must be signed by the consumer in writing or electronically in full compliance with Section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001(c).*

2. Any change of terms to a consumer form contract must be agreed to by the consumer by affirmative consent, signed in writing or electronically in full compliance with Section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001(c).

Sec. 13. *A consumer form contract must not contain:*

1. A provision that the consumer will hold the other party harmless, or that otherwise relieves the other party of liability, for any harm or damage caused to the consumer arising from the consumer form contract.

2. A confession of judgment clause.

3. A waiver of the right to a jury trial, unless the consumer agrees to an alternative dispute resolution such as binding arbitration, in any action brought by or against the consumer.

4. Any assignment of or order for payment of wages or other compensation for services.

5. A provision in which the consumer agrees not to assert any claim or defense arising out of the consumer form contract or to seek any remedies pursuant to any consumer protection law.

6. A waiver of any provision of this chapter or any other consumer protection statute. Any such waiver shall be deemed null, void and of no effect.

7. A provision requiring or having the practical effect of requiring that any aspect of a resolution of a dispute between the parties to the agreement be kept confidential. This subsection does not affect the right of the parties to agree that certain specified information is a trade secret or otherwise confidential or to later agree, after the dispute arises, to keep a resolution confidential.

Sec. 14. *A provision in a consumer form contract that violates this chapter shall be void and unenforceable. A court may refuse to enforce other provisions of the consumer form contract as equity may require.*

Sec. 15. *Any consumer form contract entered into by a consumer with a person who is required to be licensed pursuant to any provision of NRS or NAC in order to enter into the consumer transaction, but is not so licensed, is void. Neither the obligee nor any assignee of the obligation may collect, receive or retain any principal, finance charge or other fees in connection with the transaction.*

Sec. 16. (Deleted by amendment.)

Sec. 17. *If the plaintiff is the prevailing party in any action to collect a consumer debt:*

1. ~~[And no rate of interest is stated in the consumer form contract, any prejudgment or postjudgment interest must be limited as set forth in this section.~~

~~2.]~~ And a rate of interest is stated in the consumer form contract, interest ~~[stops accruing at the rate stated in the consumer form contract on the date of default and]~~ may be awarded by the court only as set forth in this section.

~~[3.]~~ 2. Interest under the consumer form contract, prejudgment interest and postjudgment interest awarded by the court must not be compounded.

3. Any prejudgment interest the court awards the plaintiff must be limited to the lesser of:

(a) The accrued interest at the rate stated in the consumer form contract to the day the action to collect the debt is filed; or

(b) One hundred eighty days of interest at the rate stated in the consumer form contract.

4. ~~[Interest accrues at the rate stated in the consumer form contract only through the date of default, and any prejudgment or]~~ Any postjudgment interest the court awards the plaintiff must be limited to the lesser of:

(a) The rate of interest in the consumer form contract; or

(b) 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 rate must ~~[be adjusted accordingly on each January 1 and July 1 thereafter]~~ remain fixed at that rate until the judgment is satisfied.

Sec. 18. *1. If the plaintiff is the prevailing party in any action to collect a consumer debt, the plaintiff is entitled to collect attorney's fees only if the consumer form contract or other document evidencing the indebtedness sets forth an obligation of the consumer to pay such attorney's fee and subject to the following conditions:*

(a) If a consumer form contract or other document evidencing indebtedness provides for attorney's fees in some specific percentage, such provision and obligation is valid and enforceable for an amount not to exceed 15 percent of the amount of the debt, excluding attorney's fees and collection costs.

(b) If a consumer form contract or other document evidencing indebtedness provides for the payment of reasonable attorney's fees by the debtor, without specifying any specific percentage, such provision must be construed to mean the lesser of 15 percent of the amount of the debt, excluding attorney's fees and collection costs, or the amount of attorney's fees calculated by a reasonable rate for such cases multiplied by the amount of time reasonably expended to obtain the judgment.

2. The documentation setting forth a party's obligation to pay attorney's fees must be provided to the court before a court may enforce those provisions.

Sec. 19. *If the debtor is the prevailing party in any action to collect a consumer debt, the debtor is entitled to an award of reasonable attorney's fees. The amount of the debt that the creditor sought may not be a factor in determining the reasonableness of the award.*

Sec. 20. The provisions of this act apply to contracts entered into on or after October 1, 2019.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Amendment No. 736 makes two changes to Assembly Bill No. 477. It amends section 10 to exempt an auto franchise dealer or distributor, or an affiliate, or captive financial institution of a motor vehicle manufacturer or distributor from the provisions of this bill. It amends section 17 to clarify the calculation of prejudgment and postjudgment interest owed by the consumer to the plaintiff if such party is the prevailing party in any action to collect consumer debt.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 130.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 873.

SUMMARY—Provides for the licensing and regulation of certain persons who administer radiation. (BDR 40-61)

AN ACT relating to radiation; creating the Radiation Therapy and Radiologic Imaging Advisory Committee; providing for a license to engage in radiation therapy or radiologic imaging; providing for a limited license to engage in radiologic imaging; prescribing the requirements for the issuance and renewal of such a license and limited license; authorizing certain persons to practice as radiologist assistants; prescribing additional qualifications for a person to perform certain types of radiation therapy and radiologic imaging; providing for the enforcement of the requirements concerning radiation therapy and radiologic imaging; authorizing the imposition of disciplinary action or an injunction against a person who engages in radiation therapy or radiologic imaging in certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations for the licensing of persons to: (1) receive, possess or transfer radioactive materials and devices; and (2) engage in certain other activities relating to radioactive materials. (NRS 459.201) Section 9 of this bill authorizes the Division of Public and Behavioral Health of the Department of Health and Human Services to suspend, revoke or amend such a license or registration of a person who violates any provision of statute or regulations governing radioactive materials or radiation.

Sections 22-51 of this bill add a new chapter to NRS governing the licensing and regulation of persons who engage in radiation therapy and radiologic imaging. Section 32 of this bill exempts physicians, physician assistants, dentists, dental hygienists, dental assistants, chiropractors, chiropractor's assistants, certain persons training to engage in the practice of chiropractic, podiatrists, ~~[persons who administer radiation only to animals, other than humans,]~~ veterinarians, veterinary technicians, certain persons working under the supervision of a veterinarian or veterinary technician and persons engaging in mammography from such licensing and regulation. Section 72.3 of this bill exempts podiatry hygienists and persons training to be podiatry hygienists from such licensing and regulation if the State Board of Podiatry adopts regulations prescribing the conditions under which such persons may engage in radiologic imaging and radiation therapy. Sections 62 and 63 of this bill authorize a podiatry hygienist to take and develop X-rays without obtaining a license to engage in radiation therapy and radiologic imaging under certain conditions before the effective date of such regulations. Sections 72.6 and 73.5 of this bill make conforming changes.

Section 35 of this bill prohibits a person from engaging in: (1) radiologic imaging unless he or she has obtained a license or limited license from the Division; or (2) radiation therapy unless he or she has obtained a license from the Division. ~~[Section 56 of this bill: (1) authorizes a dental hygienist, dental assistant or qualified dental technician to perform certain types of radiography within the practice of his or her profession if he or she has successfully completed certain training; and (2) prohibits such a person from otherwise engaging in radiation therapy or radiologic imaging. Section 57 of this bill makes a conforming change.]~~ Sections 54 and 55 of this bill clarify that a practitioner of respiratory care or homeopathic assistant is prohibited from engaging in radiation therapy or radiologic imaging unless he or she holds a license or limited license. Section 75 of this bill requires the Division to issue a license or limited license, as applicable, to the scope of practice of the person, to any person who is performing radiation therapy or radiologic imaging as part of his or her employment on or before January 1, 2020, and registers with the Division. The holder of a license or limited license issued pursuant to section 75 would be required to comply with all requirements to renew the license or limited license, including requirements for continuing education, as if the license or limited license were issued pursuant to sections 22-51.

Sections 36 and 37 of this bill prescribe the qualifications for obtaining a license or a limited license. Section 37 also establishes the types of limited licenses that may be issued. Sections 38 and 39 of this bill provide for licensure by endorsement of persons who hold licenses in another state that correspond to a license to engage in radiation therapy and radiologic imaging or a limited license to engage in radiologic imaging. Sections 40 and 50 of this bill provide for the denial or suspension of a license or a limited license if the licensee is delinquent in child support payments, in conformance with federal law. Section 41 of this bill authorizes certain holders of a license to engage in radiation therapy and radiologic imaging to practice as a radiologist assistant. Sections 2 and 65 of this bill authorize the holder of a license to engage in radiation therapy and radiologic imaging or a person training to obtain such a license to take certain actions with regard to drugs to the same extent as was previously authorized for a radiologic or nuclear medicine technician or trainee. Section 3 of this bill makes a conviction of certain crimes involving dangerous drugs grounds for the suspension or revocation of a license to engage in radiation therapy and radiologic imaging.

Section 42 of this bill authorizes: (1) an unlicensed person to engage in supervised radiation therapy or radiologic imaging without compensation for the purpose of qualifying for a certification that is a prerequisite for a license or limited license; or (2) a license to practice outside the scope of his or her license under supervision for the purpose of qualifying for a certification that is a prerequisite for being licensed. Section 42 also authorizes the Division to issue a temporary student license, which authorizes an unlicensed person to engage in radiation therapy or radiologic imaging for compensation for the purpose of qualifying for certification that is a prerequisite for being licensed.

Sections 44 and 45 of this bill prescribe the required qualifications to perform computed tomography and fluoroscopy, respectively. Section 43 of this bill authorizes unlicensed persons who register with the Division and meet certain other requirements to take X-ray photographs at certain federally-qualified health centers or rural health clinics. Section 43 also authorizes a person who is employed performing computed tomography or fluoroscopy to continue to do so without obtaining a license from the Division if he or she registers with the Division and meets certain other requirements.

Existing law prohibits a person from operating a radiation machine for mammography unless the person holds a certificate to do so or is a licensed physician or physician assistant. (NRS 457.183) Section 4.5 exempts an applicant for such a certificate who also holds a license to engage in radiation therapy and radiologic imaging ~~[or a limited license to engage in radiologic imaging]~~ from the requirement to pay an application fee. Section 6 of this bill makes a conforming change.

Section 47 of this bill authorizes the Division to: (1) enter and inspect any private or public property for the purpose of enforcing the provisions of this bill governing radiation therapy and radiologic imaging; and (2) request any information necessary to ensure that persons engaged in radiation therapy and radiologic imaging meet applicable requirements. Sections 19 and 47 of this bill provide for the confidentiality of such information and reports of inspections. Section 48 of this bill: (1) prescribes the grounds for disciplinary action against a holder of a license or limited license; and (2) authorizes a person whose license or limited license has been revoked to apply to the Division for reinstatement after 2 years. Section 49 of this bill requires the Division to: (1) investigate a complaint filed against a licensee; and (2) provide a licensee against whom disciplinary action may be imposed with the opportunity for a hearing. Section 51 of this bill authorizes the Division to seek an injunction to prevent a violation of provisions of this bill governing the licensing and regulation of persons who engage in radiation therapy or radiologic imaging. Sections 35, 41, 44 and 45 make it a misdemeanor to engage in radiation therapy, radiologic imaging or other activity for which a credential is required without the proper credential.

Section 33 of this bill creates the Radiation Therapy and Radiologic Imaging Advisory Committee to advise the State Board of Health, the Division and the Legislature concerning radiation therapy and radiologic imaging. Section 34 of this bill requires the Board to adopt certain regulations relating to radiation therapy and radiologic imaging, including regulations defining the scope of practice for radiologist assistants and the holders of licenses and limited licenses. Section 34 requires those standards of practice to be at least as stringent as those adopted by a national professional organization designated by the Board and recommended by the Committee. Section 33 requires the Committee to recommend a national professional organization for that purpose.

Existing law requires the Legislative Committee on Health Care to review each regulation that certain licensing entities adopt which relates to standards for the issuance or renewal of a license. (NRS 439B.225) Section 1 of this bill adds to the regulations reviewed by the Committee relating to the standards for the issuance of a license to engage in radiation therapy or radiologic imaging and a limited license to engage in radiologic imaging.

Existing law prohibits the Division from issuing or renewing the registration of a radiation machine unless the applicant attests that the radiologic technicians and nuclear medicine technicians employed by the applicant have knowledge of and are in compliance with certain guidelines for the prevention of transmission of infectious agents. (NRS 459.035) Section 8 of this bill deletes those provisions and instead requires the operator of a radiation machine to be properly licensed and in compliance with the provisions of this bill concerning radiation therapy and radiologic imaging or be exempt pursuant to section 32. Section 35 requires a person to have knowledge of and be in compliance with guidelines for the prevention and transmission of infectious agents.

Sections 10-18, 20, 52, 58 and 64-72 of this bill make conforming changes to treat holders of licenses and limited licenses similarly to other providers of health care in certain respects.

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

Section 1. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, "licensing board" means any division or board empowered to adopt standards for the issuance or renewal of licenses, permits or certificates of registration pursuant to NRS 433.601 to 433.621, inclusive, 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640D, 641, 641A, 641B, 641C, 652 or 654 of NRS ~~[.]~~ *or sections 22 to 51, inclusive, of this act.*

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for the issuance or renewal of licenses, permits or certificates of registration issued to a person or facility regulated by the board, giving consideration to:

(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;

(b) The effect of the regulation on the cost of health care in this State;

(c) The effect of the regulation on the number of licensed, permitted or registered persons and facilities available to provide services in this State; and

(d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 2. NRS 454.213 is hereby amended to read as follows:

454.213 1. Except as otherwise provided in NRS 454.217, a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

(a) A practitioner.

(b) A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

(c) Except as otherwise provided in paragraph (d), a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practice registered nurse, or pursuant to a chart order, for administration to a patient at another location.

(d) In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

(1) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

(2) Acting under the direction of the medical director of that agency or facility who works in this State.

(e) A medication aide - certified at a designated facility under the supervision of an advanced practice registered nurse or registered nurse and in accordance with standard protocols developed by the State Board of Nursing. As used in this paragraph, "designated facility" has the meaning ascribed to it in NRS 632.0145.

(f) Except as otherwise provided in paragraph (g), an advanced emergency medical technician or a paramedic, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

(1) The State Board of Health in a county whose population is less than 100,000;

(2) A county board of health in a county whose population is 100,000 or more; or

(3) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

(g) An advanced emergency medical technician or a paramedic who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

(h) A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

(i) A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

(j) A medical student or student nurse in the course of his or her studies at an accredited college of medicine or approved school of professional or practical nursing, at the direction of a physician and:

(1) In the presence of a physician or a registered nurse; or

(2) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

➥ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

(k) Any person designated by the head of a correctional institution.

(l) An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

(m) A ~~[nuclear medicine technologist,]~~ *holder of a license to engage in radiation therapy and radiologic imaging issued pursuant to sections 22 to 51, inclusive, of this act,* at the direction of a physician and in accordance with any conditions established by regulation of the Board.

(n) ~~[A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.~~

~~(o)]~~ A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

~~[(p)]~~ *(o)* A physical therapist, but only if the drug or medicine is a topical drug which is:

(1) Used for cooling and stretching external tissue during therapeutic treatments; and

(2) Prescribed by a licensed physician for:

(I) Iontophoresis; or

(II) The transmission of drugs through the skin using ultrasound.

~~[(q)]~~ *(p)* In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

~~[(r)]~~ *(q)* A veterinary technician or a veterinary assistant at the direction of his or her supervising veterinarian.

~~[(s)]~~ *(r)* In accordance with applicable regulations of the Board, a registered pharmacist who:

(1) Is trained in and certified to carry out standards and practices for immunization programs;

(2) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(3) Administers immunizations in compliance with the "Standards for Immunization Practices" recommended and approved by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

~~[(t)]~~ *(s)* A registered pharmacist pursuant to written guidelines and protocols developed and approved pursuant to NRS 639.2809 or a collaborative practice agreement, as defined in NRS 639.0052.

~~[(u)]~~ *(t)* A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, advanced emergency medical technician, paramedic, respiratory therapist, dialysis technician, ~~[nuclear medicine technologist, radiologic technologist,]~~ physical therapist or veterinary technician *or to obtain a license to engage in radiation therapy and radiologic imaging pursuant to sections 22 to 51, inclusive, of this act* if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, advanced emergency medical technician, paramedic, respiratory therapist, dialysis technician, ~~[nuclear medicine technologist, radiologic technologist,]~~ physical therapist , ~~[or]~~ veterinary technician *or person licensed to engage in radiation therapy and radiologic imaging* who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

~~[(v)]~~ *(u)* A medical assistant, in accordance with applicable regulations of the:

(1) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

(2) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

2. As used in this section, "accredited college of medicine" has the meaning ascribed to it in NRS 453.375.

Sec. 3. NRS 454.361 is hereby amended to read as follows:

454.361 A conviction of the violation of any of the provisions of NRS 454.181 to 454.371, inclusive, constitutes grounds for the suspension or revocation of any license issued to such person pursuant to the provisions of chapters 630, 631, 633, 635, 636, 638 or 639 of NRS ~~[.]~~ *or sections 22 to 51, inclusive, of this act.*

Sec. 4. (Deleted by amendment.)

Sec. 4.5. NRS 457.183 is hereby amended to read as follows:

457.183 1. A person shall not operate a radiation machine for mammography unless the person:

(a) Has a certificate of authorization to operate a radiation machine issued by the Division; or

(b) Is licensed pursuant to chapter 630 or 633 of NRS.

2. To obtain a certificate of authorization to operate a radiation machine for mammography, a person must:

(a) Submit an application to the Division on a form provided by the Division and provide any additional information required by the Division;

(b) Be certified by the American Registry of Radiologic Technologists or meet the standards established by the Division pursuant to subsection 1 of NRS 457.065;

(c) Pass an examination if the Division determines that an examination for certification is necessary to protect the health and safety of the residents of this State;

(d) Submit the statement required pursuant to NRS 457.1833; and

(e) ~~[Pay]~~ *Except as otherwise provided in subsection 4, pay* the fee required by the Division, which must be calculated to cover the administrative costs directly related to the process of issuing the certificates.

3. An application for the issuance of a certificate of authorization to operate a radiation machine for mammography must include the social security number of the applicant.

4. *An applicant for the issuance or renewal of a certificate to operate a radiation machine for mammography is not required to pay a fee pursuant to paragraph (e) of subsection 2 or subsection 6, as applicable, if the applicant holds a license ~~[or limited license]~~ issued pursuant to sections 22 to 51, inclusive, of this act.*

5. The Division shall certify a person to operate a radiation machine for mammography if the person complies with the provisions of subsection 2 and meets the standards adopted pursuant to subsection 1 of NRS 457.065.

~~[5.]~~ *6.* A certificate of authorization to operate a radiation machine for mammography expires 3 years after the date on which it was issued unless it is renewed before that date. ~~[The]~~ *Except as otherwise provided in* subsection 4, *the* Division shall require continuing education as a prerequisite to the renewal of a certificate and shall charge a fee for renewal that is calculated to cover the administrative costs directly related to the renewal of a certificate.

~~[6.]~~ *7.* A person who is certified to operate a radiation machine for mammography pursuant to this section shall not operate such a machine without a valid certificate of authorization issued pursuant to NRS 457.184 for the machine.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 457.185 is hereby amended to read as follows:

457.185 1. The Division shall grant or deny an application for a certificate of authorization to operate a radiation machine for mammography or a certificate of authorization for a radiation machine for mammography within 4 months after receipt of a complete application.

2. The Division shall withdraw the certificate of authorization to operate a radiation machine for mammography if it finds that the person violated the provisions of subsection ~~[6]~~ *7* of NRS 457.183.

3. The Division shall deny or withdraw the certificate of authorization of a radiation machine for mammography if it finds that the owner, lessee or other responsible person violated the provisions of subsection 1 of NRS 457.184.

4. If a certificate of authorization to operate a radiation machine for mammography or a certificate of authorization for a radiation machine for mammography is withdrawn, a person must apply for the certificate in the manner provided for an initial certificate.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 459.035 is hereby amended to read as follows:

459.035 The Division shall not issue or renew the registration of a radiation machine pursuant to regulations adopted by the State Board of Health unless the applicant for issuance or renewal of the registration attests that the ~~[radiologic technologists and nuclear medicine technologists]~~ *persons* employed by the applicant ~~[have knowledge of and are in compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.]~~ *to operate the radiation machine are properly licensed pursuant to sections 22 to 51, inclusive, of this act or are exempt from the requirement to obtain such licensure pursuant to section 32 of this act.*

Sec. 9. NRS 459.260 is hereby amended to read as follows:

459.260 *1. The Division may suspend, revoke or amend a license or registration issued pursuant to NRS 459.201 to a person who has violated any provision of NRS 459.010 to 459.290, inclusive, or any rule, regulation or order issued pursuant thereto.*

2. In the event of an emergency, the Division may impound, or order the impounding of, sources of ionizing radiation in the possession of any person who is not equipped to observe, or who fails to observe, any provision of NRS 459.010 to 459.290, inclusive, or any rules or regulations issued under NRS 459.010 to 459.290, inclusive.

Sec. 10. NRS 7.095 is hereby amended to read as follows:

7.095 1. An attorney shall not contract for or collect a fee contingent on the amount of recovery for representing a person seeking damages in connection with an action for injury or death against a provider of health care based upon professional negligence in excess of:

(a) Forty percent of the first $50,000 recovered;

(b) Thirty-three and one-third percent of the next $50,000 recovered;

(c) Twenty-five percent of the next $500,000 recovered; and

(d) Fifteen percent of the amount of recovery that exceeds $600,000.

2. The limitations set forth in subsection 1 apply to all forms of recovery, including, without limitation, settlement, arbitration and judgment.

3. For the purposes of this section, "recovered" means the net sum recovered by the plaintiff after deducting any disbursements or costs incurred in connection with the prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and general and administrative expenses incurred by the office of the attorney are not deductible disbursements or costs.

4. As used in this section:

(a) "Professional negligence" means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.

(b) "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, dentist, registered nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, *holder of a license or a limited license issued under the provisions of sections 22 to 51, inclusive, of this act,* medical laboratory director or technician, licensed dietitian or a licensed hospital and its employees.

Sec. 11. NRS 41A.017 is hereby amended to read as follows:

41A.017 "Provider of health care" means a physician licensed pursuant to chapter 630 or 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, *holder of a license or a limited license issued under the provisions of sections 22 to 51, inclusive, of this act,* medical laboratory director or technician, licensed dietitian or a licensed hospital, clinic, surgery center, physicians' professional corporation or group practice that employs any such person and its employees.

Sec. 12. NRS 42.021 is hereby amended to read as follows:

42.021 1. In an action for injury or death against a provider of health care based upon professional negligence, if the defendant so elects, the defendant may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the injury or death pursuant to the United States Social Security Act, any state or federal income disability or worker's compensation act, any health, sickness or income-disability insurance, accident insurance that provides health benefits or income-disability coverage, and any contract or agreement of any group, organization, partnership or corporation to provide, pay for or reimburse the cost of medical, hospital, dental or other health care services. If the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount that the plaintiff has paid or contributed to secure the plaintiff's right to any insurance benefits concerning which the defendant has introduced evidence.

2. A source of collateral benefits introduced pursuant to subsection 1 may not:

(a) Recover any amount against the plaintiff; or

(b) Be subrogated to the rights of the plaintiff against a defendant.

3. In an action for injury or death against a provider of health care based upon professional negligence, a district court shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for

future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds $50,000 in future damages.

4. In entering a judgment ordering the payment of future damages by periodic payments pursuant to subsection 3, the court shall make a specific finding as to the dollar amount of periodic payments that will compensate the judgment creditor for such future damages. As a condition to authorizing periodic payments of future damages, the court shall require a judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor.

5. A judgment ordering the payment of future damages by periodic payments entered pursuant to subsection 3 must specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments will be made. Such payments must only be subject to modification in the event of the death of the judgment creditor. Money damages awarded for loss of future earnings must not be reduced or payments terminated by reason of the death of the judgment creditor, but must be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately before the judgment creditor's death. In such cases, the court that rendered the original judgment may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subsection.

6. If the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the periodic payments as specified pursuant to subsection 5, the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including, but not limited to, court costs and attorney's fees.

7. Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to make further payments ceases and any security given pursuant to subsection 4 reverts to the judgment debtor.

8. As used in this section:

(a) "Future damages" includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.

(b) "Periodic payments" means the payment of money or delivery of other property to the judgment creditor at regular intervals.

(c) "Professional negligence" means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which

the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.

(d) "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, *holder of a license or a limited license issued under the provisions of sections 22 to 51, inclusive, of this act,* medical laboratory director or technician, licensed dietitian or a licensed hospital and its employees.

Sec. 13. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means:

(1) Unlawfully attempting to use physical force against another person; or

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Fire-fighting agency" has the meaning ascribed to it in NRS 239B.020.

(c) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, judge of the Court of Appeals, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph;

(6) An employee of this State or a political subdivision of this State whose official duties require the employee to make home visits;

(7) A civilian employee or a volunteer of a law enforcement agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to law enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the law enforcement agency;

(8) A civilian employee or a volunteer of a fire-fighting agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to fire fighting or fire prevention; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the fire-fighting agency; or

(9) A civilian employee or volunteer of this State or a political subdivision of this State whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for this State or a political subdivision of this State.

(d) "Provider of health care" means a physician, a medical student, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a medication aide - certified, a dentist, a dental student, a dental hygienist, a dental hygienist student, a pharmacist, a pharmacy student, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, a licensed dietitian, *the holder of a license or a limited license issued under the provisions of sections 22 to 51, inclusive, of this act,* an emergency medical technician, an advanced emergency medical technician and a paramedic.

(e) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100 or 391.281.

(f) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(g) "Sports official" has the meaning ascribed to it in NRS 41.630.

(h) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(i) "Taxicab driver" means a person who operates a taxicab.

(j) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her

duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 14. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited, isolated or abandoned shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation, isolation or abandonment of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office; or

(3) A toll-free telephone service designated by the Aging and Disability Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited, isolated or abandoned.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation, isolation or abandonment of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department of

Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, music therapist, athletic trainer, driver of an ambulance, paramedic, licensed dietitian , *holder of a license or a limited license issued under the provisions of sections 22 to 51, inclusive, of this act* or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited, isolated or abandoned.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation, isolation or abandonment of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 449.4304.

(g) Any employee of the Department of Health and Human Services, except the State Long-Term Care Ombudsman appointed pursuant to NRS 427A.125 and any of his or her advocates or volunteers where prohibited from making such a report pursuant to 45 C.F.R. § 1321.11.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation, isolation or abandonment of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

(m) Every person who operates or is employed by a peer support recovery organization, as defined in NRS 449.01563.

(n) Every person who operates or is employed by a community health worker pool, as defined in NRS 449.0028, or with whom a community health worker pool contracts to provide the services of a community health worker, as defined in NRS 449.0027.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect, isolation or abandonment, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

(a) Aging and Disability Services Division;

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited, isolated or abandoned, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 15. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited, isolated or abandoned shall:

(a) Report the abuse, neglect, exploitation, isolation or abandonment of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited, isolated or abandoned.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation, isolation or abandonment of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, music therapist, athletic trainer, driver of an ambulance, paramedic, licensed dietitian , *holder of a license or a limited license issued under the provisions of sections 22 to 51, inclusive, of this act* or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited, isolated or abandoned.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation, isolation or abandonment of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation, isolation or abandonment of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as

a result of abuse, neglect, isolation or abandonment, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 16. NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect, exploitation, isolation or abandonment of older persons or vulnerable persons, except:

(a) Pursuant to a criminal prosecution;

(b) Pursuant to NRS 200.50982; or

(c) To persons or agencies enumerated in subsection 3,

➥ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse, neglect, exploitation, isolation or abandonment of an older person or a vulnerable person is available only to:

(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited, isolated or abandoned;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation, isolation or abandonment of the older person or vulnerable person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect,

exploitation, isolation or abandonment of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation, isolation or abandonment;

(i) If the older person or vulnerable person is deceased, the executor or administrator of his or her estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation, isolation or abandonment of the older person or vulnerable person to the public agency is protected, and the executor or administrator is not the person suspected of such abuse, neglect, exploitation, isolation or abandonment; or

(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited, isolated or abandoned, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited, isolated or abandoned an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, *or sections 22 to 51, inclusive, of this act,* the information contained in the report must be submitted to the board that issued the license.

5. If data or information concerning the reports and investigations of the abuse, neglect, exploitation, isolation or abandonment of an older person or a vulnerable person is made available pursuant to paragraph (b) or (j) of subsection 3 or subsection 4, the name and any other identifying information of the person who made the report must be redacted before the data or information is made available.

Sec. 17. NRS 200.810 is hereby amended to read as follows:

200.810 "Health care procedure" means any medical procedure, other than a surgical procedure, that requires a license to perform pursuant to chapters 630 to 637, inclusive, 639 or 640 of NRS ~~[.]~~ *or sections 22 to 51, inclusive, of this act.*

Sec. 18. NRS 200.820 is hereby amended to read as follows:

200.820 "Surgical procedure" means any invasive medical procedure where a break in the skin is created and there is contact with the mucosa or any minimally invasive medical procedure where a break in the skin is created or which involves manipulation of the internal body cavity beyond a natural or artificial body orifice which requires a license to perform pursuant to chapters 630 to 637, inclusive, 639 or 640 of NRS ~~[.]~~ *or sections 22 to 51, inclusive, of this act.*

Sec. 19. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,

119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090,

641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 47 of this act,* sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 20. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of the home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by a fetal alcohol spectrum disorder or prenatal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A person providing services licensed or certified in this State pursuant to, without limitation, chapter 450B, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B or 641C of NRS ~~.~~ *or sections 22 to 51, inclusive, of this act.*

(b) Any personnel of a medical facility licensed pursuant to chapter 449 of NRS who are engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of such a

medical facility upon notification of suspected abuse or neglect of a child by a member of the staff of the medical facility.

(c) A coroner.

(d) A member of the clergy, practitioner of Christian Science or religious healer, unless the person has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A person employed by a public school or private school and any person who serves as a volunteer at such a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed pursuant to chapter 424 of NRS to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) Except as otherwise provided in NRS 432B.225, an attorney.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for a youth shelter. As used in this paragraph, "youth shelter" has the meaning ascribed to it in NRS 244.427.

(l) Any adult person who is employed by an entity that provides organized activities for children, including, without limitation, a person who is employed by a school district or public school.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

7. The agency, board, bureau, commission, department, division or political subdivision of the State responsible for the licensure, certification or endorsement of a person who is described in subsection 4 and who is required

in his or her professional or occupational capacity to be licensed, certified or endorsed in this State shall, at the time of initial licensure, certification or endorsement:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is licensed, certified or endorsed in this State.

8. The employer of a person who is described in subsection 4 and who is not required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State must, upon initial employment of the person:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is employed by the employer.

9. Before a person may serve as a volunteer at a public school or private school, the school must:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section and NRS 392.303;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section and NRS 392.303; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person serves as a volunteer at the school.

10. As used in this section:

(a) "Private school" has the meaning ascribed to it in NRS 394.103.

(b) "Public school" has the meaning ascribed to it in NRS 385.007.

Sec. 21. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 22 to 51, inclusive, of this act.

Sec. 22. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 23 to 31, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 23. *"Board" means the State Board of Health.*

Sec. 24. (Deleted by amendment.)

Sec. 24.5. *"Department" means the Department of Health and Human Services.*

Sec. 25. *"Division" means the Division of Public and Behavioral Health of the Department of Health and Human Services.*

Sec. 26. *"License" means a license to engage in radiation therapy and radiologic imaging issued pursuant to section 36, 38 or 39 of this act. The term does not include a limited license.*

Sec. 27. *"Limited license" means a limited license to engage in radiologic imaging issued pursuant to section 37, 38 or 39 of this act.*

Sec. 28. *"Mammography" has the meaning ascribed to it in NRS 457.182.*

Sec. 29. *"Radiation therapy" means the administration of ionizing radiation for therapeutic purposes.*

Sec. 30. *"Radiologic imaging" means the use of ionizing radiation to diagnose or visualize a medical condition.*

Sec. 31. *"Radiologist assistant" means a person who holds a license and meets the requirements of section 41 of this act.*

Sec. 32. *The provisions of this chapter do not apply to:*

1. A physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS.

2. A dentist or dental hygienist licensed pursuant to chapter 631 of NRS ~~[,]~~ or a dental assistant working within the scope of his or her employment under the direct supervision of a dentist.

3. A chiropractic physician or chiropractor's assistant licensed pursuant to chapter 634 of NRS.

4. A person training to become a chiropractor's assistant or a student practicing in the preceptor program established by the Chiropractic Physicians' Board of Nevada pursuant to NRS 634.1375.

5. A podiatric physician licensed pursuant to chapter 635 of NRS.

6. ~~[The administration of radiation to nonhuman animals for any purpose, including, without limitation, therapy or imaging.]~~ A veterinarian or veterinary technician licensed pursuant to chapter 638 of NRS or any other person performing tasks under the supervision of a veterinarian or veterinary technician as authorized by regulation of the Nevada State Board of Veterinary Medical Examiners.

7. The performance of mammography in accordance with NRS 457.182 to 457.187, inclusive.

Sec. 33. *1. The Radiation Therapy and Radiologic Imaging Advisory Committee is hereby created.*

2. The Committee consists of seven members, all of whom are voting members, appointed by the Governor. The Governor shall ensure that the members of the Committee represent the geographic diversity of this State. The Governor shall appoint to the Committee:

(a) One member who holds a license and is certified by the American Registry of Radiologic Technologists, or its successor organization, to practice in the area of radiography.

(b) One member who holds a license and is certified by the American Registry of Radiologic Technologists, or its successor organization, to practice in the area of nuclear medicine technology.

(c) One member who holds a license and is certified by the American Registry of Radiologic Technologists, or its successor organization, to practice in the area of radiation therapy.

(d) One member who holds a limited license.

(e) One member who is a physician specializing in radiology.

(f) One member who is a physician specializing in an area other than radiology, or a dentist, chiropractor or podiatrist.

(g) One member who is certified to provide clinical professional services in a field of medical physics.

3. After the initial terms, the members of the Committee serve terms of 3 years. A vacancy on the Committee must be filled in the same manner as the initial appointment. No member may serve more than two consecutive terms.

4. Members of the Committee serve without compensation, except that each member of the Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Committee shall annually select a Chair from among the members appointed pursuant to paragraphs (a) to (d), inclusive, of subsection 2, and a Vice Chair from among its members.

6. The Committee shall meet at least once each year and such other times as requested by the Administrator of the Division. The Committee may meet by telephone, videoconference or other electronic means in accordance with the provisions of chapter 241 of NRS. The Administrator shall prescribe the agenda for each meeting. The Committee may submit items to the Administrator to consider for inclusion on the agenda for a meeting.

7. The Committee shall:

(a) Recommend to the Board a national professional organization against which the scope of practice will be measured pursuant to paragraph (b) of subsection 1 of section 34 of this act; and

(b) Make such other recommendations to the Board, the Division and the Legislature concerning radiation therapy and radiologic imaging as it deems proper.

Sec. 34. *1. The Board shall adopt regulations:*

(a) Establishing the fees for the application for and the issuance and renewal of a license or limited license.

(b) Defining the scope of practice for radiologist assistants and persons who hold licenses and limited licenses. Such regulations must be at least as stringent as the scope of practice adopted by a national professional organization whose membership consists of persons licensed or certified to engage in radiation therapy or radiologic imaging. The national professional organization must be designated by the Board upon the recommendation of the Radiation Therapy and Radiologic Imaging Advisory Committee pursuant to subsection 7 of section 33 of this act.

(c) Prescribing the requirements for continuing education for the renewal of a license or limited license. Such regulations must require the holder of a license to complete more hours of continuing education than the holder of a limited license.

(d) Prescribing the qualifications of a person who is authorized to supervise the holder of a limited license, the tasks for which such supervision is required and the level of supervision required.

(e) Defining the terms "crime involving moral turpitude" and "unprofessional conduct" for the purposes of section 48 of this act.

2. The Board may adopt any other regulations necessary or convenient to carry out the provisions of this chapter.

3. At the same time that the Board provides notice pursuant to chapter233B *of NRS or NRS 241.020 of any meeting or workshop relating to the adoption of a proposed regulation pursuant to this chapter, the Board shall submit an electronic copy of the notice to the Radiation Therapy and Radiologic Imaging Advisory Committee created by section 33 of this act.*

4. All money received from penalties pursuant to the provisions of this chapter must be forwarded to the State Treasurer for credit to the Fund for the Care of Sites for the Disposal of Radioactive Waste created by NRS 459.231.

5. All money received from fees pursuant to the provisions of this chapter must be used by the Division to administer the provisions of this chapter.

6. The Division shall enforce the provisions of this chapter.

Sec. 35. *1. Except as otherwise provided in sections 42 ~~[,]~~ and 43 ~~[and 56]~~ of this act, a person shall not engage in:*

(a) Radiologic imaging unless he or she has obtained a license or limited license from the Division.

(b) Radiation therapy unless he or she has obtained a license from the Division.

(c) Radiation therapy or radiologic imaging which is outside the scope of practice authorized for his or her license or limited license by the regulations adopted pursuant to section 34 of this act.

2. A person who wishes to obtain or renew a license or limited license must apply to the Division in the form prescribed by the Division.

3. A license or limited license expires 2 years after the date on which the license was issued and must be renewed on or before that date.

4. The Division shall not issue or renew a license or limited license unless the applicant for issuance or renewal of the license or limited license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

5. A provisional license or provisional limited license may not be renewed and expires:

(a) On the date on which the holder of the provisional license or provisional limited license is issued a license or limited license by the Division;

(b) On the date on which the application of the holder of the provisional license or provisional limited license for a license or limited license is denied by the Division; or

(c) One year after the date on which the holder of the provisional license or provisional limited license is initially employed to engage in radiation therapy or radiologic imaging.

6. A person who engages in radiation therapy or radiologic imaging in violation of the provisions of this section is guilty of a misdemeanor.

Sec. 36. *The Division may issue a license to engage in radiation therapy and radiologic imaging to a person who:*

1. Has successfully completed an educational program accredited by the Joint Review Committee on Education in Radiologic Technology, or its successor organization, the Joint Review Committee on Educational Programs in Nuclear Medicine Technology, or its successor organization, or another national accrediting organization approved by the Division; and

2. Is certified by the American Registry of Radiologic Technologists, or its successor organization, to practice in the area of radiography, nuclear medicine technology or radiation therapy or the Nuclear Medicine Technology Certification Board, or its successor organization, in nuclear medicine or meets any alternative standards prescribed by regulation of the Board.

Sec. 37. *1. The Division may issue a limited license to engage in radiologic imaging to a person who has completed a course of study in limited X-ray machine operation that incorporates the Limited X-Ray Machine Operator Curriculum prescribed by the American Society of Radiologic Technologists, or its successor organization, and satisfies the provisions of subsection 2.*

2. A person may obtain a limited license only if the person:

(a) Has passed an examination for the limited scope of practice in radiography administered by the American Registry of Radiologic Technologists or its successor organization;

(b) If applying for a limited license in spine and extremity radiography, is certified by the American Chiropractic Registry of Radiologic Technologists or its successor organization;

(c) If applying for a limited license in podiatric radiography, is licensed as a podiatry hygienist pursuant to NRS 635.093 or certified by the American Society of Podiatric Medical Assistants or its successor organization; or

(d) If applying for a limited license in bone densitometry, is certified as a bone densitometry technologist or a certified densitometry technologist by the International Society for Clinical Densitometry, or its successor organization, or has successfully completed the examination for bone densitometry equipment operators administered by the American Registry of Radiologic Technologists or its successor organization.

3. The holder of a limited license may perform radiologic imaging only within the scope of the limited license, as described in this subsection and the regulations adopted pursuant to section 34 of this act, and under the supervision required by those regulations. The Division may issue a limited license in:

(a) Chest radiography, which authorizes the holder of the limited license to engage in radiography of the thorax, heart and lungs;

(b) Extremities radiography, which authorizes the holder of the limited license to engage in radiography of the upper and lower extremities, including the pelvic girdle;

(c) Spine and extremity radiography, which authorizes the holder of the limited license to engage in radiography of the vertebral column and the upper and lower extremities, including the pelvic girdle;

(d) Skull and sinus radiography, which authorizes the holder of the limited license to engage in radiography of the skull and face;

(e) Podiatric radiography, which authorizes the holder of the limited license to engage in radiography of the foot, ankle and lower leg below the knee;

(f) Bone densitometry, which authorizes the holder of the limited license to engage in the determination of bone mass by measuring the absorption of radiation in the bone; or

(g) Any combination thereof.

4. The holder of a limited license shall not perform procedures using contrast media, nuclear medicine or radiation therapy.

5. As used in this section:

(a) "Bone densitometry" means the quantitative assessment of bone mass using single or dual energy X-ray absorptiometry.

(b) "Radiography" has the meaning ascribed to it in NRS 457.182.

Sec. 38. *1. The Division may issue a license by endorsement to engage in radiation therapy and radiologic imaging or a limited license by endorsement to engage in radiologic imaging in accordance with the provisions of this section to an applicant who meets the requirements set forth in this section.*

2. An applicant for a license by endorsement or a limited license by endorsement pursuant to this section must submit to the Division an application in the form prescribed by the Division and:

(a) Proof satisfactory to the Division that the applicant:

(1) If applying for a license to engage in radiation therapy and radiologic imaging, holds a valid and unrestricted license, certificate or other credential to engage in radiation therapy and radiologic imaging issued in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any other territory or possession of the United States;

(2) If applying for a limited license to engage in radiologic imaging, holds a valid and unrestricted license, certificate or other credential to engage in radiologic imaging issued in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any other territory or possession of the United States;

(3) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(4) Has not been disciplined or investigated by a regulatory authority of the state or territory in which the applicant holds or has held a license; and

(5) Has not ever been held civilly or criminally liable for malpractice related to his or her license;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

(c) Any other information required by the Division.

3. Not later than 15 business days after receiving an application for a license by endorsement to engage in radiation therapy and radiologic imaging or a limited license by endorsement to engage in radiologic imaging pursuant to this section, the Division shall provide written notice to the applicant if any additional information is required by the Division to consider the application. Unless the Division denies the application for good cause, the Division shall approve the application and issue a license by endorsement or limited license by endorsement, as applicable, to the applicant not later than 45 days after receiving the application.

Sec. 39. *1. The Division may issue a license by endorsement to engage in radiation therapy and radiologic imaging or a limited license by endorsement to engage in radiologic imaging in accordance with the provisions of this section to an applicant who meets the requirements set forth in this section.*

2. An applicant for a license by endorsement pursuant to this section must submit to the Division with his or her application:

(a) Proof satisfactory to the Division that the applicant:

(1) If applying for a license to engage in radiation therapy and radiologic imaging, holds a valid and unrestricted license, certificate or other credential to engage in radiation therapy and radiologic imaging issued in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any other territory or possession of the United States;

(2) If applying for a limited license to engage in radiologic imaging, holds a valid and unrestricted license, certificate or other credential to engage in radiologic imaging issued in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any other territory or possession of the United States;

(3) Is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran;

(4) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(5) Has not been disciplined or investigated by a regulatory authority of the state or territory in which the applicant holds or has held a license; and

(6) Has not ever been held civilly or criminally liable for malpractice related to his or her license;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

(c) Any other information required by the Division.

3. Not later than 15 business days after receiving an application for a license by endorsement to engage in radiation therapy and radiologic imaging or a limited license by endorsement to engage in radiologic imaging pursuant to this section, the Division shall provide written notice to the applicant if any additional information is required by the Division to consider the application.

Unless the Division denies the application for good cause, the Division shall approve the application and issue a license by endorsement or a limited license by endorsement, as applicable, to the applicant not later than 45 days after receiving all the additional information required by the Division to complete the application.

4. At any time before making a final decision, the Division may grant a provisional license authorizing an applicant to engage in radiation therapy and radiologic imaging or a provisional limited license authorizing an applicant to engage in radiologic imaging, as applicable, in accordance with regulations adopted by the Division.

5. As used in this section, "veteran" has the meaning ascribed to it in NRS 417.005.

Sec. 40. *1. In addition to any other requirements set forth in this chapter:*

(a) An applicant for the issuance of a license or limited license 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 license or limited license 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 license or limited license; or

(b) A separate form prescribed by the Division.

3. A license or limited license 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 the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the 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. 41. *1. The holder of a license may practice as a radiologist assistant if the holder is:*

(a) Certified by the American Registry of Radiologic Technologists, or its successor organization, to practice in the area of radiography and is registered as a radiologist assistant by that entity; or

(b) Certified by the Certification Board for Radiology Practitioner Assistants.

2. In addition to the duties that the holder of a license is authorized to perform by the regulations adopted pursuant to section 34 of this act, a radiologist assistant:

(a) May perform any duty relating to the care and management of patients, including, without limitation, radiologic imaging and interventional procedures guided by radiologic imaging, under the supervision of a radiologist.

(b) May provide initial observations concerning the images of a patient to a supervising physician who specializes in radiology.

(c) Shall not interpret images of a patient or otherwise engage in the practice of medicine, as defined in NRS 630.020.

3. A person who practices as a radiologist assistant without meeting the requirements of subsection 1 is guilty of a misdemeanor.

Sec. 42. *1. A person who does not meet the requirements of section 35 of this act may, without compensation, engage in radiation therapy or radiologic imaging under the direct supervision of a physician, dentist, chiropractor or podiatrist or a person who holds a license for the purpose of qualifying for any certification required to obtain a license or a limited license.*

2. A holder of a license or limited license may engage in radiation therapy or radiologic imaging outside the scope of practice authorized for his or her license or limited license by the regulations adopted pursuant to section 34 of this act if:

(a) Necessary to qualify for certification by a national accrediting organization in that area; and

(b) The licensee registers with the Division before engaging in such activity.

3. The Division may issue a temporary student license to a person who is enrolled in a program to qualify for any certification that is required to obtain a license or limited license. A holder of a temporary student license may engage in any activity described in subsection 1 for compensation.

4. A temporary student license may not be renewed and expires on the earlier of:

(a) The date on which the holder of the temporary student license is issued a license or limited license by the Division;

(b) The date on which the application of the holder of the temporary student license for a license or limited license is denied by the Division; or

(c) One year after the date on which the holder of the temporary student license is initially employed to engage in radiation therapy or radiologic imaging.

Sec. 43. *1. A person who does not hold a license or limited license may take X-ray photographs under the supervision of a physician or physician assistant as part of his or her employment or service as an independent contractor in a rural health clinic or federally-qualified health center described in subsection 2 if the person:*

(a) Registers with the Division in the form prescribed by the Division;

(b) Submits to the Division proof that he or she has completed training in radiation safety and proper positioning for X-ray photographs provided by the holder of a license; and

(c) Completes the continuing education prescribed by regulation of the Department.

2. A person described in subsection 1 may take X-ray photographs as part of his or her employment or service as an independent contractor in a rural health clinic or federally-qualified health center that:

(a) Is located in a county whose population is less than 55,000; and

(b) Has established a quality assurance program for X-ray photographs that meets the requirements prescribed by regulation of the Division.

3. A person who performs computed tomography or fluoroscopy as part of his or her employment on January 1, 2020, may continue to perform any such activity on and after that date without complying with the requirements of section 44 or 45, as applicable, of this act if he or she:

(a) Registers with the Division in the form prescribed by the Division;

(b) Provides any information requested by the Division; and

(c) Does not expand the scope of his or her duties relating to computed tomography or fluoroscopy, as applicable.

4. As used in this section:

(a) "Federally-qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

(b) "Rural health clinic" has the meaning ascribed to it in 42 U.S.C. § 1395x(aa)(2).

Sec. 44. *1. A person shall not perform computed tomography except as authorized by this section and section 43 of this act.*

2. Except as otherwise provided in this section, a holder of a license may only perform computed tomography within his or her scope of practice, as authorized by the regulations adopted pursuant to section 34 of this act, if he or she is certified by:

(a) The American Registry of Radiologic Technologists, or its successor organization, to practice in the area of nuclear medicine technology or radiation therapy; or

(b) The Nuclear Medicine Technology Certification Board, or its successor organization, in nuclear medicine.

3. A holder of a license who is certified by the American Registry of Radiologic Technologists, or its successor organization, or the Nuclear Medicine Technology Certification Board, or its successor organization, in computed tomography may perform computed tomography.

4. A holder of a license who does not satisfy the requirements of subsection 2 or 3 may perform computed tomography if he or she:

(a) Performs computed tomography to qualify for certification by the American Registry of Radiologic Technologists, or its successor organization, or the Nuclear Medicine Technology Certification Board, or its successor organization, in computed tomography; and

(b) Registers with the Division before performing computed tomography.

5. A person who performs computed tomography in violation of this section is guilty of a misdemeanor.

Sec. 45. *1. A person shall not perform fluoroscopy except as authorized in this section and section 43 of this act.*

2. A holder of a license may perform fluoroscopy:

(a) If he or she is certified by the American Registry of Radiologic Technologists, or its successor organization, to practice in the area of radiation therapy;

(b) Only within the scope of his or her practice; and

(c) Only to the extent authorized by the regulations adopted pursuant to section 34 of this act.

3. A person who performs fluoroscopy in violation of this section is guilty of a misdemeanor.

Sec. 46. (Deleted by amendment.)

Sec. 47. *1. Except as otherwise provided in this section, any authorized representative of the Division may:*

(a) Enter and inspect at any reasonable time any private or public property on which radiation therapy or radiologic imaging is conducted for the purpose of determining whether a violation of the provisions of this chapter or the regulations adopted pursuant thereto has occurred or is occurring. The owner, occupant or person responsible for such property shall permit such entry and inspection. An owner, occupant or person responsible for such property who fails to permit such entry and inspection is guilty of a misdemeanor.

(b) Request any information necessary to ensure that any person who engages in radiation therapy or radiologic imaging meets any requirements specified by this chapter ~~[or section 56 of this act, as applicable,]~~ concerning the radiation therapy or radiologic imaging in which the person engages.

2. An authorized representative of the Division may only enter an area that is subject to the jurisdiction of the Federal Government if the authorized representative obtains the consent of the Federal Government or its duly designated representative.

3. Any report of an investigation or inspection conducted pursuant to paragraph (a) of subsection 1 and any information requested pursuant to paragraph (b) of subsection 1 shall not be disclosed or made available for public inspection, except as otherwise provided in NRS 239.0115 or as may be necessary to carry out the responsibilities of the Division.

Sec. 48. *1. The Division may deny, suspend, revoke or refuse to renew a license or limited license issued pursuant to the provisions of this chapter,*

impose limitations on the practice of a holder of such a license or limited license or impose a civil penalty of up to $1,000 per violation if a person:

(a) Obtains a license or limited license through fraud, misrepresentation or concealment of material facts;

(b) Engages in unprofessional conduct, as defined by the regulations adopted pursuant to section 34 of this act;

(c) Is convicted of a crime involving moral turpitude, as defined by the regulations adopted pursuant to section 34 of this act, or any crime which indicates that the person is unfit to engage in radiation therapy or radiologic imaging;

(d) Violates any provision of this chapter or any regulations adopted pursuant thereto;

(e) Is guilty of malpractice, gross negligence or incompetence while engaging in radiation therapy or radiologic imaging;

(f) Engages in conduct that could result in harm to a member of the public; or

(g) Has disciplinary action imposed in another jurisdiction against a license or certificate of the person that is equivalent to a license or limited license issued pursuant to this chapter.

2. At least 2 years after the date on which the license or limited license of a person is revoked, the person may apply to the Division for reinstatement of the license, which is within the discretion of the Division.

Sec. 49. *1. The Division may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for initiating disciplinary action, investigate the actions of any person who engages in radiation therapy or radiologic imaging.*

2. A person may file a complaint anonymously pursuant to subsection 1. The Division may refuse to consider such a complaint if anonymity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

3. The Division shall retain all complaints received by the Division pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon by the Division.

4. Before initiating proceedings to impose disciplinary action, the Division shall notify the accused person in writing of the charges. Such notice may be served by personal delivery to the accused person or by mailing it by registered or certified mail to the place of business last specified as noted in the records of the Division.

5. In any proceeding to impose disciplinary action, the Division shall afford an opportunity for a hearing on the record upon the request of the accused person. The Division may compel the attendance of witnesses or the production of documents or objects by subpoena.

6. The Division shall render a written decision at the conclusion of each hearing, and the record and decision in each hearing must be made available for inspection by any interested person.

7. The Division may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to the provisions of this chapter. Any disciplinary action taken by the hearing officer or panel is subject to the same procedural requirements applicable to the Division pursuant to subsection 6, and the officer or panel has those powers and duties given to the Division in relation thereto.

8. A decision imposing disciplinary action pursuant to this section is a final decision for the purposes of judicial review.

Sec. 50. *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 person who is the holder of a license or limited license, the Division shall deem the license or limited license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the holder of the license or limited license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license or limited license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. The Division shall reinstate a license or limited license 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 person whose license or limited license was suspended stating that the person whose license or limited license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 51. *1. The Division or the Attorney General may maintain in any court of competent jurisdiction a suit to enjoin any person from violating a provision of this chapter or any regulations adopted pursuant thereto.*

2. Such an injunction:

(a) May be issued without proof of actual damage sustained by any person as a preventive or punitive measure.

(b) Does not relieve any person from any other legal action.

Sec. 52. NRS 622.520 is hereby amended to read as follows:

622.520 1. A regulatory body that regulates a profession pursuant to chapters 630, 630A, 632 to 641C, inclusive, or 644A of NRS *or sections 22 to 51, inclusive, of this act* in this State may enter into a reciprocal agreement with the corresponding regulatory authority of the District of Columbia or any other state or territory of the United States for the purposes of:

(a) Authorizing a qualified person licensed in the profession in that state or territory to practice concurrently in this State and one or more other states or territories of the United States; and

(b) Regulating the practice of such a person.

2. A regulatory body may enter into a reciprocal agreement pursuant to subsection 1 only if the regulatory body determines that:

(a) The corresponding regulatory authority is authorized by law to enter into such an agreement with the regulatory body; and

(b) The applicable provisions of law governing the practice of the respective profession in the state or territory on whose behalf the corresponding regulatory authority would execute the reciprocal agreement are substantially similar to the corresponding provisions of law in this State.

3. A reciprocal agreement entered into pursuant to subsection 1 must not authorize a person to practice his or her profession concurrently in this State unless the person:

(a) Has an active license to practice his or her profession in another state or territory of the United States.

(b) Has been in practice for at least the 5 years immediately preceding the date on which the person submits an application for the issuance of a license pursuant to a reciprocal agreement entered into pursuant to subsection 1.

(c) Has not had his or her license suspended or revoked in any state or territory of the United States.

(d) Has not been refused a license to practice in any state or territory of the United States for any reason.

(e) Is not involved in and does not have pending any disciplinary action concerning his or her license or practice in any state or territory of the United States.

(f) Pays any applicable fees for the issuance of a license that are otherwise required for a person to obtain a license in this State.

(g) Submits to the applicable regulatory body the statement required by NRS 425.520.

4. If the regulatory body enters into a reciprocal agreement pursuant to subsection 1, the regulatory body must prepare an annual report before January 31 of each year outlining the progress of the regulatory body as it relates to the reciprocal agreement and submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next session of the Legislature in odd-numbered years or to the Legislative Committee on Health Care in even-numbered years.

Sec. 53. (Deleted by amendment.)

Sec. 54. NRS 630.279 is hereby amended to read as follows:

630.279 The Board shall adopt regulations regarding the licensure of practitioners of respiratory care, including, without limitation:

1. Educational and other qualifications of applicants;

2. Required academic programs which applicants must successfully complete;

3. Procedures for applying for and issuing licenses;

4. Tests or examinations of applicants by the Board;

5. The types of medical services that a practitioner of respiratory care may perform, except that a practitioner of respiratory care may not perform those specific functions and duties delegated or otherwise restricted by specific statute to persons licensed as dentists, chiropractors, podiatric physicians,

optometrists, physicians, osteopathic physicians or hearing aid specialists pursuant to this chapter or chapter 631, 633, 634, 635, 636 or 637B of NRS, as appropriate ~~[.;]~~ *, or persons who hold a license to engage in radiation therapy and radiologic imaging or a limited license to engage in radiologic imaging pursuant to sections 22 to 51, inclusive, of this act;*

6. The duration, renewal and termination of licenses; and

7. The grounds and procedures for disciplinary actions against practitioners of respiratory care.

Sec. 55. NRS 630A.299 is hereby amended to read as follows:

630A.299 The Board shall adopt regulations regarding the certification of a homeopathic assistant, including, but not limited to:

1. The educational and other qualifications of applicants.

2. The required academic program for applicants.

3. The procedures for applications for and the issuance of certificates.

4. The tests or examinations of applicants by the Board.

5. The medical services which a homeopathic assistant may perform, except that a homeopathic assistant may not perform those specific functions and duties delegated or restricted by law to persons licensed as dentists, chiropractors, podiatric physicians, optometrists or hearing aid specialists under chapter 631, 634, 635, 636 or 637B, respectively, of NRS ~~[.]~~ *or persons licensed to engage in radiation therapy or radiologic imaging pursuant to sections 22 to 51, inclusive, of this act.*

6. The duration, renewal and termination of certificates.

7. The grounds respecting disciplinary actions against homeopathic assistants.

8. The supervision of a homeopathic assistant by a supervising homeopathic physician.

9. The establishment of requirements for the continuing education of homeopathic assistants.

Sec. 56. ~~[Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as authorized by this section, a dental hygienist, dental assistant or qualified technician shall not engage in radiation therapy or radiologic imaging unless he or she has obtained a license or limited license pursuant to sections 22 to 51, inclusive, of this act.*~~

~~*2. A dental hygienist, dental assistant or qualified technician may make radiograms or X-ray exposures or use X-ray radiation:*~~

~~*(a) Only for dental treatment or dental diagnostic purposes and upon the direction of a dentist; and*~~

~~*(b) Except as otherwise provided in subsection 3, if he or she has successfully completed the training prescribed by the Board pursuant to subsection 4.*~~

~~*3. A dental hygienist, dental assistant or qualified technician who has not successfully completed the training prescribed by the Board pursuant to subsection 4 may, as part of that training, make radiograms or X-ray*~~

~~*exposures or use X-ray radiation under the direct supervision and upon the direction of a dentist.*~~

~~*4. The Board shall adopt regulations prescribing training that a dental hygienist, dental assistant or qualified technician must receive before making radiograms or X-ray exposures or using X-ray radiation.*~~

~~*5. As used in this section:*~~

~~*(a) "Radiation therapy" has the meaning ascribed to it in section 29 of this act.*~~

~~*(b) "Radiologic imaging" has the meaning ascribed to it in section 30 of this act.]*~~ (Deleted by amendment.)

Sec. 57. ~~[~~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 or her name which in any way represents the person as engaged in the practice of dentistry, or any branch thereof;~~

~~(b) Advertises or permits to be advertised by any medium that the person can or will attempt to perform dental operations of any kind;~~

~~(c) Evaluates or diagnoses, professes to evaluate or diagnose or treats or professes to treat, surgically or nonsurgically, any of the diseases, disorders, conditions or lesions of the oral cavity, maxillofacial area or the adjacent and associated structures and their impact on the human body;~~

~~(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]~~ *section 56 of this act* ~~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] :~~

~~*(1) Making* radiograms or X-ray exposures or using X-ray radiation *if authorized by section 56 of this act;* or~~

~~*(2) Using* 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 NRS 631.3452:~~

~~(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.~~

~~(g) Prevents a person who is actively licensed as a dentist in another jurisdiction from treating a patient if:~~

~~(1) The patient has previously been treated by the dentist in the jurisdiction in which the dentist is licensed;~~

~~(2) The dentist treats the patient only during a course of continuing education involving live patients which:~~

~~(I) Is conducted at an institute or organization with a permanent facility registered with the Board for the sole purpose of providing postgraduate continuing education in dentistry; and~~

~~(II) Meets all applicable requirements for approval as a course of continuing education; and~~

~~(3) The dentist treats the patient only under the supervision of a person licensed pursuant to NRS 631.2715.~~

~~(b) Prohibits a person from providing goods or services for the support of the business of a dental practice, office or clinic owned or operated by a licensed dentist or any entity not prohibited from owning or operating a dental practice, office or clinic if the person does not:~~

~~(1) Provide such goods or services in exchange for payments based on a percentage or share of revenues or profits of the dental practice, office or clinic; or~~

~~(2) Exercise any authority or control over the clinical practice of dentistry.~~

~~3. The Board shall adopt regulations identifying activities that constitute the exercise of authority or control over the clinical practice of dentistry, including, without limitation, activities which:~~

~~(a) Exert authority or control over the clinical judgment of a licensed dentist; or~~

~~(b) Relieve a licensed dentist of responsibility for the clinical aspects of the dental practice.~~

~~Such regulations must not prohibit or regulate aspects of the business relationship, other than the clinical practice of dentistry, between a licensed dentist or professional entity organized pursuant to the provisions of chapter 89 of NRS and the person or entity providing goods or services for the support of the business of a dental practice, office or clinic owned or operated by the licensed dentist or professional entity.]~~ (Deleted by amendment.)

Sec. 58. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, medication aide - certified, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, music therapist, *holder of a license or limited license issued pursuant to sections 22 to 51, inclusive, of this act,* driver of an ambulance, paramedic or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 449.4304.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

(l) Any person who operates or is employed by a community health worker pool or with whom a community health worker pool contracts to provide the services of a community health worker, as defined in NRS 449.0027.

(m) Any person who operates or is employed by a peer support recovery organization.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant or medication aide - certified has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section:

(a) "Agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

(b) "Community health worker pool" has the meaning ascribed to it in NRS 449.0028.

(c) "Peer support recovery organization" has the meaning ascribed to it in NRS 449.01563.

Sec. 59. (Deleted by amendment.)

Sec. 60. (Deleted by amendment.)

Sec. 61. (Deleted by amendment.)

Sec. 62. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as authorized by this section, a podiatry hygienist shall not engage in radiation therapy or radiologic imaging unless he or she has obtained a license or limited license pursuant to sections 22 to 51, inclusive, of this act.

2. A podiatry hygienist may take and develop X-rays only:

(a) Within the practice of podiatry and under the direction of a podiatric physician; and

(b) Except as otherwise provided in subsection 3, if he or she has successfully completed the training prescribed by the Board pursuant to subsection 4.

3. A podiatry hygienist who has not successfully completed the training prescribed by the Board pursuant to subsection 4 may, as part of that training, take and develop X-rays under the direct supervision of a podiatric physician.

4. The Board shall adopt regulations prescribing training that a podiatry hygienist must receive before taking and developing X-rays.

5. As used in this section:

(a) "Radiation therapy" has the meaning ascribed to it in section 29 of this act.

(b) "Radiologic imaging" has the meaning ascribed to it in section 30 of this act.

Sec. 63. NRS 635.098 is hereby amended to read as follows:

635.098 1. Any podiatry hygienist in the employ and under the direction of a podiatric physician may:

(a) Apply orthopedic padding.

(b) Administer to patients by means of physiotherapeutic equipment.

(c) Make up surgical packs.

(d) Strap and cast for orthopedic appliances.

(e) Take and develop X-rays ~~[.]~~ *, if authorized by section 62 of this act.*

(f) Assist in foot surgery.

(g) Administer oral medications.

2. The Board may require that every podiatry hygienist have a general knowledge of sterile techniques, aseptic maintenance of surgery rooms, emergency treatments, podiatric nomenclature and podiatric surgical procedure.

Sec. 64. NRS 637B.080 is hereby amended to read as follows:

637B.080 The provisions of this chapter do not apply to any person who:

1. Holds a current credential issued by the Department of Education pursuant to chapter 391 of NRS and any regulations adopted pursuant thereto and engages in the practice of audiology or speech-language pathology within the scope of that credential;

2. Is employed by the Federal Government and engages in the practice of audiology or speech-language pathology within the scope of that employment;

3. Is a student enrolled in a program or school approved by the Board, is pursuing a degree in audiology or speech-language pathology and is clearly designated to the public as a student; or

4. Holds a current license issued pursuant to chapters 630 to 637, inclusive, or 640 to 641C, inclusive, of NRS ~~[,]~~ *or sections 22 to 51, inclusive, of this act,*

➥ and who does not engage in the private practice of audiology or speech-language pathology in this State.

Sec. 65. NRS 639.100 is hereby amended to read as follows:

639.100 1. Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, engage in wholesale distribution, compound, sell or dispense, or permit to be manufactured, distributed at wholesale, compounded, sold or dispensed, any drug, poison, medicine or chemical, or to dispense or compound, or permit to be dispensed or compounded, any prescription of a practitioner, unless the person:

(a) Is a prescribing practitioner, a person licensed to engage in wholesale distribution, ~~[a technologist in radiology or nuclear medicine]~~ *a person licensed pursuant to sections 22 to 51, inclusive, of this act* under the supervision of the prescribing practitioner, a registered pharmacist, or a registered nurse certified in oncology under the supervision of the prescribing practitioner; and

(b) Complies with the regulations adopted by the Board.

2. A person who violates any provision of subsection 1:

(a) If no substantial bodily harm results, is guilty of a category D felony; or

(b) If substantial bodily harm results, is guilty of a category C felony,

➥ and shall be punished as provided in NRS 193.130.

3. Sales representatives, manufacturers or wholesalers selling only in wholesale lots and not to the general public and compounders or sellers of medical gases need not be registered pharmacists. A person shall not act as a manufacturer or wholesaler unless the person has obtained a license from the Board.

4. Any nonprofit cooperative organization or any manufacturer or wholesaler who furnishes, sells, offers to sell or delivers a controlled substance which is intended, designed and labeled "For Veterinary Use Only" is subject to the provisions of this chapter, and shall not furnish, sell or offer to sell such a substance until the organization, manufacturer or wholesaler has obtained a license from the Board.

5. Each application for such a license must be made on a form furnished by the Board and an application must not be considered by the Board until all the information required thereon has been completed. Upon approval of the application by the Board and the payment of the required fee, the Board shall issue a license to the applicant. Each license must be issued to a specific person for a specific location.

6. The Board shall not condition, limit, restrict or otherwise deny to a prescribing practitioner the issuance of a certificate, license, registration,

permit or authorization to prescribe controlled substances or dangerous drugs because the practitioner is located outside this State.

Sec. 66. NRS 644A.880 is hereby amended to read as follows:

644A.880 1. If the Board determines that a complaint filed with the Board concerns a matter within the jurisdiction of another licensing board, the Board shall refer the complaint to the other licensing board within 5 days after making the determination.

2. The Board may refer a complaint pursuant to subsection 1 orally, electronically or in writing.

3. The provisions of subsection 1 apply to any complaint filed with the Board, including, without limitation:

(a) A complaint which concerns a person who or entity which is licensed, certified or otherwise regulated by the Board or by another licensing board; and

(b) A complaint which concerns a person who or entity which is licensed, certified or otherwise regulated solely by another licensing board.

4. The provisions of this section do not prevent the Board from acting upon a complaint which concerns a matter within the jurisdiction of the Board regardless of whether the Board refers the complaint pursuant to subsection 1.

5. The Board or an officer or employee of the Board is immune from any civil liability for any decision or action taken in good faith and without malicious intent in carrying out the provisions of this section.

6. As used in this section, "licensing board" means ~~[a]~~ *:*

(a) A board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B, 641C, 643, 644A or 654 of NRS ~~[.]~~ *; and*

(b) The Division of Public and Behavioral Health of the Department of Health and Human Services.

Sec. 67. NRS 654.185 is hereby amended to read as follows:

654.185 1. If the Board determines that a complaint filed with the Board concerns a matter within the jurisdiction of another licensing board, the Board shall refer the complaint to the other licensing board within 5 days after making the determination.

2. The Board may refer a complaint pursuant to subsection 1 orally, electronically or in writing.

3. The provisions of subsection 1 apply to any complaint filed with the Board, including, without limitation:

(a) A complaint which concerns a person who or entity which is licensed, certified or otherwise regulated by the Board or by another licensing board; and

(b) A complaint which concerns a person who or entity which is licensed, certified or otherwise regulated solely by another licensing board.

4. The provisions of this section do not prevent the Board from acting upon a complaint which concerns a matter within the jurisdiction of the Board regardless of whether the Board refers the complaint pursuant to subsection 1.

5. The Board or an officer or employee of the Board is immune from any civil liability for any decision or action taken in good faith and without malicious intent in carrying out the provisions in this section.

6. As used in this section, "licensing board" means ~~[a]~~ *:*

(a) A board created pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B, 641C, 643, 644A or 654 of NRS ~~[.]~~ *; and*

(b) The Division of Public and Behavioral Health of the Department of Health and Human Services.

Sec. 68. NRS 679B.440 is hereby amended to read as follows:

679B.440 1. The Commissioner may require that reports submitted pursuant to NRS 679B.430 include, without limitation, information regarding:

(a) Liability insurance provided to:

(1) Governmental agencies and political subdivisions of this State, reported separately for:

(I) Cities and towns;

(II) School districts; and

(III) Other political subdivisions;

(2) Public officers;

(3) Establishments where alcoholic beverages are sold;

(4) Facilities for the care of children;

(5) Labor, fraternal or religious organizations; and

(6) Officers or directors of organizations formed pursuant to title 7 of NRS, reported separately for nonprofit entities and entities organized for profit;

(b) Liability insurance for:

(1) Defective products;

(2) Medical or dental malpractice of:

(I) A practitioner licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639 or 640 of NRS ~~[,]~~ *or who holds a license or limited license issued pursuant to sections 22 to 51, inclusive, of this act;*

(II) A hospital or other health care facility; or

(III) Any related corporate entity ~~[.]~~ *;*

(3) Malpractice of attorneys;

(4) Malpractice of architects and engineers; and

(5) Errors and omissions by other professionally qualified persons;

(c) Vehicle insurance, reported separately for:

(1) Private vehicles;

(2) Commercial vehicles;

(3) Liability insurance; and

(4) Insurance for property damage;

(d) Workers' compensation insurance; and

(e) In addition to any information provided pursuant to subparagraph (2) of paragraph (b) or NRS 690B.260, a policy of insurance for medical malpractice.

As used in this paragraph, "policy of insurance for medical malpractice" has the meaning ascribed to it in NRS 679B.144.

2. The Commissioner may require that the report include, without limitation, information specifically pertaining to this State or to an insurer in its entirety, in the aggregate or by type of insurance, and for a previous or current year, regarding:

(a) Premiums directly written;

(b) Premiums directly earned;

(c) Number of policies issued;

(d) Net investment income, using appropriate estimates when necessary;

(e) Losses paid;

(f) Losses incurred;

(g) Loss reserves, including:

(1) Losses unpaid on reported claims; and

(2) Losses unpaid on incurred but not reported claims;

(h) Number of claims, including:

(1) Claims paid; and

(2) Claims that have arisen but are unpaid;

(i) Expenses for adjustment of losses, including allocated and unallocated losses;

(j) Net underwriting gain or loss;

(k) Net operation gain or loss, including net investment income; and

(l) Any other information requested by the Commissioner.

3. The Commissioner may also obtain, based upon an insurer in its entirety, information regarding:

(a) Recoverable federal income tax;

(b) Net unrealized capital gain or loss; and

(c) All other expenses not included in subsection 2.

Sec. 69. NRS 686A.2825 is hereby amended to read as follows:

686A.2825 "Practitioner" means:

1. A physician, dentist, nurse, dispensing optician, optometrist, physical therapist, podiatric physician, psychologist, chiropractor, doctor of Oriental medicine in any form, director or technician of a medical laboratory, pharmacist *, person who holds a license to engage in radiation therapy and radiologic imaging or a limited license to engage in radiologic imaging pursuant to sections 22 to 51, inclusive, of this act* or other provider of health services who is authorized to engage in his or her occupation by the laws of this state or another state; and

2. An attorney admitted to practice law in this state or any other state.

Sec. 70. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2 and NRS 686B.125, the provisions of NRS 686B.010 to 686B.1799, inclusive, apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;

(c) Life insurance and credit life insurance;

(d) Variable and fixed annuities;

(e) Credit accident and health insurance;

(f) Property insurance for business and commercial risks;

(g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS ~~[,]~~ *or who holds a license or limited license issued pursuant to sections 22 to 51, inclusive, of this act;*

(h) Surety insurance;

(i) Health insurance offered through a group health plan maintained by a large employer; and

(j) Credit involuntary unemployment insurance.

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

Sec. 71. NRS 690B.250 is hereby amended to read as follows:

690B.250 Except as more is required in NRS 630.3067 and 633.526:

1. Each insurer which issues a policy of insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS *or who holds a license or limited license issued pursuant to sections 22 to 51, inclusive, of this act* for a breach of his or her professional duty toward a patient shall report to the board which licensed the practitioner within 45 days each settlement or award made or judgment rendered by reason of a claim, if the settlement, award or judgment is for more than $5,000, giving the name of the claimant and the practitioner and the circumstances of the case.

2. A practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS *or who holds a license or limited license issued pursuant to sections 22 to 51, inclusive, of this act* who does not have insurance covering liability for a breach of his or her professional duty toward a patient shall report to the board which issued the practitioner's license within 45 days of each settlement or award made or judgment rendered by reason of a claim, if the settlement, award or judgment is for more than $5,000, giving the practitioner's name, the name of the claimant and the circumstances of the case.

3. These reports are public records and must be made available for public inspection within a reasonable time after they are received by the licensing board.

Sec. 72. NRS 690B.320 is hereby amended to read as follows:

690B.320 1. If an insurer offers to issue a claims-made policy to a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS ~~[,]~~ *or who holds a license or limited license issued pursuant to sections 22 to 51, inclusive, of this act,* the insurer shall:

(a) Offer to issue to the practitioner an extended reporting endorsement without a time limitation for reporting a claim.

(b) Disclose to the practitioner the premium for the extended reporting endorsement and the cost formula that the insurer uses to determine the premium for the extended reporting endorsement.

(c) Disclose to the practitioner the portion of the premium attributable to funding the extended reporting endorsement offered at no additional cost to the practitioner in the event of the practitioner's death, disability or retirement, if such a benefit is offered.

(d) Disclose to the practitioner the vesting requirements for the extended reporting endorsement offered at no additional cost to the practitioner in the event of the practitioner's death or retirement, if such a benefit is offered. If such a benefit is not offered, the absence of such a benefit must be disclosed.

(e) Include, as part of the insurance contract, language which must be approved by the Commissioner and which must be substantially similar to the following:

If we adopt any revision that would broaden the coverage under this policy without any additional premium either within the policy period or within 60 days before the policy period, the broadened coverage will immediately apply to this policy.

2. The disclosures required by subsection 1 must be made as part of the offer and acceptance at the inception of the policy and again at each renewal in the form of an endorsement attached to the insurance contract and approved by the Commissioner.

3. The requirements set forth in this section are in addition to the requirements set forth in NRS 690B.290.

Sec. 72.3. Section 32 of this act is hereby amended to read as follows:

Sec. 32. The provisions of this chapter do not apply to:

1. A physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS.

2. A dentist or dental hygienist licensed pursuant to chapter 631 of NRS or a dental assistant working within the scope of his or her employment under the direct supervision of a dentist.

3. A chiropractic physician or chiropractor's assistant licensed pursuant to chapter 634 of NRS.

4. A person training to become a chiropractor's assistant or a student practicing in the preceptor program established by the Chiropractic Physicians' Board of Nevada pursuant to NRS 634.1375.

5. A podiatric physician *or podiatry hygienist* licensed pursuant to chapter 635 of NRS, *or a person training to be a podiatry hygienist.*

6. A veterinarian or veterinary technician licensed pursuant to chapter 638 of NRS or any other person performing tasks under the supervision of a veterinarian or veterinary technician as authorized by regulation of the Nevada State Board of Veterinary Medical Examiners.

Sec. 72.6. Section 35 of this act is hereby amended to read as follows:

Sec. 35. 1. Except as otherwise provided in sections 42 ~~[and]~~ , 43 *and 62* of this act, a person shall not engage in:

(a) Radiologic imaging unless he or she has obtained a license or limited license from the Division.

(b) Radiation therapy unless he or she has obtained a license from the Division.

(c) Radiation therapy or radiologic imaging which is outside the scope of practice authorized for his or her license or limited license by the regulations adopted pursuant to section 34 of this act.

2. A person who wishes to obtain or renew a license or limited license must apply to the Division in the form prescribed by the Division.

3. A license or limited license expires 2 years after the date on which the license was issued and must be renewed on or before that date.

4. The Division shall not issue or renew a license or limited license unless the applicant for issuance or renewal of the license or limited license attests to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices.

5. A provisional license or provisional limited license may not be renewed and expires:

(a) On the date on which the holder of the provisional license or provisional limited license is issued a license or limited license by the Division;

(b) On the date on which the application of the holder of the provisional license or provisional limited license for a license or limited license is denied by the Division; or

(c) One year after the date on which the holder of the provisional license or provisional limited license is initially employed to engage in radiation therapy or radiologic imaging.

6. A person who engages in radiation therapy or radiologic imaging in violation of the provisions of this section is guilty of a misdemeanor.

Sec. 73. Section 40 of this act is hereby amended to read as follows:

Sec. 40. 1. In addition to any other requirements set forth in this chapter ~~[:~~

~~(a) An applicant for the issuance of a license or limited license shall include the social security number of the applicant in the application submitted to the Division.~~

~~(b) An]~~ *, an* applicant for the issuance or renewal of a license or limited license 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 license or limited license; or

(b) A separate form prescribed by the Division.

3. A license or limited license 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 the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the 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. 73.5. Section 47 of this act is hereby amended to read as follows:

Sec. 47. 1. Except as otherwise provided in this section, any authorized representative of the Division may:

(a) Enter and inspect at any reasonable time any private or public property on which radiation therapy or radiologic imaging is conducted for the purpose of determining whether a violation of the provisions of this chapter or the regulations adopted pursuant thereto has occurred or is occurring. The owner, occupant or person responsible for such property shall permit such entry and inspection. An owner, occupant or person responsible for such property who fails to permit such entry and inspection is guilty of a misdemeanor.

(b) Request any information necessary to ensure that any person who engages in radiation therapy or radiologic imaging meets any requirements specified by this chapter *or section 62 of this act, as applicable,* concerning the radiation therapy or radiologic imaging in which the person engages.

2. An authorized representative of the Division may only enter an area that is subject to the jurisdiction of the Federal Government if the authorized representative obtains the consent of the Federal Government or its duly designated representative.

3. Any report of an investigation or inspection conducted pursuant to paragraph (a) of subsection 1 and any information requested pursuant to paragraph (b) of subsection 1 shall not be disclosed or made available for public inspection, except as otherwise provided in NRS 239.0115 or as may be necessary to carry out the responsibilities of the Division.

Sec. 74. As soon as practicable after the effective date of this section, the Governor shall appoint to the Radiation Therapy and Radiologic Imaging Advisory Committee created by section 33 of this act:

1. One member pursuant to paragraph (g) of subsection 2 of section 33 of this act to an initial term commencing on July 1, 2019, and expiring on June 30, 2020.

2. One member each pursuant to paragraphs (d), (e) and (f) of subsection 2 of section 33 of this act to initial terms commencing on July 1, 2019, and expiring on June 30, 2021.

3. One member each pursuant to paragraphs (a), (b) and (c) of subsection 2 of section 33 of this act to initial terms commencing on July 1, 2019, and expiring on June 30, 2022.

Sec. 75. 1. ~~[If the Board of Dental Examiners of Nevada has adopted regulations that satisfy the requirements of section 56 of this act before January 1, 2020, those regulations continue in effect and the Board shall be deemed to be in compliance with the applicable section.~~

~~2.]~~ Notwithstanding the requirements of sections 36 and 37 of this act, the Division of Public and Behavioral Health of the Department of Health and Human Services shall issue a license or a limited license, as applicable, to the scope of practice of the person, to any person who:

(a) Is performing radiation therapy or radiologic imaging as part of his or her employment on or before January 1, 2020;

(b) Registers with the Division; and

(c) Provides any information requested by the Division.

~~[3.]~~ 2. As used in this section:

(a) "License" has the meaning ascribed to it in section 26 of this act.

(b) "Limited license" has the meaning ascribed to it in section 27 of this act.

(c) "Radiation therapy" has the meaning ascribed to it in section 29 of this act.

(d) "Radiologic imaging" has the meaning ascribed to it in section 30 of this act.

~~[4. The Division of Public and Behavioral Health of the Department of Health and Human Services shall not require the payment of a fee for the issuance of a license or limited license pursuant to subsection 2.]~~

Sec. 76. (Deleted by amendment.)

Sec. 77. 1. This section and sections 1, 21, 74 and 75 of this act become effective upon passage and approval.

2. Sections 2 to 20, inclusive, and 22 to 61, inclusive, and 64 to 72, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2020, for all other purposes.

3. Sections 62, 63, 72.6 and 73.5 of this act:

(a) Become effective on January 1, 2020, only if regulations adopted by the State Board of Podiatry pursuant to NRS 635.030 prescribing the conditions

under which a podiatry hygienist or a person training to be a podiatry hygienist may engage in radiation therapy and radiologic imaging have not become effective before that date; and

(b) Expire by limitation on the date on which regulations adopted by the State Board of Podiatry pursuant to NRS 635.030 prescribing the conditions under which a podiatry hygienist or a person training to be a podiatry hygienist may engage in radiation therapy and radiologic imaging become effective.

4. Section 72.3 of this act becomes effective on January 1, 2020, or the date on which regulations adopted by the State Board of Podiatry pursuant to NRS 635.030 prescribing the conditions under which a podiatry hygienist or a person training to be a podiatry hygienist may engage in radiation therapy and radiologic imaging become effective, whichever is later.

5. Section 73 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.

6. Sections 50 and 73 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 873 to Senate Bill No. 130 clarifies language indicating individuals who hold a certificate to operate a radiation machine for mammography are not required to pay the fees applicable to the provisions of this act, section 4.5. It also adds the following professions to the list of professionals exempt from the provisions of this act in section 32: veterinarian, veterinary assistant, veterinary technician, dental hygienist and dental assistant. In section 72.3, it makes conforming language changes. It deletes sections 56 and 57 and associated provisions in its entirety for persons practicing dentistry. It authorizes the Division of Public and Behavioral Health to issue a license or a limited license to individuals performing radiation therapy or radiologic imaging as part of their employment on or before January 2, 2020, and removes the provision prohibiting the payment of a fee for the license found in section 75.

Amendment adopted.

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

Senate Bill No. 314.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 883.

SUMMARY—Revises provisions relating to education. (BDR 34-730)

AN ACT relating to education; ~~[requiring certain boards of trustees of a school district to include in a program of career and technical education the area of business and marketing education;]~~ establishing a State Seal of Financial Literacy; requiring the Department of Education to establish a Financial Literacy Month; establishing the State Financial Literacy Advisory Council; establishing provisions relating to obtaining an endorsement to teach courses relating to financial literacy; ~~[making appropriations;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires the boards of trustees of certain school districts, and authorizes the boards of trustees of all other school districts, to establish and maintain a program of career and technical education in certain subjects. (NRS 388.380) Section 2 of this bill requires a board of trustees that has established a program of career and technical education to include in the program the area of business and marketing education.]~~

Existing law establishes the State Seal of STEM and the State Seal of STEAM. (NRS 388.594-388.5975) Section 3 of this bill similarly establishes a State Seal of Financial Literacy. Section 4 of this bill establishes the requirements for earning a State Seal of Financial Literacy.

Section 5 of this bill requires the Department of Education to establish a Financial Literacy Month, to be held once each school year. Section 5 further requires certain activities to be included in the Financial Literacy Month ~~[.]~~ to the extent money is available. Section 7 of this bill requires the governing body of each regional training program for the professional development of teachers and administrators to coordinate with the Department of Education to provide an annual summit at the beginning of Financial Literacy Month.

Section 5.5 of this bill establishes the State Financial Literacy Advisory Council. Section 5.7 of this bill outlines the responsibilities of the Council.

Section 6 of this bill requires ~~[teachers]~~ the Commission on Professional Standards in Education to ~~[obtain]~~ establish the requirements for obtaining an endorsement in teaching courses relating to financial literacy. ~~[to teach such a course.]~~ (NRS 391.019) Existing law also requires a regional training program for the professional development of teachers and administrators to provide certain training for educational personnel. (NRS 391A.125) Section 8 of this bill requires such a regional training program to provide training and professional development for teachers who obtain an endorsement to teach courses relating to financial literacy.

Existing law authorizes the Board of Regents of the University of Nevada to prescribe courses of study for the Nevada System of Higher Education. (NRS 396.440) Section 9 of this bill requires that a program of study offered

by the System to obtain an endorsement to teach courses relating to financial literacy include certain requirements. Section 9 also authorizes students to apply for certain scholarships to offset the costs of the program of study. ~~[Existing law requires the Commission on Professional Standards in Education to adopt regulations that require teachers to obtain an endorsement to teach in certain subject areas. (NRS 391.019)~~

~~Sections 10 and 10.5 of this bill make appropriations to carry out the provisions of this bill.]~~

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 the provisions set forth as sections 2 to 5.7, inclusive, of this act.

Sec. 2. ~~[*If the board of trustees of a school district has established a program of career and technical education pursuant to NRS 388.380, the program must include the area of business and marketing education.]*~~ (Deleted by amendment.)

Sec. 3. *1. The Superintendent of Public Instruction shall establish a State Seal of Financial Literacy Program to recognize pupils who graduate from a public high school, including, without limitation, a charter school and a university school for profoundly gifted pupils, who have attained a high level of proficiency in financial literacy.*

2. The Superintendent of Public Instruction shall:

(a) Create a State Seal of Financial Literacy that may be affixed to the diploma and noted on the transcript of a pupil to recognize that the pupil has met the requirements of section 4 of this act; and

(b) Deliver the State Seal of Financial Literacy to each school district, charter school and university school for profoundly gifted pupils that participates in the State Seal of Financial Literacy Program.

3. Any school district, charter school and university school for profoundly gifted pupils may participate in the State Seal of Financial Literacy Program by notifying the Superintendent of Public Instruction of its intent to participate in the Program.

4. Each board of trustees of a school district and governing body of a charter school or university school for profoundly gifted pupils that participates in the State Seal of Financial Literacy Program shall:

(a) Identify the pupils who have met the requirements to be awarded the State Seal of Financial Literacy; and

(b) Affix the ~~[state]~~ State Seal of Financial Literacy to the diploma and note the receipt of the State Seal of Financial Literacy on the transcript of each pupil who meets those requirements.

5. To the extent that money is available, the school districts and the Department of Education shall provide professional development training regarding financial literacy to teachers who teach in a subject area in which instruction in financial literacy is provided.

6. The Superintendent of Public Instruction may adopt regulations as necessary to carry out the provisions of this section and section 4 of this act.

Sec. 4. *A school district, charter school and university school for profoundly gifted pupils that participates in the State Seal of Financial Literacy Program established pursuant to section 3 of this act must award a pupil, upon graduation from high school, a high school diploma with a State Seal of Financial Literacy if the pupil:*

1. Earns at least a 3.25 grade point average, on a 4.0 grading scale, or a 3.85 weighted grade point average, on a grading scale approved by the Superintendent of Public Instruction if a different grading scale is used.

2. Demonstrates proficiency in financial literacy by earning:

(a) At least 3 credits in a subject area in which instruction on financial literacy is provided; and

(b) Either of the following:

(1) A grade of B or higher in a college-level course in which instruction on financial literacy is provided; or

(2) A score of gold or higher on the ACT National Career Readiness Certificate.

Sec. 5. *1. The Department of Education shall establish a Financial Literacy Month to be held once each school year. ~~[The]~~ To the extent that money is available for that purpose, the Financial Literacy Month must include, without limitation:*

(a) A parent and family engagement summit, including, without limitation, programs related to saving and spending, employability skills, applying to and attending college, applying for and receiving financial aid, retirement and investments; and

(b) A Student Smart Week and a Money Week.

2. The Department may adopt regulations as necessary to carry out the provisions of this section and section 7 of this act.

Sec. 5.5. *1. The State Financial Literacy Advisory Council is hereby created. The Council consists of:*

(a) The following ex officio members:

(1) The Superintendent of Public Instruction or his or her designee; and

(2) The Chancellor of the Nevada System of Higher Education or his or her designee;

(b) Three members appointed by the Governor;

(c) Two members appointed by the Majority Leader of the Senate;

(d) Two members appointed by the Speaker of the Assembly;

(e) One member appointed by the Minority Leader of the Senate;

(f) One member appointed by the Minority Leader of the Assembly; and

(g) One member appointed by the Chancellor of the Nevada System of Higher Education who has a background in economics or financial literacy.

2. The Governor, the Majority Leader and the Minority Leader of the Senate, the Speaker and Minority Leader of the Assembly and the Chancellor of the Nevada System of Higher Education shall coordinate their respective

appointments of members to the Council to ensure that, to the extent practicable, the members appointed to the Council reflect the gender, ethnic and geographic diversity of this State and that:

(a) Three members of the Council are members of the business community with a background in economics;

(b) One member of the Council is a member of the business community who is employed in the banking industry;

(c) One member of the Council is a member of the business community who is employed by a credit union;

(d) Three members of the Council are teachers who hold a license to teach elementary, middle or junior high school or secondary education, respectively, and who:

(1) Teach in an elementary, middle or junior high or high school, respectively;

(2) Have received training in financial literacy; and

(3) Are responsible for teaching courses relating to financial literacy;

(e) One member of the Council is an administrator of a public school; and

(f) One member of the Council is an administrator of a school district.

3. Any vacancy occurring in the membership of the Council must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

4. The Council shall elect a Chair and Vice Chair from among its members at the first meeting of the Council and at the first meeting of the calendar year each year thereafter. The Chair and Vice Chair serve a term of 1 year.

5. Each member of the Council serves a term of 2 years and may be reappointed.

6. The Council shall meet at least four times a year at the call of the Chair. One meeting of the Council must be held in person and any other meeting may be held by videoconference.

7. A majority of the members of the Council constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Council.

8. The Chair may appoint such subcommittees of the Council as the Chair determines necessary to carry out the duties of the Council.

9. The members of the Council serve without compensation, except that each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the official business of the Council.

10. Each member of the Council who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the member may prepare for and attend meetings of the Council and perform any work necessary to carry out the duties of the Council in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Council to make up the time the member is absent from work to carry

out his or her duties as a member, and shall not require the member to take annual vacation or compensatory time for the absence.

11. Any costs associated with employing a substitute teacher while a member of the Council who is a teacher attends a meeting of the Council must be paid by the school district that employs the member.

12. ~~[The]~~ To the extent that money is available, the Department shall provide administrative support to the Council.

Sec. 5.7. *The State Financial Literacy Advisory Council created by section 5.5 of this act shall:*

1. Develop a strategic plan for the development of educational resources in financial literacy to serve as a foundation for professional development for pupils;

2. Identify learning activities targeted toward the standards and criteria of a curriculum in financial literacy;

3. Develop and facilitate, in coordination with the Department:

(a) The Financial Literacy Month, including, without limitation, Student Smart Week, Money Week and the parent and family engagement summit established pursuant to section 5 of this act; and

(b) The annual summit for educators established pursuant to section 7 of this act;

4. In accordance with section 4 of this act, develop the criteria a pupil must meet to be awarded the State Seal of Financial Literacy;

5. Apply for grants, gifts and donations of money to carry out the objectives of the Council; and

6. Prepare a written report which includes, without limitation, recommendations concerning the instruction and curriculum in financial literacy and the activities of the Council and, on or before January 31 of each even-numbered year, submit a copy of the report to the Superintendent of Public Instruction, the Chancellor of the Nevada System of Higher Education, the Legislative Committee on Education and the Governor.

Sec. 6. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission shall adopt regulations:

(a) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. The regulations:

(1) Must include, without limitation, the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure which provides that the required education and training may be provided by any qualified provider which has been approved by the Commission, including, without limitation, institutions of higher education and other providers that operate independently of an institution of higher education. The regulations adopted pursuant to this subparagraph must:

(I) Establish the requirements for approval as a qualified provider;

(II) Require a qualified provider to be selective in its acceptance of students;

(III) Require a qualified provider to provide supervised, school-based experiences and ongoing support for its students, such as mentoring and coaching;

(IV) Significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests;

(V) Allow for the completion in 2 years or less of the education and training required under the alternative route to licensure;

(VI) Provide that a person who has completed the education and training required under the alternative route to licensure and who has satisfied all other requirements for licensure may apply for a regular license pursuant to sub-subparagraph (VII) regardless of whether the person has received an offer of employment from a school district, charter school or private school; and

(VII) Upon the completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, provide for the issuance of a regular license to the person pursuant to the provisions of this chapter and the regulations adopted pursuant to this chapter.

(2) Must require an applicant for a license to teach middle school or junior high school education or secondary education to demonstrate proficiency in a field of specialization or area of concentration by successfully completing course work prescribed by the Department or completing a subject matter competency examination prescribed by the Department with a score deemed satisfactory.

(3) Must not prescribe qualifications which are more stringent than the qualifications set forth in NRS 391.0315 for a licensed teacher who applies for an additional license in accordance with that section.

(b) Identifying fields of specialization in teaching which require the specialized training of teachers.

(c) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization, including, without limitation, ~~*[an endorsement to teach courses relating to financial literacy and]*~~ an endorsement to teach English as a second language.

(d) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(e) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Aging and Disability Services Division of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(f) Requiring teachers and other educational personnel to be registered with the Aging and Disability Services Division pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(1) Provide instruction or other educational services; and

(2) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(g) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a bachelor's degree, a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(1) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(2) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

➥ An applicant for licensure pursuant to this paragraph who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring or courses of pedagogy for the first 2 years of the applicant's employment as a teacher with a school district or charter school.

(h) Requiring an applicant for a special qualifications license to:

(1) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(2) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the bachelor's degree, master's degree or doctoral degree held by the applicant.

(i) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the bachelor's degree, master's degree or doctoral degree held by that person.

(j) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(1) Holds a bachelor's degree or a graduate degree from an accredited college or university in the field for which the applicant will be providing instruction;

(2) Is not licensed to teach public school in another state;

(3) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(4) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of the applicant's employment as a teacher with a school district or charter school if the applicant holds a graduate degree or, if the applicant holds a bachelor's degree, submits proof of participation in a program of student

teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his or her employment as a teacher with a school district or charter school.

➥ An applicant for licensure pursuant to this paragraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(k) Prescribing course work on parental involvement and family engagement. The Commission shall work in cooperation with the Office of Parental Involvement and Family Engagement created by NRS 385.630 in developing the regulations required by this paragraph.

(l) Establishing the requirements for obtaining an endorsement on the license of a teacher, administrator or other educational personnel in cultural competency.

(m) Establishing the requirements for obtaining an endorsement on the license of a teacher, administrator or other educational personnel in teaching courses relating to financial literacy.

2. Except as otherwise provided in NRS 391.027, the Commission may adopt such other regulations as it deems necessary for its own government or to carry out its duties.

3. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

4. A person who is licensed pursuant to paragraph (g) or (j) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if the person is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 7. Chapter 391A of NRS is hereby amended by adding thereto a new section to read as follows:

The governing body of each regional training program shall coordinate with the Department to provide an annual summit at the beginning of the Financial Literacy Month established pursuant to section 5 of this act. To the extent that money is available, the Department shall administer the annual summit.

Sec. 8. NRS 391A.125 is hereby amended to read as follows:

391A.125 1. Based upon the priorities of programs prescribed by the State Board pursuant to subsection 4 of NRS 391A.505 and the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391A.175, each regional training program shall provide:

(a) Training for teachers and other licensed educational personnel in the:

(1) Standards established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;

(2) Curriculum and instruction required for the standards adopted by the State Board;

(3) Curriculum and instruction recommended by the Teachers and Leaders Council of Nevada; and

(4) Culturally relevant pedagogy, taking into account cultural diversity and demographic differences throughout this State.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

(1) Phonemic awareness;

(2) Phonics;

(3) Vocabulary;

(4) Fluency;

(5) Comprehension; and

(6) Motivation.

(c) Training for administrators who conduct the evaluations required pursuant to NRS 391.685, 391.690, 391.705 and 391.710 relating to the manner in which such evaluations are conducted. Such training must be developed in consultation with the Teachers and Leaders Council of Nevada created by NRS 391.455.

(d) Training for teachers, administrators and other licensed educational personnel relating to correcting deficiencies and addressing recommendations for improvement in performance that are identified in the evaluations conducted pursuant to NRS 391.685, 391.690, 391.705 or 391.710.

(e) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b), training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

(f) In accordance with the program established by the Statewide Council pursuant to paragraph (b) of subsection 2 of NRS 391A.135 training for:

(1) Teachers on how to engage parents and families, including, without limitation, disengaged families, in the education of their children and to build the capacity of parents and families to support the learning and academic achievement of their children.

(2) Training for teachers and paraprofessionals on working with parent liaisons in public schools to carry out strategies and practices for effective parental involvement and family engagement.

(g) Training and continuing professional development for teachers who receive an endorsement to teach courses relating to financial literacy pursuant to NRS 391.019 and section 9 of this act.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(42), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are English learners.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

➥ The governing body shall provide a copy of the list on an annual basis to school districts for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district that is served by the regional training program as set forth in NRS 391A.120 to provide professional development to the teachers and administrators employed by the school district that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(42), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

7. *To the extent that money is available, the Department shall administer the training required pursuant to paragraph (g) of subsection 1.*

8. As used in this section, "paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 9. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the System offers a course of study for obtaining an endorsement to teach courses relating to financial literacy, the course must require students in the course of study to create a personal finance portfolio or transition plan, which must include, without limitation, details relating to housing, health insurance and postsecondary education and financial aid resources.

2. A student in a course of study offered pursuant to subsection 1 may apply for a Teach Nevada Scholarship from a university, college or other provider of an alternative licensure program that receives a grant from the Teach Nevada Scholarship Program Account created pursuant to NRS 391A.575 to offset the costs of completing a course of study offered pursuant to subsection 1.

3. The System may award a student money received from a grant provided to a university, college or other provider of an alternative licensure program pursuant to NRS 391A.510 to offset the costs of completing a course of study offered pursuant to subsection 1.

Sec. 10. ~~[1. There is hereby appropriated from the State General Fund to the Clark County School District to carry out the provisions of this act the following sums:~~

~~For the Fiscal Year 2019-2020..... $500,000~~

~~For the Fiscal Year 2020-2021..... $500,000~~

~~2. There is hereby appropriated from the State General Fund to the Washoe County School District to carry out the provisions of this act the following sums:~~

~~For the Fiscal Year 2019-2020..... $150,000~~

~~For the Fiscal Year 2020-2021..... $150,000~~

~~3. There is hereby appropriated from the State General Fund to the Department of Education to carry out the provisions of this act the following sums:~~

~~For the Fiscal Year 2019-2020..... $100,000~~

~~For the Fiscal Year 2020-2021..... $100,000~~

~~4. Any balance of the sums appropriated by subsections 1, 2 and 3 that is unencumbered or unexpended at the end of the respective fiscal years does not revert to the State General Fund, must be carried forward to the next fiscal year and is hereby authorized for use in the next fiscal year for the purposes specified in subsection 5 or 6, as applicable.~~

~~5. Money appropriated by subsection 1 or 2 must be used to support instruction in financial literacy, including, without limitation, by providing technical assistance, monitoring, support and professional development training regarding financial literacy to teachers who teach in a subject area in which instruction in financial literacy is provided.~~

~~6. Money appropriated by subsection 3 must be used to award grants of money to school districts, other than the Clark County School District and Washoe County School District, and to the sponsors of charter schools that submit an application to the Department of Education. The amount granted to each school district and charter school must be based upon the number of pupils enrolled in each such school district or charter school, as applicable, who are enrolled in a subject area in which instruction in financial literacy is provided, and not on a competitive basis.~~

~~7. The sums appropriated by this section must be accounted for separately from any other money and used only for the purposes specified in this section.]~~ (Deleted by amendment.)

Sec. 10.5. ~~[1. There is hereby appropriated from the State General Fund to the Department of Education the sum of $2,000 to administer the State Seal of Financial Literacy Program established pursuant to sections 3 and 4 of this act.~~

~~2. There is hereby appropriated from the State General Fund to the Department of Education the sum of $4,500 to administer the Financial Literacy Month established pursuant to section 5 of this act.~~

~~3. There is hereby appropriated from the State General Fund to the Department of Education the sum of $120,000 to administer the training required pursuant to paragraph (g) of subsection 1 of NRS 391A.125, as amended by section 8 of this act.~~

~~4. There is hereby appropriated from the State General Fund to the Department of Education the sum of $15,000 to administer and monitor the programs established pursuant to this act.~~

~~5. There is hereby appropriated from the State General Fund to the Department of Education to provide for administrative support to the State Financial Literacy Advisory Council established pursuant to section 5.5 of this act the following sums:~~

~~For the Fiscal Year 2019-2020..... $5,000~~

~~For the Fiscal Year 2020-2021..... $5,000~~

~~6. There is hereby appropriated from the State General Fund to the Department of Education to administer the parent and family engagement summit established pursuant to paragraph (a) of subsection 1 of section 5 of this act the following sums:~~

~~For the Fiscal Year 2019-2020..... $5,000~~

~~For the Fiscal Year 2020-2021..... $5,000~~

~~7. There is hereby appropriated from the State General Fund to the Department of Education to administer the annual summit established pursuant to section 7 of this act the following sums:~~

~~For the Fiscal Year 2019-2020..... $5,000~~
~~For the Fiscal Year 2020-2021..... $5,000~~
~~— 8. Any balance of the sums appropriated by subsections 5, 6 and 7 that is unencumbered or unexpended at the end of the respective fiscal years does not revert to the State General Fund, must be carried forward to the next fiscal year and is hereby authorized for use in the next fiscal year for the purposes specified in subsection 5, 6 or 7, as applicable.~~
~~— 9. Any remaining balance of the appropriations made by subsections 1 to 4, inclusive, must not be committed for expenditure after June 30, 2021, 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 17, 2021, 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 17, 2021.~~
~~— 10. The sums appropriated by this section must be accounted for separately from any other money and used only for the purposes specified in this section.]~~ (Deleted by amendment.)

Sec. 10.7. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 11. This act becomes effective on July 1, 2019.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 883 to Senate Bill No. 314 eliminates section 2 related to the inclusion of business and marketing education in a program of career and technical education. The amendment also eliminates section 10, thus eliminating General Fund appropriations totaling $1.5 million over the 2019-2021 Biennium for school districts and charter schools. Lastly, Amendment No. 883 eliminates section 10.5. Additionally eliminating General Fund appropriations totaling $171,500 over the 2019-2021 Biennium for the Department of Education. The appropriations were stripped from this bill because they are in the budget that will be coming before us soon.

Amendment adopted.

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

Senate Bill No. 363.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 882.

SUMMARY— ~~[Provides for the creation of the Nevada Stem Cell Center.]~~ Requires the Legislative Committee on Health Care to study matters relating to stem cell centers during the 2019-2021 legislative interim. (BDR ~~[40-1017)]~~ S-1017)

AN ACT relating to public health; requiring the ~~[Director of the Department of Health and Human Services to cause the formation of the Nevada Stem Cell Center; creating the Board of Directors of the Center; providing for the~~

~~appointment of the Executive Director of the Center; setting forth the duties and powers of the Executive Director; creating the Nevada Stem Cell Center Account in the State General Fund; making an appropriation;~~ Legislative Committee on Health Care to study matters relating to stem cell centers during the 2019-2021 legislative interim; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 9 of this]~~ This bill requires the ~~[Director of the Department of Health and Human Services to cause to be formed the Nevada Stem Cell Center, an independent, nonprofit corporation formed for the general purposes of: (1) providing treatments involving stem cells to patients; (2) performing research related to stem cells; and (3) educating the public about stem cells. Section 10 of this bill creates the Board of Directors of the Center. Section 11 of this bill provides for the appointment of an Executive Director of the Center and sets forth the duties of the Executive Director, which include overseeing the administration of the Center and overseeing the treatment of patients and research involving stem cell therapies. Section 12 of this bill creates the Nevada Stem Cell Center Account in the State General Fund and authorizes the Executive Director, under the direction of the Board, to administer the Account to further the purposes of the Center. Section 13 of this bill makes an appropriation to the Account for the start-up costs of the Center.]~~ Legislative Committee on Health Care, during the 2019-2021 legislative interim, to: (1) study stem cell centers in different states and countries; (2) study the services provided by stem cell centers and the value such centers bring to the community; (3) study the best placement and type of organization for a stem cell center in this State; and (4) propose appropriate legislation to the 81st Session of the Legislature.

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 2 to 12, inclusive, of this act.]~~ (Deleted by amendment.)

Sec. 2. ~~[*As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.]~~ (Deleted by amendment.)

Sec. 3. ~~[*"Account" means the Nevada Stem Cell Center Account created by section 12 of this act.]~~ (Deleted by amendment.)

Sec. 4. ~~[*"Adult, cord blood and related stem cells" means stem cells derived from postnatal tissue cells, umbilical cord blood and cord tissue, including Wharton's jelly, amniotic fluid and placental tissue.]~~ (Deleted by amendment.)

Sec. 5. ~~[*"Board" means the Board of Directors of the Nevada Stem Cell Center.]~~ (Deleted by amendment.)

Sec. 6. ~~[*"Executive Director" means the Executive Director of the Nevada Stem Cell Center appointed pursuant to section 11 of this act.*]~~ (Deleted by amendment.)

Sec. 7. ~~[*"Nevada Stem Cell Center" or "Center" means the independent, nonprofit corporation formed pursuant to section 9 of this act.*]~~ (Deleted by amendment.)

Sec. 8. ~~[*"Stem cell" means an unspecialized or undifferentiated cell that can self replicate and has the potential to differentiate into a specialized cell type.*]~~ (Deleted by amendment.)

Sec. 9. ~~[*1. The Director shall cause to be formed in this State an independent, nonprofit corporation recognized as exempt from federal income taxation for the public benefit named the "Nevada Stem Cell Center," the general purpose of which is to carry out the provisions of sections 2 to 12, inclusive, of this act.*~~

~~*2. The Center shall:*~~

~~*(a) Deliver stem cell therapy involving adult, cord blood and related stem cells to patients who consent to such therapy. Such therapy may include, without limitation, clinical trials paid for by patients.*~~

~~*(b) Perform research to understand and advance stem cell therapies.*~~

~~*(c) Serve as a core facility to produce clinical-grade stem cells from adult tissues, umbilical cord, cord blood and related nonembryonic sources for use in clinical trials, therapies and research.*~~

~~*(d) Collaborate with other physicians to treat patients at regional hospitals with adult, cord blood and related stem cells.*~~

~~*(e) Facilitate the delivery of therapies involving adult, cord blood and related stem cells to patients in hospitals and other places for the care of the sick.*~~

~~*(f) Serve as a resource of information for patients and physicians concerning clinical trials and research findings related to stem cells.*~~

~~*(g) Provide education regarding stem cell therapy to the public, including, without limitation, school children, policymakers and health care professionals.*~~

~~*(h) Collaborate with the University of Nevada, Las Vegas, for the purposes of research and education relating to stem cells.*~~

~~*(i) Partner with academic institutions, governmental entities, hospitals, health care organizations, businesses and philanthropic organizations to function as a translational engine for stem cell discoveries and therapies in this State.*~~] (Deleted by amendment.)

Sec. 10. ~~[*1. There is hereby created the Board of Directors of the Nevada Stem Cell Center, consisting of the following 13 members:*~~

~~*(a) The President of the University of Nevada, Las Vegas.*~~

~~*(b) The Dean of the University of Nevada, Las Vegas, School of Medicine.*~~

~~*(c) One member who is a physician or a scientist and has substantial and demonstrated experience in the field of stem cell therapy, appointed by the Dean of the University of Nevada, Las Vegas, School of Medicine.*~~

~~(d) One member who is a representative of the University Medical Center of Southern Nevada, appointed by the Governing Board of the University Medical Center of Southern Nevada in consultation with the Board of County Commissioners of Clark County.~~

~~(e) One member appointed by and representing the Governor.~~

~~(f) One member of the Senate, appointed by the Majority Leader of the Senate.~~

~~(g) One member of the Senate, appointed by the Minority Leader of the Senate.~~

~~(h) One member of the Assembly, appointed by the Speaker of the Assembly.~~

~~(i) One member of the Assembly, appointed by the Minority Leader of the Assembly.~~

~~(j) One member who is a representative of the Office of Economic Development, appointed by the Governor.~~

~~(k) One member who is a representative of the Nevada State Medical Association, appointed by the President of that Association.~~

~~(l) One member who is a representative of the Board of Regents of the University of Nevada, appointed by the Chair of the Board.~~

~~(m) One member who possesses knowledge, skill and experience with stem cell therapy, stem cell research and clinical operations, appointed by the President of the University of Nevada, Las Vegas, in consultation with the Dean of the University of Nevada, Las Vegas, School of Medicine.~~

~~2. The member appointed pursuant to paragraph (m) of subsection 1 shall serve as Chair of the Board.~~

~~3. Vacancies in the appointed positions on the Board must be filled in the same manner as the original appointment.~~

~~4. Each member appointed to the Board serves a term of 3 years and may be reappointed.~~

~~5. The Board shall meet at least once in each quarter of the year and may meet at other times at the call of the Chair.~~

~~6. A majority of the members of the Board constitutes a quorum to transact all business.~~

~~7. The members of the Board serve without compensation.]~~ (Deleted by amendment.)

Sec. 11. ~~[1. The Dean of the University of Nevada, Las Vegas, School of Medicine, in consultation with the Board, shall appoint an Executive Director of the Nevada Stem Cell Center who is entitled to such compensation as is determined by the Board.~~

~~2. The Executive Director shall be responsible for:~~

~~(a) The administration of the Nevada Stem Cell Center, including, without limitation, the overall direction of personnel, equipment, operations and facilities of the Center.~~

~~(b) Overseeing the treatment of patients and research involving adult, cord blood and related stem cells.~~

~~*3. The Executive Director may solicit and accept gifts, grants and donations from any source to carry out the provisions of sections 2 to 12, inclusive, of this act. Any such gifts, grants and donations must be deposited into the Account.]*~~ (Deleted by amendment.)

Sec. 12. ~~*[1. There is hereby created the Nevada Stem Cell Center Account in the State General Fund.*~~

~~*2. Money for the Account may be provided:*~~

~~*(a) By appropriation;*~~

~~*(b) Through the acceptance of gifts, grants and donations as authorized by section 11 of this act; or*~~

~~*(c) Through the collection of fees and charges pursuant to subsection 3.*~~

~~*3. All money received by the Nevada Stem Cell Center for core charges for cell processing and manufacturing, clinical trial fees, service charges and any other money received by the Nevada Stem Cell Center must be deposited into the Account.*~~

~~*4. Under the direction of the Board, the Executive Director shall administer the Account. The money in the Account must be used only for the purposes of:*~~

~~*(a) The treatment of patients with adult, cord blood and related stem cells;*~~

~~*(b) Research related to stem cell therapy treatments;*~~

~~*(c) Education related to stem cells; and*~~

~~*(d) Any other purpose the Executive Director deems necessary for carrying out the provisions of sections 2 to 12, inclusive, of this act.*~~

~~*5. All expenditures from the Account must be approved by the Executive Director.*~~

~~*6. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. All claims against the Account must be paid as other claims against the State are paid.*~~

~~*7. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.]*~~ (Deleted by amendment.)

Sec. 13. ~~[There is hereby appropriated from the State General Fund to the Nevada Stem Cell Center Account created by section 12 of this act the sum of $100,000 for the start-up costs of the Nevada Stem Cell Center formed pursuant to section 9 of this act.]~~ (Deleted by amendment.)

Sec. 13.5. 1. As part of its review of health care during the 2019-2021 legislative interim, the Legislative Committee on Health Care shall study:

(a) Stem cell centers in different states and countries to determine the best practices for operating such a center;

(b) The services that stem cell centers provide and the value that such centers bring to the country, state or community in which such centers are located; and

(c) The best placement for a stem cell center in this State, including, without limitation, whether a stem cell center should be established as part of a state

agency, as a program within the Nevada System of Higher Education or as a public or private nonprofit entity.

2. On or before September 1, 2020, the Legislative Committee on Health Care shall submit its findings and any recommendations for legislation to the Governor and the Director of the Legislative Counsel Bureau for transmission to the 81st Session of the Legislature.

Sec. 14. This act becomes effective on July 1, 2019.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 882 revises Senate Bill No. 363 and no longer requires the formation of the Nevada Stem Cell Center as an independent, nonprofit corporation affiliated with the University of Nevada, Las Vegas, and instead requires the Legislative Committee on Health Care to study the development, organization, location and operation of stem cell centers in other states and countries during the 2019-2021 Interim. Amendment No. 882 also eliminates the $100,000 General Fund appropriation contained in the Senate Bill No. 363 for startup costs of the Nevada Stem Cell Center.

Amendment adopted.

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

Assembly Bill No. 62.

Bill read third time.

Remarks by Senators Scheible and Hansen.

SENATOR SCHEIBLE:

Assembly Bill No. 62 requires the State Engineer to conduct a survey during the 2019-2020 Interim to determine the manner in which other jurisdictions within the United States manage extensions of time for the perfection of a right to appropriate water and to submit a report of findings to the Director of the Legislative Counsel Bureau for transmittal to the 81st Session of the Legislature. The bill also requires the State Engineer to adopt necessary regulations regarding the time for completion of work and the application of water to beneficial use.

SENATOR HANSEN:

I supported this in Committee with an understanding. During the hearing, we discovered there is zero oversite on State Water Engineer for regulatory responsibility. He is not required to follow Nevada Revised Statutes 233B and does not have to bring his regulations to the Legislative Commission. Our colleague from District 11 brought an amendment which would require this be done, and that was the amendment we passed out of Committee. That amendment was rejected, and we are essentially turning one of the most influential agencies of State government loose without any oversight regarding the regulatory bills being proposed. I am amazed by that. I was not aware there was no oversight from the Legislature.

I would encourage my colleagues to vote "no", and if they want to resurrect this, we can come up with an amendment to ensure the citizens of Nevada are protected by having a certain amount of oversight from the Legislature when it comes to regulations that come from the State Water Engineer. This is a sensitive issue across the State, as everybody here knows. We have had unlimited emails on water issues in general. The idea we are going to cut the State Water Engineer loose with no oversight from the Legislature makes no sense. I urge my colleagues to vote "no" on Assembly Bill No. 62.

Roll call on Assembly Bill No. 62:

YEAS—12.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Harris, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—9.

Assembly Bill No. 62 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 95.

Bill read third time.

Remarks by Senators Scheible and Goicoechea.

SENATOR SCHEIBLE:

Assembly Bill No. 95 provides that if the State Engineer or the courts order that withdrawals of groundwater be restricted to conform to priority rights, a domestic well with a water meter installed may continue to withdraw 0.5 acre-feet of water per year.

SENATOR GOICOECHEA:

I appreciate the intent of Assembly Bill No. 95, which is to ensure domestic wells would always have at least some water. The State Engineer-issued order 1293A in the Pahrump Basin 162 required they have 2 acre-feet for water rights before drilling a well. The Fifth District Court overturned that saying the State Engineer exceeded his authority. This bill might establish legislative intent. That court case is pending in the Supreme Court, and I would hate to see this influence the decision or case law in that court. For that reason, I oppose the bill, at this point, because of the case law although I understand the intent from the sponsor.

Roll call on Assembly Bill No. 95:

YEAS—11.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Ohrenschall, Pickard, Seevers Gansert, Settelmeyer, Washington—10.

Assembly Bill No. 95 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 334.

Bill read third time.

Remarks by Senator Dondero Loop.

Assembly Bill No. 334 adds a violation of statutes governing pharmacists and pharmacies to the provisions that constitute grounds for initiating disciplinary action or denying licensure by the Board of Medical Examiners. The bill further clarifies a licensee or applicant does not have to report to the Board any disciplinary action that originated with the Board and revises the Board's deadline for issuing final orders that impose discipline. This bill also provides that when appropriate video-conference facilities are not available, the Board may meet at a location that provides a telephonic dial-in number for use by the general public. Finally, the bill allows an occupational or professional regulatory body to recover the fees for hearing officers as costs incurred by the regulatory body as part of investigative, administrative and disciplinary proceedings against a person.

Roll call on Assembly Bill No. 334:

YEAS—21.

NAYS—None.

Assembly Bill No. 334 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 453.

Bill read third time.

Remarks by Senators Spearman and Settelmeyer.

SENATOR SPEARMAN:

Assembly Bill No. 453 provides that certain provisions governing licensed psychologists also apply to registered psychological assistants, psychological interns and psychological trainees. Specifically, the bill addresses certain recordkeeping and reporting requirements, disciplinary actions and the submission of fees for initial registration. Furthermore, the bill revises the processing of complaints and disciplinary proceedings filed against a person practicing psychology, including the elimination of the express involvement of the Attorney General in this process. Finally, this bill increases from six to seven the number of members on the Board of Psychological Examiners; increases or adds certain fees; revises the requirements for licensure by endorsement, and revises requirements for service of process.

SENATOR SETTELMEYER:

I rise in opposition to Assembly Bill No. 453. There was discussion during Committee that rather than increasing numbers, we should just make it the same number but allow the president to only vote in cases to break a tie. This seems more logical. The concept of charging a late fee for not getting their CNEs on time, I just feel that the Board needed to be more vigorous in making sure that they realize they will not have their license until such time as the CNE's were not submitted.

Roll call on Assembly Bill No. 453:

YEAS—17.

NAYS—Hammond, Hardy, Pickard, Settelmeyer—4.

Assembly Bill No. 453 having received a two-thirds majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 291; Assembly Bills Nos. 21, 37, 79, 83, 86, 88, 102, 107, 120, 183, 186, 192, 220, 240, 248, 258, 270, 272, 274.

Senator Cannizzaro moved that the Senate adjourn until Friday, May 24, 2019, at 11:00 a.m.

Motion carried.

Senate adjourned at 5:19 p.m.

Approved: KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate