Link to Page 2094

2. Part-time employees who regularly work at least half-time for a full year with a minimum of 720 hours worked are entitled to a full year of credit for retirement eligibility only, with credit for actual service for determination of benefit being granted on actual time worked.

3. An employee of the Nevada Legislature who works full time for at least 6 months in a fiscal year during which the Legislature meets in regular session is entitled to a full year of credit for retirement eligibility only, with credit for actual service for determination of benefit being granted on actual time worked.

Service credit under this section shall be computed according to the fiscal year. No member may receive less credit under this section than was provided under the law in force at the time when the credit was earned. ***Nothing in this section allows a member to receive more than 1 year of credit for retirement eligibility in any year.***

Sec. 22. **NRS 426.715** is hereby amended to read as follows:

426.715 Any person who sells, solicits orders for or delivers, in any public building or on any public land, any commodity which a blind vendor is authorized by the Bureau to sell is guilty of a misdemeanor except:

1. A person licensed by or under contract to the Bureau;
2. A person who delivers a commodity to a blind vendor or for his account;
3. A person who is raising money for the charitable activities of a corporation organized for educational, religious, scientific, charitable or eleemosynary purposes under the provisions of chapter 82 of NRS;
4. Public employees jointly sharing in the cost of coffee or other beverages purchased by them for their own use, if there is no commercial arrangement for the delivery of products and supplies to the building or land;

5. A person who is catering an event inside or otherwise delivering food or beverages to the Legislative Building; or

~~[5.]~~ ***6.*** A person who is authorized to conduct such an activity under the terms of a contract, lease or other arrangement with a municipality pursuant to NRS 496.090.

Sec. 23. **NRS 218.274** is hereby repealed.

Sec. 24. 1. The Public Employees' Retirement System shall, upon request by a current or former officer or employee of the Nevada Legislature who would have been entitled to additional credit for service pursuant to NRS 286.495, as amended by section 21 of this act, had those provisions been in effect for any period during which he was an officer or employee of the Nevada Legislature, recalculate that person's credit for service to take into account the additional amount provided pursuant to that section.

2. A current or former officer or employee of the Nevada Legislature who would be entitled to credit for service in the Public Employees' Retirement System pursuant to the provisions of NRS 286.495, as amended by section 21 of this act, but who has withdrawn his contributions pursuant to NRS 286.430, may redeposit his withdrawn contributions pursuant to NRS 286.440, under the terms and conditions provided pursuant to chapter 286 of NRS, and thereby qualify for the credit for service provided pursuant to NRS 286.495, as amended by section 21 of this act.

Sec. 25. Sections 21 and 24 of this act apply retroactively to all persons who would have been entitled to additional service credit pursuant to NRS 286.495, as amended by section 21 of this act, had those provisions been in

effect for any period during which they were employed by the Nevada Legislature.

Assembly Bill No. 29–Committee on Judiciary

CHAPTER 368

AN ACT relating to criminal procedure; providing for an additional administrative assessment to be collected in cases involving a misdemeanor to pay for certain specialty court programs established by courts; increasing the amount of certain administrative assessments; providing procedures for forfeiture of any undertaking or money deposited instead of bail bond; requiring the Court Administrator to submit a report concerning certain specialty court programs; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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 to read as follows:

1. The justices or judges of the justices' or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty or is found guilty of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of $7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include 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 which 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 specialty court programs 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 bail pursuant to this subsection must be disbursed pursuant to 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

↓2003 Statutes of Nevada, Page 2097 (CHAPTER 368, AB 29)↓

fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of specialty court programs 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 NRS 176.0611;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs; and

(d) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs 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 the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs in justices' 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 the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.

9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) 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) Supplementing the funds used to pay for judges to oversee a specialty court program; or

(7) Acquiring or using appropriate technology.

10. As used in this section:

(a) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320; and

↓2003 Statutes of Nevada, Page 2098 (CHAPTER 368, AB 29)↓

(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 suffers from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 2. **NRS 176.059** is hereby amended to read as follows:

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

Fine	Assessment
$5 to $49	~~[$15]~~ *$25*
50 to 59	~~[30]~~ *40*
60 to 69	~~[35]~~ *45*
70 to 79	~~[40]~~ *50*
80 to 89	~~[45]~~ *55*
90 to 99	~~[50]~~ *60*
100 to 199	~~[60]~~ *70*
200 to 299	~~[70]~~ *80*
300 to 399	~~[80]~~ *90*
400 to 499	~~[90]~~ *100*
500 to 1,000	~~[105]~~ *115*

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

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

(a) An ordinance regulating metered parking; or

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

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

↓2003 Statutes of Nevada, Page 2099 (CHAPTER 368, AB 29)↓

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

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

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

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

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

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

(a) Two dollars for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited

in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

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

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

7. The money apportioned to a juvenile court, a justice's court or a municipal court pursuant to this section must be used, in addition to providing services to juvenile offenders in the juvenile court, to improve the operations of the court, or to acquire appropriate advanced technology or

↓2003 Statutes of Nevada, Page 2100 (CHAPTER 368, AB 29)↓

the use of such technology, or both. Money used to improve the operations of the court may include expenditures for:

(a) Training and education of personnel;

(b) Acquisition of capital goods;

(c) Management and operational studies; or

(d) Audits.

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

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

(1) Eighteen and one-half percent of the amount distributed to the Office of ~~[the]~~ Court Administrator for the administration of the courts.

(2) Nine percent of the amount distributed to the Office of ~~[the]~~ Court Administrator for the development of a uniform system for judicial records.

(3) Nine percent of the amount distributed to the Office of ~~[the]~~ Court Administrator for continuing judicial education.

(4) Sixty percent of the amount distributed to the Office of ~~[the]~~ Court Administrator for the Supreme Court.

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

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

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

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

(3) The operation by the Nevada Highway Patrol of a computerized switching system for information related to law enforcement;

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

(5) The Advisory Council for Prosecuting Attorneys.

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

(a) "Juvenile court" means:

~~[(a)]~~ ***(1)*** In any judicial district that includes a county whose population is 100,000 or more, the family division of the district court; or

~~[(b)]~~ ***(2)*** In any other judicial district, the juvenile division of the district court.

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

Sec. 3. 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 justices' or municipal courts within its jurisdiction to impose for not longer than 25 years, in addition to ~~[an administrative assessment]~~ ***the administrative assessments*** imposed pursuant to NRS 176.059 ~~[,]~~ ***and section 1 of this act,*** 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 of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of $10 as

↓2003 Statutes of Nevada, Page 2101 (CHAPTER 368, AB 29)↓

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 he 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; ~~[and]~~

(c) ***To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to section 1 of this act; and***

(d) 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

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↓2003 Statutes of Nevada, Page 2102 (CHAPTER 368, AB 29)↓

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.

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 justices' 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 justices' courts or a regional justice center that includes the justices' courts.

(b) Construct or acquire additional facilities for the justices' courts or a regional justice center that includes the justices' courts.

(c) Renovate or remodel existing facilities for the justices' 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 justices' courts or a regional justice center that includes the justices' 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 justices' courts or a regional justice center that includes the justices' courts.

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's 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.

↓2003 Statutes of Nevada, Page 2103 (CHAPTER 368, AB 29)↓

Sec. 4. **NRS 178.502** is hereby amended to read as follows:

178.502 1. A person required or permitted to give bail shall execute a bond for his appearance. The magistrate or court or judge or justice, having regard to the considerations set forth in NRS 178.498, may require one or more sureties or may authorize the acceptance of cash or bonds or notes of the United States in an amount equal to or less than the face amount of the bond.

2. Any bond or undertaking for bail must provide that the bond or undertaking ~~[extends, for a period of at least 1 year unless bail is exonerated earlier pursuant to the provisions of subsection 4,]~~ ***:***

(a) Extends to any action or proceeding in a justice's court, municipal court or district court:

~~[(a)]~~ ***(1)*** Arising from the charge on which bail was first given in any of these courts; and

~~[(b)]~~ ***(2)*** Arising from a later charge, filed before the expiration of the periods provided in subsection 4, which is substantially similar to the charge upon which bail was first given and is based upon the same act or omission as that charge ~~[.]~~ ***; and***

(b) Remains in effect until exonerated by the court.

This subsection does not require that any bond or undertaking extend to proceedings on appeal.

3. If an action or proceeding against a defendant who has been admitted to bail is transferred to another trial court, the bond or undertaking must be transferred to the clerk of the court to which the action or proceeding has been transferred.

4. If the action or proceeding against a defendant who has been admitted to bail is dismissed, the bail must not be exonerated until a period of 30 days has elapsed from the entry of the order of dismissal unless the defendant requests that bail be exonerated before the expiration of the 30-day period. If no formal action or proceeding is instituted against a defendant who has been admitted to bail, the bail must not be exonerated until a period of 30 days has elapsed from the day the bond or undertaking is posted unless the defendant requests that bail be exonerated before the expiration of the 30-day period.

5. If, within the periods provided in subsection 4, the defendant is charged with a public offense arising out of the same act or omission supporting the charge upon which bail was first given, the prosecuting attorney shall forthwith notify the clerk of the court where the bond was posted, the bail must be applied to the public offense later charged, and the bond or undertaking must be transferred to the clerk of the appropriate court. Within 10 days after its receipt, the clerk of the court to whom the bail is transferred shall mail notice of the transfer to the surety on the bond and the bail agent who executed the bond.

6. Bail given originally on appeal must be deposited with the magistrate or the clerk of the court from which the appeal is taken.

Sec. 5. **NRS 178.508** is hereby amended to read as follows:

178.508 1. If the defendant fails to appear when his presence in court is lawfully required for the commission of a misdemeanor and the failure to appear is not excused or is lawfully required for the commission of a gross misdemeanor or felony, the court shall:

(a) Enter upon its minutes that the defendant failed to appear;

↓2003 Statutes of Nevada, Page 2104 (CHAPTER 368, AB 29)↓

(b) Not later than 45 days after the date on which the defendant failed to appear, order the issuance of a warrant for the arrest of the defendant; and

(c) If the undertaking exceeds $50 or money deposited instead of bail bond exceeds $500, direct that each surety and the local agent of each surety, or the depositor if he is not the defendant, be given notice that the defendant has failed to appear, by certified mail within 20 days after the date on which the defendant failed to appear. The court shall execute an affidavit of such mailing to be kept as an official public record of the court and shall direct that a copy of the notice be transmitted to the prosecuting attorney at the same time that notice is given to each surety or the depositor.

2. Except as otherwise provided in subsection 3 and NRS 178.509, ~~[the]~~ ***an order of forfeiture of any*** undertaking or money deposited instead of bail bond ***must be prepared by the clerk of court and signed by the court. An order of forfeiture must include the date on which the forfeiture becomes effective. If the defendant who failed to appear has been charged with the commission of a gross misdemeanor or felony, a copy of the order must be forwarded to the Office of Court Administrator. The undertaking or money deposited instead of bail bond*** is forfeited 180 days after the date on which the notice is mailed pursuant to subsection 1.

3. The court may extend the date of the forfeiture for any reasonable period set by the court if the surety or depositor submits to the court:

(a) An application for an extension and the court determines that the surety or the depositor is making reasonable and ongoing efforts to bring the defendant before the court.

(b) An application for an extension on the ground that the defendant is temporarily prevented from appearing before the court because the defendant:

(1) Is ill;

(2) Is insane; or

(3) Is being detained by civil or military authorities,

and the court, upon hearing the matter, determines that one or more of the grounds described in this paragraph exist and that the surety or depositor did not in any way cause or aid the absence of the defendant.

Sec. 6. **NRS 178.512** is hereby amended to read as follows:

178.512 *1.* The court shall not set aside a forfeiture unless:

~~[1.]~~ *(a)* The surety submits an application to set it aside on the ground that the defendant:

~~[(a)]~~ *(1)* Has appeared before the court since the date of the forfeiture and has presented a satisfactory excuse for his absence;

~~[(b)]~~ *(2)* Was dead before the date of the forfeiture but the surety did not know and could not reasonably have known of his death before that date;

~~[(c)]~~ *(3)* Was unable to appear before the court before the date of the forfeiture because of his illness or his insanity, but the surety did not know and could not reasonably have known of his illness or insanity before that date;

~~[(d)]~~ *(4)* Was unable to appear before the court before the date of the forfeiture because he was being detained by civil or military authorities, but the surety did not know and could not reasonably have known of his detention before that date; or

~~[(e)]~~ *(5)* Was unable to appear before the court before the date of the forfeiture because he was deported, but the surety did not know and could not reasonably have known of his deportation before that date,

↓2003 Statutes of Nevada, Page 2105 (CHAPTER 368, AB 29)↓

and the court, upon hearing the matter, determines that one or more of the grounds described in this subsection exist and that the surety did not in any way cause or aid the absence of the defendant; and

~~[2.]~~ *(b)* The court determines that justice does not require the enforcement of the forfeiture.

2. If the court sets aside a forfeiture pursuant to subsection 1 and the forfeiture includes any undertaking or money deposited instead of bail bond where the defendant has been charged with a gross misdemeanor or felony, the court shall make a written finding in support of setting aside the forfeiture. The court shall mail a copy of the order setting aside the forfeiture to the Office of Court Administrator immediately upon entry of the order.

Sec. 7. **NRS 178.514** is hereby amended to read as follows:

178.514 1. When a forfeiture has not been set aside, the court shall on motion enter a judgment of default and execution may issue thereon.

2. ***If the Office of Court Administrator has not received an order setting aside a forfeiture within 180 days after the issuance of the order of forfeiture, the Court Administrator shall request that the court that ordered the forfeiture institute proceedings to enter a judgment of default with respect to the amount of the undertaking or money deposited instead of bail bond with the court. Not later than 30 days after receipt of the request from the Office of Court Administrator, the court shall enter judgment by default and commence execution proceedings therein.***

3. By entering into a bond the obligors submit to the jurisdiction of the court and irrevocably appoint the clerk of the court as their agent upon whom any papers affecting their liability may be served. Their liability may be enforced on motion and such notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the obligors to their last known addresses.

Sec. 8. **NRS 178.518** is hereby amended to read as follows:

178.518 Money collected pursuant to NRS 178.506 to 178.516, inclusive, which was collected:

1. From a person who was charged with a misdemeanor must be paid over to the county treasurer.

2. From a person who was charged with a gross misdemeanor or a felony must be paid over to the State Controller for deposit in the ~~[Fund for the Compensation of Victims of Crime.]~~ ***State General Fund for distribution in the following manner:***

(a) Ninety percent for credit to the Fund for the Compensation of Victims of Crime; and

(b) Ten percent for credit to the special account established pursuant to section 1 of this act to assist with funding and establishing specialty court programs.

Sec. 9. **NRS 179.225** is hereby amended to read as follows:

179.225 1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the Office of the Attorney General for that purpose, upon approval by the State Board of Examiners. After the appropriation is exhausted, the expenses must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. In all other cases, they must be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses are:

↓2003 Statutes of Nevada, Page 2106 (CHAPTER 368, AB 29)↓

(a) If the prisoner is returned to this state from another state, the fees paid to the officers of the state on whose governor the requisition is made;

(b) If the prisoner is returned to this state from a foreign country or jurisdiction, the fees paid to the officers and agents of this state or the United States; or

(c) If the prisoner is temporarily returned for prosecution to this state from another state pursuant to this chapter or chapter 178 of NRS and is then returned to the sending state upon completion of the prosecution, the fees paid to the officers and agents of this state,

and the necessary traveling expenses and subsistence allowances in the amounts authorized by NRS 281.160 incurred in returning the prisoner.

2. If a person is returned to this state pursuant to this chapter or chapter 178 of NRS and is convicted of, or pleads guilty, guilty but mentally ill or nolo contendere to the criminal charge for which he was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine his ability to make restitution. In conducting the investigation, the court shall determine if the person is able to pay any existing obligations for:

(a) Child support;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62.2175, 176.059 ***, 176.0611*** and 176.062 ~~[.]~~ ***and section 1 of this act.***

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the Attorney General or other governmental entity in returning him to this state. The court shall not order the person to make restitution if payment of restitution will prevent him from paying any existing obligations described in subsection 2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of the completion of his sentence.

4. The Attorney General may adopt regulations to carry out the provisions of this section.

Sec. 10. **NRS 1.360** is hereby amended to read as follows:

1.360 Under the direction of the Supreme Court, the Court Administrator shall:

1. Examine the administrative procedures employed in the offices of the judges, clerks, court reporters and employees of all courts of this state and make recommendations, through the Chief Justice, for the improvement of those procedures;

2. Examine the condition of the dockets of the courts and determine the need for assistance by any court;

3. Make recommendations to and carry out the directions of the Chief Justice relating to the assignment of district judges where district courts are in need of assistance;

4. Develop a uniform system for collecting and compiling statistics and other data regarding the operation of the state court system and transmit that information to the Supreme Court so that proper action may be taken in respect thereto;

5. Prepare and submit a budget of state appropriations necessary for the maintenance and operation of the state court system and make recommendations in respect thereto;

↓2003 Statutes of Nevada, Page 2107 (CHAPTER 368, AB 29)↓

6. Develop procedures for accounting, internal auditing, procurement and disbursement for the state court system;

7. Collect statistical and other data and make reports relating to the expenditure of all public money for the maintenance and operation of the state court system and the offices connected therewith;

8. Compile statistics from the information required to be maintained by the clerks of the district courts pursuant to NRS 3.275 and make reports as to the cases filed in the district courts;

9. Formulate and submit to the Supreme Court recommendations of policies or proposed legislation for the improvement of the state court system;

10. On or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau a written report compiling the information submitted to the Court Administrator pursuant to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year;

11. ***On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau a written report concerning:***

(a) The distribution of money deposited in the special account created pursuant to section 1 of this act to assist with funding and establishing specialty court programs;

(b) The current status of any specialty court programs to which money from the account was allocated since the last report; and

(c) Such other related information as the Court Administrator deems appropriate;

12. On or before February 15 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling the information submitted by clerks of courts to the Court Administrator pursuant to NRS 630.307 and 633.533 which includes only aggregate information for statistical purposes and excludes any identifying information related to a particular person; and

~~[12.]~~ ***13.*** Attend to such other matters as may be assigned by the Supreme Court or prescribed by law.

Sec. 11. **NRS 211.245** is hereby amended to read as follows:

211.245 1. If a prisoner fails to make a payment within 10 days after it is due, the district attorney for a county or the city attorney for an incorporated city may file a civil action in any court of competent jurisdiction within this state seeking recovery of:

(a) The amount of reimbursement due;

(b) Costs incurred in conducting an investigation of the financial status of the prisoner; and

(c) Attorney's fees and costs.

2. A civil action brought pursuant to this section must:

(a) Be instituted in the name of the county or city in which the jail, detention facility or alternative program is located;

(b) Indicate the date and place of sentencing, including, without limitation, the name of the court which imposed the sentence;

(c) Include the record of judgment of conviction, if available;

(d) Indicate the length of time served by the prisoner and, if he has been released, the date of his release; and

(e) Indicate the amount of reimbursement that the prisoner owes to the county or city.

3. The county or city treasurer of the county or incorporated city in which a prisoner is or was confined shall determine the amount of reimbursement that the prisoner owes to the city or county. The county or city treasurer may render a sworn statement indicating the amount of reimbursement that the prisoner owes and submit the statement in support of a civil action brought pursuant to this section. Such a statement is prima facie evidence of the amount due.

4. A court in a civil action brought pursuant to this section may award a money judgment in favor of the county or city in whose name the action was brought.

5. If necessary to prevent the disposition of the prisoner's property by the prisoner, or his spouse or agent, a county or city may file a motion for a temporary restraining order. The court may, without a hearing, issue ex parte orders restraining any person from transferring, encumbering, hypothecating, concealing or in any way disposing of any property of the prisoner, real or personal, whether community or separate, except for necessary living expenses.

6. The payment, pursuant to a judicial order, of existing obligations for:

(a) Child support or alimony;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62.2175, 176.059 ***, 176.0611*** and 176.062 ~~,~~ ***and section 1 of this act,***

has priority over the payment of a judgment entered pursuant to this section.

Sec. 12. **NRS 249.085** is hereby amended to read as follows:

249.085 On or before the 15th day of each month, the county treasurer shall report to the State Controller the amount of the administrative assessments paid by each justices' court for the preceding month pursuant to NRS 176.059 ~~.~~ ***and section 1 of this act.***

Sec. 13. This act becomes effective on July 1, 2003.

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Assembly Bill No. 146–Committee on Commerce and Labor

CHAPTER 369

AN ACT relating to professions; requiring the State Board of Professional Engineers and Land Surveyors to submit annual reports regarding certain activities of the Board to the Director of the Legislative Counsel Bureau; revising the membership of the Board; requiring the Board to hold an examination for an applicant for a license under certain circumstances; requiring the Board to provide its authorized design for a stamp to a retailer or manufacturer under certain circumstances; exempting certain laser scanner operators from the licensure requirements applicable to professional engineers and land surveyors; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. **Chapter 625 of NRS** is hereby amended by adding thereto a new section to read as follows:

1. On or before February 1 of each year, the Board shall submit a report to the Director of the Legislative Counsel Bureau for distribution to each member of the Senate Standing Committee on Commerce and Labor and the Assembly Standing Committee on Commerce and Labor.

2. Each report submitted pursuant to subsection 1 must include the following information for the previous calendar year:

(a) The number of persons who relied upon the provisions of this chapter relating to education to qualify for the issuance of a license, the results of each examination taken by each of those persons and a statement indicating whether the Board issued a license to each of those persons;

(b) A description of the facts and circumstances under which the Board exercised its discretion regarding whether to allow an applicant for a license to take the examination for that license or to issue a license to the

applicant; and

(c) The number and types of complaints, if any, the Board received regarding the procedure for applying for a license and the procedure for issuance of a license.

Sec. 2. **NRS 625.100** is hereby amended to read as follows:

625.100 1. The Governor shall appoint seven persons, ~~[six]~~ ***four*** of whom must be engaged in the practice or teaching of professional engineering in any of its disciplines except military engineering, ~~[and one]~~ ***two*** of whom must be engaged in the practice or teaching of land surveying ~~[.]~~ ***and one of whom must be a member of the general public.*** The members must be citizens of the United States and residents of this state, and constitute the State Board of Professional Engineers and Land Surveyors.

2. All appointments made ***for members who are engaged in the practice or teaching of professional engineering or land surveying*** must be ***made*** from the current roster of professional engineers and professional land surveyors as issued by the Board and on file in the office of the Secretary of State. Insofar as practicable, membership on the Board ***of those members***

↓2003 Statutes of Nevada, Page 2110 (CHAPTER 369, AB 146)↓

must be distributed proportionately among the recognized disciplines of the profession. ~~[One of the members who is a professional land surveyor must not be licensed as a professional engineer.]~~ ***The members who are professional land surveyors must not be professional engineers.***

3. Within 30 days after his appointment, ~~[a]~~ ***each*** member shall take and subscribe to the oath of office as prescribed by the laws of Nevada and shall file the oath with the Secretary of State.

Sec. 3. **NRS 625.154** is hereby amended to read as follows:

625.154 1. The Board shall hold examinations of applicants for licenses at least once each year in localities determined by the number of applications received.

2. The examinations must be written and administered in English.

3. The Board shall not prohibit an applicant for a license from taking a regularly scheduled examination for that license solely because the Board failed to review the applicant's application before the examination. If the Board prohibits an applicant for a license from taking the examination in violation of this subsection, the Board shall hold or cause to be held an examination for the applicant within 30 days after the violation occurs.

Sec. 4. **NRS 625.383** is hereby amended to read as follows:

625.383 1. Each professional engineer and professional land surveyor shall obtain a stamp of the design authorized by the Board, bearing his name and the number of his license and the legend "Professional Engineer" followed by the discipline for which he is qualified or the legend "Professional Land Surveyor," respectively.

2. ***To facilitate the obtaining of a stamp by a professional engineer or professional land surveyor pursuant to subsection 1, the Board shall, upon request, provide its authorized design to any retailer or manufacturer of stamps. A professional engineer or professional land surveyor may obtain his stamp from any retailer or manufacturer of stamps.***

3. A professional land surveyor shall not use the legend "Professional Engineer."

Sec. 5. **NRS 625.500** is hereby amended to read as follows:

625.500 ***1.*** The licensure requirements of this chapter do not apply to ~~[the]~~ ***:***

(a) The employees of interstate or intrastate public utility companies while they are engaged in work for those companies ~~[or to any]~~ ***;***

(b) Any architect registered pursuant to the provisions of chapter 623 of NRS and who practices architecture as permitted by chapter 623 of NRS ~~[.]~~ ***; or***

(c) A person, while he is using a scanner for the purpose of construction management or monitoring, or both, if he is certified by the International Conference of Building Officials or a successor organization for the purposes for which he is using the scanner.

2. As used in this section, "scanner" means a device that uses laser technology to capture the digital shape of physical objects through laser triangulation.

Sec. 6. 1. The term of each member of the State Board of Professional Engineers and Land Surveyors expires on the effective date of this act.

2. As soon as practicable after the effective date of this act, the Governor shall appoint to the Board:

↓2003 Statutes of Nevada, Page 2111 (CHAPTER 369, AB 146)↓

(a) Three members who are engaged in the practice or teaching of professional engineering, except military engineering, to serve for terms of 3 years;

(b) One member who is engaged in the practice or teaching of professional engineering, except military engineering, to serve for a term of 2 years;

(c) One member who is engaged in the practice or teaching of land surveying to serve for a term of 2 years;

(d) One member who is engaged in the practice or teaching of land surveying to serve for a term of 1 year; and

(e) One member who is a member of the general public to serve for a term of 1 year.

Sec. 7. 1. This act becomes effective upon passage and approval.

2. Section 1 of this act expires by limitation on December 1, 2014.

Assembly Bill No. 195–Assemblymen Collins, Chowning, Claborn, Andonov, Atkinson, Brown, Buckley, Giunchigliani, Hardy, Koivisto, Manendo, McClain, Oceguera and Pierce

CHAPTER 370

AN ACT relating to transportation; requiring the Director of the Department of Transportation to develop a plan in consultation with various other entities concerning the joint enforcement of certain laws and regulations governing transportation and vehicles; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. 1. The Director of the Department of Transportation, in consultation with the Department of Motor Vehicles, the Department of Public Safety, the Department of Taxation, the State Department of Agriculture, the State Department of Conservation and Natural Resources and any other state agency directed by the Governor to participate, shall develop a plan to jointly enforce the laws of this state and any related regulations within their respective jurisdictions, including, without limitation:

(a) The inspection of vehicles transporting hazardous materials;
(b) The enforcement of laws relating to the taxation of fuel used in motor carriers;
(c) The enforcement of vehicle registration laws;
(d) The enforcement of traffic safety laws;
(e) The performance of safety inspections on commercial vehicles; and
(f) The enforcement of laws restricting the importing of diseased animals and noxious weeds and other illegal plants.

The Governor may direct additional agencies of this state to participate in the planning in a manner that will benefit the State.

↓2003 Statutes of Nevada, Page 2112 (CHAPTER 370, AB 195)↓

2. In addition to the requirements of subsection 1, the plan must include a summary of the opportunities for joint enforcement, a prioritized list for activities of joint enforcement and the results expected from joint enforcement.

3. On or before December 1, 2004, the Director of the Department of Transportation shall submit the plan to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the 73rd Session of the Nevada Legislature.

Sec. 2. This act becomes effective on July 1, 2003.

Assembly Bill No. 548–Committee on Ways and Means

CHAPTER 371

AN ACT relating to public health; abolishing the Commission on Substance Abuse Education, Prevention, Enforcement and Treatment within the Department of Public Safety; abolishing the Fund for Substance Abuse Education, Prevention, Enforcement and Treatment; providing for the transfer of money in the Fund to the Department of Human Resources' Gift Fund; repealing the requirement of establishing pilot projects in family resource centers to provide services relating to substance abuse; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. 1. **NRS 458.370, 458.380, 458.390, 458.400, 458.420, 458.431 and 458.441** are hereby repealed.

2. Sections 37 and 38 of chapter 394, Statutes of Nevada 1999, at pages 1891 and 1892, respectively, are hereby repealed.

Sec. 2. 1. The State Controller shall transfer any balance in the Fund for Substance Abuse Education, Prevention, Enforcement and Treatment, created by NRS 458.400, which has not been committed for expenditure on or

before June 30, 2003, to the Department of Human Resources' Gift Fund, created by NRS 232.355.

2. Money transferred from the Fund for Substance Abuse Education, Prevention, Enforcement and Treatment to the Department of Human Resources' Gift Fund pursuant to this section:

(a) Must be accounted for separately within the Department of Human Resources' Gift Fund; and

(b) If any of the money was initially accepted as part of a gift or grant that restricted the expenditure of the money for a specific purpose, that money must, to the extent practicable, be expended in a manner consistent with the restriction.

Sec. 3. This act becomes effective on July 1, 2003.

Senate Bill No. 58–Senator Raggio

CHAPTER 372

AN ACT relating to hazardous materials; providing that certain required analyses relating to hazardous waste and regulated substances must be performed by certified laboratories; requiring the State Environmental Commission to adopt regulations for the certification of such laboratories; providing for the regulation of certain aboveground storage tanks by the Commission; providing penalties; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. **Chapter 445A of NRS** is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***"Hazardous waste" has the meaning ascribed to it in NRS 459.430.***

Sec. 3. ***1. Except as otherwise provided in subsection 2, any analysis performed to detect the presence of hazardous waste or a regulated substance in soil or water as required for the purposes of NRS 445A.300 to 445A.730, inclusive, and sections 2 and 3 of this act must be performed by a laboratory certified pursuant to the regulations adopted pursuant to NRS 445A.425.***

2. The provisions of subsection 1 do not apply to an analysis of waste that is managed by a facility for the management of hazardous waste.

Sec. 4. **NRS 445A.310** is hereby amended to read as follows:

445A.310 As used in NRS 445A.300 to 445A.730, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 445A.315 to 445A.420, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. **NRS 445A.425** is hereby amended to read as follows:

445A.425 1. Except as specifically provided in NRS 445A.625 to 445A.645, inclusive, the Commission shall:

(a) Adopt regulations carrying out the provisions of NRS 445A.300 to 445A.730, inclusive, ***and sections 2 and 3 of this act,*** including standards of water quality and amounts of waste which may be discharged into the waters of the State.

(b) ***Adopt regulations providing for the certification of laboratories that perform analyses for the purposes of NRS 445A.300 to 445A.730, inclusive, and sections 2 and 3 of this act to detect the presence of hazardous waste or a regulated substance in soil or water.***

(c) Adopt regulations controlling the injection of fluids through a well to prohibit those injections into underground water, if it supplies or may reasonably be expected to supply any public water system, as defined in NRS 445A.840, which may result in that system's noncompliance with any regulation regarding primary drinking water or may otherwise have an adverse effect on human health.

~~[(c)]~~ ***(d)*** Advise, consult and cooperate with other agencies of the State, the Federal Government, other states, interstate agencies and other persons in furthering the provisions of NRS 445A.300 to 445A.730, inclusive ~~[.]~~ ***, and sections 2 and 3 of this act.***

~~[(d)]~~ ***(e)*** Determine and prescribe the qualifications and duties of the supervisors and technicians responsible for the operation and maintenance of plants for sewage treatment.

2. The Commission may by regulation require that supervisors and technicians responsible for the operation and maintenance of plants for sewage treatment be certified by the Department. The regulations may include a schedule of fees to pay the costs of certification. The provisions of this subsection apply only to a package plant for sewage treatment whose capacity is more than 5,000 gallons per day and to any other plant whose capacity is more than 10,000 gallons per day.

3. In adopting regulations, standards of water quality and effluent limitations pursuant to NRS 445A.300 to 445A.730, inclusive, ***and sections 2 and 3 of this act,*** the Commission shall recognize the historical irrigation practices in the respective river basins of this state, the economy thereof and their effects.

4. The Commission may hold hearings, issue notices of hearings, issue subpoenas requiring the attendance of witnesses and the production of evidence, administer oaths and take testimony as it considers necessary to carry out the provisions of this section and for the purpose of reviewing standards of water quality.

5. As used in this section, "plant for sewage treatment" means any facility for the treatment, purification or disposal of sewage.

Sec. 6. **NRS 445A.625** is hereby amended to read as follows:

445A.625 ~~[1.]~~ The Department may issue, pursuant to NRS 445A.630, 445A.635 and 445A.640, a written permit to an applicant for that person to discharge, deposit, generate or dispose of any radioactive or hazardous waste.

~~[2. As used in this section, "hazardous waste" has the meaning ascribed to it in NRS 459.430.]~~

Sec. 7. **Chapter 459 of NRS** is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. ***1. Except as otherwise provided in subsection 2, any analysis performed to detect the presence of hazardous waste or a regulated substance in soil or water as required for the purposes of NRS 459.400 to 459.600, inclusive, and sections 8 and 9 of this act, 459.610 to 459.658, inclusive, or 459.800 to 459.856, inclusive, must be performed by a laboratory certified pursuant to the regulations adopted pursuant to NRS 459.500.***

2. The provisions of subsection 1 do not apply to an analysis of waste that is managed by a facility for the management of hazardous waste.

Sec. 9. ***Any analysis performed for a person who generates waste to identify whether that waste is hazardous as required for the purposes of NRS 459.400 to 459.600, inclusive, and sections 8 and 9 of this act must be performed by a laboratory certified pursuant to the regulations adopted pursuant to NRS 459.500.***

Sec. 10. **NRS 459.405** is hereby amended to read as follows:

459.405 As used in NRS 459.400 to 459.600, inclusive, ***and sections 8 and 9 of this act,*** unless the context otherwise requires, the words and terms

↓2003 Statutes of Nevada, Page 2115 (CHAPTER 372, SB 58)↓

defined in NRS 459.410 to 459.455, inclusive, have the meanings ascribed to them in those sections.

Sec. 11. **NRS 459.460** is hereby amended to read as follows:

459.460 1. NRS 459.400 to 459.600, inclusive, ***and sections 8 and 9 of this act,*** do not apply to any activity or substance which is subject to control pursuant to NRS 445A.300 to 445A.955, inclusive, and 459.010 to 459.290, inclusive, except to the extent that they can be applied in a manner which is not inconsistent with those sections.

2. The Director shall administer NRS 459.400 to 459.600, inclusive, ***and sections 8 and 9 of this act,*** in a manner which avoids duplication of the provisions of NRS 445A.300 to 445A.955, inclusive, and 445B.100 to 445B.640, inclusive, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.

Sec. 12. **NRS 459.465** is hereby amended to read as follows:

459.465 The following types of waste are subject to the provisions of NRS 459.400 to 459.600, inclusive, ***and sections 8 and 9 of this act,*** only if they are regulated pursuant to the Federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq.:

1. Fly ash, bottom ash, slag and waste removed from flue gas from the combustion of coal or other fossil fuels;

2. Solid waste from extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore;

3. Dust from cement kilns; and

4. Drilling fluids and other wastes produced by exploration, development or production of oil, gas or geothermal energy.

Sec. 13. **NRS 459.500** is hereby amended to read as follows:

459.500 1. Except as otherwise provided in NRS 459.700 to 459.780, inclusive, or 459.800 to 459.856, inclusive:

(a) Regulations of the Commission must provide:

(1) For safety in the packaging, handling, transportation and disposal of hazardous waste;

(2) For the certification of consultants involved in consultation regarding the response to and the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks, the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance, or the management of hazardous waste; ~~[and]~~

(3) That a person employed full time by a business to act as such a consultant is exempt from the requirements of certification if the person:

(I) Meets the applicable requirements of 29 C.F.R. § 1910.120 to manage such waste, materials or substances; and

(II) Is acting in the course of that full-time employment ~~[.]~~ ***; and***

(4) For the certification of laboratories that perform analyses for the purposes of NRS 459.400 to 459.600, inclusive, and sections 8 and 9 of this act, 459.610 to 459.658, inclusive, and 459.800 to 459.856, inclusive, to identify whether waste is hazardous waste or to detect the presence of hazardous waste or a regulated substance in soil or water.

(b) Regulations of the Commission may:

(1) Provide for the licensing and other necessary regulation of generators, including shippers and brokers, who cause that waste to be transported into or through Nevada or for disposal in Nevada;

(2) Require that the person responsible for a spill, leak or accident involving hazardous waste, hazardous material or a regulated substance, obtain advice on the proper handling of the spill, leak or accident from a consultant certified under the regulations adopted pursuant to paragraph (a); and

(3) Establish standards relating to the education, experience, performance and financial responsibility required for the certification of consultants.

2. The regulations may include provisions for:

(a) Fees to pay the cost of inspection, certification and other regulation, excluding any activities conducted pursuant to NRS 459.7052 to 459.728, inclusive; and

(b) Administrative penalties of not more than $2,500 per violation or $10,000 per shipment for violations by persons licensed by the Department, and the criminal prosecution of violations of its regulations by persons who are not licensed by the Department.

3. Designated employees of the Department and the Nevada Highway Patrol Division shall enforce the regulations of the Commission relating to the transport and handling of hazardous waste and the leakage or spill of that waste from packages.

Sec. 14. **NRS 459.812** is hereby amended to read as follows:

459.812 "Owner" means any person who owns ~~[a]~~ ***:***

1. An underground storage tank used to store or dispense regulated substances after November 8, 1984, or if the use of the tank was discontinued before that date, the last person to own such a tank before its use was discontinued ~~[.]~~ ***; or***

2. An aboveground storage tank used to store or dispense regulated substances after October 1, 2003, or, if the use of the tank was discontinued before that date, the last person to own such a tank before its use was discontinued.

Sec. 15. **NRS 459.820** is hereby amended to read as follows:

459.820 "Storage tank" means any one or combination of stationary tanks ***,*** including pipes connected thereto, used to contain and accumulate regulated substances. The term includes only ~~[those]~~ ***:***

1. Underground storage tanks that are regulated pursuant to the Federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq. ***; and***

2. Aboveground storage tanks that have a storage capacity of at least 110 gallons but not more than 30,000 gallons, including, without limitation, aboveground storage tanks located over water and used to supply fuel at a marina or other facility.

Sec. 16. **NRS 459.825** is hereby amended to read as follows:

459.825 1. The Commission shall coordinate:

(a) The collection of fees related to ~~[underground]~~ storage tanks;

(b) The adoption of regulations governing ~~[underground]~~ storage tanks; and

(c) The standardization of forms used by the agencies of the State and local governments that regulate ~~[underground]~~ storage tanks for reporting information relating to such storage tanks.

2. Each agency of this state and local government that regulates ~~[underground]~~ storage tanks shall, in consultation with the Commission:

(a) Cooperate to eliminate any duplication, conflicts or inconsistencies in regulations adopted to govern ~~[underground]~~ storage tanks;

(b) Review periodically the forms for reporting information related to ~~[underground]~~ storage tanks to determine whether they are complete and easy to understand and, if appropriate, revise the forms accordingly;

(c) Cooperate to develop a uniform format for reporting information related to ~~[underground]~~ storage tanks;

(d) Cooperate to ensure that agencies of local governments that respond to emergencies involving ~~[underground]~~ storage tanks receive reports of those emergencies in a timely manner; and

(e) Consolidate the collection of fees related to ~~[underground]~~ storage tanks.

Sec. 17. 1. This section becomes effective upon passage and approval.

2. Sections 14, 15 and 16 of this act become effective upon passage and approval for the purpose of adopting regulations governing aboveground storage tanks and on October 1, 2003, for all other purposes.

3. Section 13 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2004, for all other purposes.

4. Sections 1 to 12, inclusive, of this act become effective on July 1, 2004.

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Senate Bill No. 106–Committee on Judiciary

CHAPTER 373

AN ACT relating to courts; providing for the imposition of certain additional fees in civil actions; providing that such additional fees constitute costs for the purposes of certain provisions; providing for the imposition of a court automation fee for appeals and other proceedings filed in the Supreme Court; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. NRS 18.005 is hereby amended to read as follows:

18.005 For the purposes of NRS 18.010 to 18.150, inclusive, the term "costs" means:

1. Clerks' fees.
2. Reporters' fees for depositions, including a reporter's fee for one copy of each deposition.
3. Jurors' fees and expenses, together with reasonable compensation of an officer appointed to act in accordance with NRS 16.120.
4. Fees for witnesses at trial, pretrial hearings and deposing witnesses, unless the court finds that the witness was called at the instance of the prevailing party without reason or necessity.

↓2003 Statutes of Nevada, Page 2118 (CHAPTER 373, SB 106)↓

5. Reasonable fees of not more than five expert witnesses in an amount of not more than $1,500 for each witness, unless the court allows a larger fee after determining that the circumstances surrounding the expert's testimony were of such necessity as to require the larger fee.
6. Reasonable fees of necessary interpreters.
7. The fee of any sheriff or licensed process server for the delivery or service of any summons or subpoena used in the action, unless the court determines that the service was not necessary.
8. The fees of the official reporter or reporter pro tempore.
9. Reasonable costs for any bond or undertaking required as part of the action.
10. Fees of a court bailiff who was required to work overtime.
11. Reasonable costs for telecopies.
12. Reasonable costs for photocopies.
13. Reasonable costs for long distance telephone calls.
14. Reasonable costs for postage.
15. Reasonable costs for travel and lodging incurred taking depositions and conducting discovery.
16. ***Fees charged pursuant to section 2 of this act.***
17. Any other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research.

Sec. 2. Chapter 19 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in NRS 19.034, on the commencement of any civil action in the district court for which a filing fee is required, the clerk of court shall collect, in addition to any other fee required by law, the following fees in any action that involves more than one plaintiff and one defendant:

(a) A fee of $30 for each additional plaintiff named in a complaint when the complaint is filed.

(b) A fee of $30 for each additional defendant named in an answer when the answer is filed, or a fee of $30 for each additional party appearing in the action when the additional party appears in the action.

(c) If a complaint is amended to name an additional plaintiff, a fee of $30 for each additional plaintiff named when the complaint is amended.

2. On or before the first Monday of each month, the clerk of court shall pay over to the county treasurer the amount of all fees collected by him pursuant to subsection 1. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each fee received:

(a) Eight dollars for credit to a special account in the county general fund for the use of the district court for advanced and improved technological purposes. The special account is restricted to the use specified, the money in the special account must not be used to supplant existing budgets for maintenance and support of technology, and the balance in the special account must be carried forward at the end of each fiscal year.

(b) Seven dollars for credit to a special account in the county general fund in each county in which legal services are provided without charge to indigent or elderly persons through a program for legal aid organized under the auspices of the State Bar of Nevada, a county or local bar

association, a county or municipal program for legal services or other program funded by this state or the United States to provide legal assistance. The county treasurer shall remit quarterly to the organization operating the program for legal services all the money received by him from the clerk of court. The organization operating the program for legal services shall use any money received pursuant to this paragraph as follows:

(1) Five dollars for the benefit of indigent persons in the county; and

(2) Two dollars for the benefit of elderly persons in the county.

(c) Ten dollars to the State Controller for credit to a special account in the State General Fund. The State Controller shall distribute the money received to the Office of Court Administrator for use in support and maintenance of case management systems approved by the Office of Court Administrator, for statewide technological purposes and for distribution to the courts for technological purposes. The special account is restricted to the use specified, and the balance in the special account must be carried forward at the end of each fiscal year.

(d) Five dollars to the State Controller for credit to a special account in the State General Fund. The State Controller shall distribute the money received to the Office of Court Administrator for the payment for the services of retired justices and retired district judges. The special account is restricted to the use specified, and the balance in the special account must be carried forward at the end of each fiscal year.

3. As used in this section:

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

(b) "Technological purposes" means the acquisition or improvement of technology, including, without limitation, acquiring or improving technology for converting and archiving records, purchasing hardware and software, maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology.

Sec. 3. **NRS 2.250** is hereby amended to read as follows:

2.250 1. The Clerk of the Supreme Court may demand and receive for his services rendered in discharging the duties imposed upon him by law the following fees:

(a) Except as otherwise provided in paragraph ~~[(c),]~~ *(d),* whenever an appeal is taken to the Supreme Court, or whenever a special proceeding by way of mandamus, certiorari, prohibition, quo warranto, habeas corpus, or otherwise is brought in or to the Supreme Court, the appellant and any cross-appellant or the party bringing a special proceeding shall, at or before the appeal, cross-appeal or petition for a special proceeding has been entered on the docket, pay to the Clerk of the Supreme Court the sum of $200.

(b) Except as otherwise provided in paragraph ~~[(c),]~~ *(d),* a party to an appeal or special proceeding who petitions the Supreme Court for a rehearing shall, at the time of filing such a petition, pay to the Clerk of the Supreme Court the sum of $100.

(c) *Except as otherwise provided in paragraph (d), in addition to the fees required pursuant to paragraphs (a) and (b):*

(1) Whenever an appeal is taken to the Supreme Court, or whenever a special proceeding by way of mandamus, certiorari,

prohibition, quo warranto, habeas corpus, or otherwise is brought in or to the Supreme Court, the appellant and any cross-appellant or the party bringing a special proceeding shall, at or before the appeal, cross-appeal or petition for a special proceeding has been entered on the docket, pay to the Clerk of the Supreme Court a court automation fee of $50.

(2) A party to an appeal or special proceeding who petitions the Supreme Court for a rehearing shall, at the time of filing such a petition, pay to the Clerk of the Supreme Court a court automation fee of $50.

The Clerk of the Supreme Court shall remit the fees collected pursuant to this paragraph to the State Controller for credit to a special account in the State General Fund. The State Controller shall distribute the money received to the Office of Court Administrator to be used for advanced and improved technological purposes in the Supreme Court. The special account is restricted to the use specified, and the balance in the special account must be carried forward at the end of each fiscal year. As used in this paragraph, "technological purposes" means the acquisition or improvement of technology, including, without limitation, acquiring or improving technology for converting and archiving records, purchasing hardware and software, maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology.

(d) No fees may be charged by the Clerk in:

(1) Any action brought in or to the Supreme Court wherein the State of Nevada or any county, city or town thereof, or any officer or commission thereof is a party in his or its official or representative capacity, against the State of Nevada, county, city, town, officer or commission;

(2) A habeas corpus proceeding of a criminal or quasi-criminal nature; or

(3) An appeal taken from, or a special proceeding arising out of, a criminal proceeding.

~~[(d)]~~ *(e)* A fee of $60 for Supreme Court decisions in pamphlet form for each year, or a fee of $30 for less than a 6 months' supply of decisions, to be collected from each person who requests such decisions, except those persons and agencies set forth in NRS 2.345. The Clerk may charge a reasonable fee to all parties, including, without limitation, the persons and agencies set forth in NRS 2.345, for access to decisions of the Supreme Court compiled in an electronic format.

~~[(e)]~~ *(f)* A fee from a person who requests a photostatic copy or a photocopy print of any paper or document in an amount determined by the justices of the Supreme Court.

2. The Clerk of the Supreme Court shall not charge any fee that is not authorized by law.

3. The Clerk of the Supreme Court shall keep a fee book in which the Clerk shall enter in detail the title of the matter, proceeding or action, and the fees charged therein. The fee book must be open to public inspection in the office of the Clerk.

4. The Clerk of the Supreme Court shall publish and post in some conspicuous place in his office a table of fees for public inspection. The Clerk shall forfeit a sum of not less than $20 for each day of his omission to do so, which sum with costs may be recovered by any person by filing an action before any justice of the peace of the same county.

↓2003 Statutes of Nevada, Page 2121 (CHAPTER 373, SB 106)↓

5. All fees prescribed in this section must be paid in advance, if demanded. If the Clerk of the Supreme Court has not received any or all of the fees which are due to him for services rendered in any suit or proceeding, the Clerk may have execution therefor in his own name against the party from whom they are due, to be issued from the Supreme Court upon order of a justice thereof or from the Court upon affidavit filed.

6. The Clerk of the Supreme Court shall give a receipt on demand of the party paying a fee. The receipt must specify the title of the cause in which the fee is paid and the date and the amount of the payment.

7. The Clerk of the Supreme Court shall, when depositing with the State Treasurer money received for Court fees, render to the State Treasurer a brief note of the cases in which the money was received.

Sec. 4. This act becomes effective on July 1, 2003.

Senate Bill No. 456–Committee on Human Resources and Facilities

CHAPTER 374

AN ACT relating to the Uniform Athletes' Agents Act; revising various provisions of the Act; authorizing the Secretary of State to conduct certain investigations, issue certain orders and impose certain sanctions; authorizing the Secretary of State to recover the costs of certain proceedings; providing for the confidentiality of certain information and documents; authorizing the Secretary of State to adopt certain regulations; providing penalties for the violation of certain provisions, regulations and orders; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. Chapter 398 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***1. The Secretary of State may, within or outside this state:***

(a) Investigate any violation of:

(1) A provision of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act;

(2) A regulation adopted by the Secretary of State pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act; or

(3) An order denying, suspending or revoking the effectiveness of a registration, or an order to cease and desist, issued by the Secretary of State pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act.

(b) Conduct such other investigations as he finds necessary to aid in the enforcement of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, and any regulation or order adopted or issued by the Secretary of State pursuant thereto.

↓2003 Statutes of Nevada, Page 2122 (CHAPTER 374, SB 456)↓

2. If the Secretary of State determines that a violation specified in paragraph (a) of subsection 1 has occurred, the Attorney General may prosecute the violation at the request of the Secretary of State.

3. If the Attorney General declines to prosecute such a violation, the district attorney of the appropriate county may prosecute the violation at the request of the Secretary of State.

Sec. 3. *1. If the Secretary of State reasonably believes, whether or not based upon an investigation conducted pursuant to section 2 of this act, that a person has violated, or is about to violate, any provision of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, or any regulation or order of the Secretary of State adopted or issued pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, the Secretary of State, in addition to any specific power granted by NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, may, without a prior hearing, issue a summary order against the person, directing him to cease and desist from any further acts that constitute or would constitute such a violation until he is in compliance with NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act. The summary order to cease and desist must specify the section of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, or the regulation or order of the Secretary of State adopted or issued pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, which the Secretary of State reasonably believes has been or is about to be violated.*

2. If the Secretary of State reasonably believes, whether or not based upon an investigation conducted pursuant to section 2 of this act, that a person has violated any provision of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, or any regulation or order of the Secretary of State adopted or issued pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, the Secretary of State, in addition to any specific power granted by NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, after giving notice by registered or certified mail and conducting a hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

(a) Issue an order against the person to cease and desist;

(b) Censure the person if he is a registered athlete's agent;

(c) Suspend, revoke or refuse to renew the registration of the person as an athlete's agent; or

(d) If it is determined that the violation was willful, issue an order against the person imposing an administrative fine of not more than $25,000.

3. If the person to whom notice is given pursuant to subsection 2 does not request a hearing within 45 days after receipt of the notice, he waives his right to a hearing and the Secretary of State shall issue a permanent order. If the person requests a hearing, the Secretary of State shall set the matter for hearing not less than 15 or more than 60 days after he receives the request for a hearing. The Secretary of State shall promptly notify the parties by registered or certified mail of the time and place set for the hearing.

4. The imposition of the sanctions provided in this section is limited as follows:

.....

↓2003 Statutes of Nevada, Page 2123 (CHAPTER 374, SB 456)↓

(a) If the Secretary of State revokes the registration of an athlete's agent, the imposition of that sanction precludes the imposition of an administrative fine pursuant to subsection 2; and

(b) The imposition by the Secretary of State of one or more sanctions pursuant to subsection 2 with respect to a specific violation precludes him from later imposing any other sanction pursuant to subsection 2 with respect to that violation.

5. For the purpose of determining any sanction to be imposed pursuant to subsection 2, the Secretary of State shall consider, among other factors, how recently the conduct occurred, the nature of the conduct and the context in which it occurred, and any other relevant conduct of the applicant.

6. If a sanction is imposed pursuant to this section, the Secretary of State may recover the costs of the proceeding, including, without limitation, investigative costs and attorney's fees, from the person against whom the sanction is imposed.

Sec. 4. *1. For the purposes of an investigation or proceeding pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, the Secretary of State or any officer or employee designated by the Secretary of State by regulation, order or written direction may conduct hearings, administer oaths and affirmations, render findings of fact and conclusions of law, subpoena witnesses and compel their attendance, take evidence and require the production, by subpoena or otherwise, of books, papers, correspondence, memoranda, agreements or other documents or records which the Secretary of State or his designated officer or employee determines to be relevant or material to the investigation or proceeding. A person whom the Secretary of State or his designated officer or employee does not consider to be the subject of an investigation is entitled to reimbursement at the rate of 25 cents per page for copies of documents which he is required by subpoena to produce. The Secretary of State or his designated officer or employee may require or permit a person to file a statement, under oath or otherwise as the Secretary of State or his designated officer or employee determines, as to the facts and circumstances concerning the matter to be investigated.*

2. If the activities constituting an alleged violation for which the information is sought would be a violation of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, had the activities occurred in this state, the Secretary of State may issue and apply to enforce subpoenas in this state at the request of an agency or Secretary of State of another state.

3. If a person does not testify or produce the documents required by the Secretary of State or a designated officer or employee pursuant to subpoena, the Secretary of State or designated officer or employee may apply to the court for an order compelling compliance. A request for an order of compliance may be addressed to:

(a) The district court in and for the county where service may be obtained on the person refusing to testify or produce the documents, if the person is subject to service of process in this state; or

(b) A court of another state having jurisdiction over the person refusing to testify or produce the documents, if the person is not subject to service of process in this state.

2003 Statutes of Nevada, Page 2124 (CHAPTER 374, SB 456)

Sec. 5. ***1. Except as otherwise provided in subsections 2 and 3, the following information and documents do not constitute public information and are confidential:***

(a) Information or documents obtained by the Secretary of State in connection with an investigation conducted pursuant to section 2 of this act concerning possible violations of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act; and

(b) Information or documents filed with the Secretary of State in connection with an application for registration filed pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, which constitute commercial or financial information, or business practices, of a person for which that person is entitled to and has asserted a claim of privilege or confidentiality authorized by law.

2. The Secretary of State may submit any information or evidence obtained in connection with an investigation conducted pursuant to section 2 of this act to the Attorney General or appropriate district attorney for the purpose of prosecuting a criminal action pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act.

3. The Secretary of State may disclose any information obtained in connection with an investigation conducted pursuant to section 2 of this act to any other governmental agency if the disclosure is provided for the purpose of a civil, administrative or criminal investigation or proceeding and the receiving agency represents in writing that, under applicable law, protections exist to preserve the integrity, confidentiality and security of the information.

4. The provisions of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, do not create any privilege and do not diminish any privilege existing pursuant to common law, a specific statute or regulation, or otherwise.

Sec. 6. ***1. The provisions of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, apply to a person who sells or offers to sell his services as an athlete's agent if:***

(a) The offer is made in this state; or

(b) The offer is accepted in this state.

2. For the purpose of this section, an offer is made in this state, whether or not either party is present in this state, if the offer:

(a) Originates in this state; or

(b) Is directed by the offeror to a destination in this state and received where it is directed, or at a post office in this state if the offer is mailed.

3. For the purpose of this section, an offer is accepted in this state if the acceptance:

(a) Is communicated to the offeror in this state; and

(b) Has not previously been communicated to the offeror, orally or in writing, outside this state.

Acceptance is communicated to the offeror in this state, whether or not either party is present in this state, if the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received where it is directed, or at any post office in this state if the acceptance is mailed.

2003 Statutes of Nevada, Page 2125 (CHAPTER 374, SB 456)

Sec. 7. **NRS 398.400** is hereby amended to read as follows:

398.400 The provisions of NRS 398.400 to 398.496, inclusive, ***and sections 2 to 6, inclusive, of this act,*** may be cited as the Uniform Athletes' Agents Act.

Sec. 8. **NRS 398.404** is hereby amended to read as follows:

398.404 As used in NRS 398.400 to 398.496, inclusive, ***and sections 2 to 6, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 398.408 to 398.446, inclusive, have the meanings ascribed to them in those sections.

Sec. 9. **NRS 398.440** is hereby amended to read as follows:

398.440 "Registration" means registration as an athlete's agent pursuant to ~~[this chapter.]~~ ***NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act.***

Sec. 10. **NRS 398.472** is hereby amended to read as follows:

398.472 1. The Secretary of State shall adopt regulations establishing fees for:

(a) An initial application for registration;

(b) An application for registration based upon a certificate of registration or licensure issued by another state;

(c) An application for renewal of registration; and

(d) An application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state.

2. The fees ***established pursuant to subsection 1*** must be sufficient to cover the costs of administration of the Uniform Athletes' Agents Act.

3. The Secretary of State may adopt:

(a) Regulations further defining such words and terms as are necessary for an understanding of the provisions of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, and any regulations adopted pursuant thereto; and

(b) Such other regulations as he determines necessary to carry out the provisions of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act.

Sec. 11. **NRS 398.480** is hereby amended to read as follows:

398.480 1. An athlete's agent shall retain the following records for 5 years:

(a) The name and address of each natural person he represents;

(b) Any contract of agency into which he enters; and

(c) Any direct cost he incurs in recruiting or soliciting a student athlete to enter into a contract of agency.

2. Records required by this section to be retained ~~[arc]~~ ***:***

(a) Are open to inspection by the Secretary of State during normal business hours ~~[.]~~ ***; and***

(b) May be maintained in any form of data storage if they are readily accessible to the Secretary of State.

3. If the information contained in a document filed with the Secretary of State as part of an application for registration is or becomes inaccurate or incomplete, the registered person shall file correcting information within 30 days.

Sec. 12. **NRS 398.496** is hereby amended to read as follows:

398.496 1. An athlete's agent shall not, with the intent to induce a student athlete to enter into any contract:

2003 Statutes of Nevada, Page 2126 (CHAPTER 374, SB 456)

(a) Give any materially false or misleading information or make a materially false promise or representation;

(b) Furnish anything of value to the student athlete before the student athlete enters into the contract; or

(c) Furnish anything of value to a natural person other than the student athlete or another registered athlete's agent.

2. An athlete's agent shall not intentionally:

(a) Initiate communication, direct or indirect, with a student athlete to recruit or solicit him to enter into a contract of agency, unless the agent is registered pursuant to ~~[this chapter;]~~ ***NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act;***

(b) Refuse or fail to retain or permit inspection of records required to be retained pursuant to NRS 398.480;

(c) Fail to register when required pursuant to NRS 398.448;

(d) Include materially false or misleading information in an application for registration or renewal of registration;

(e) Predate or postdate a contract of agency; or

(f) Fail to notify a student athlete, before he signs or otherwise authenticates a contract of agency for a particular sport, that the signing or authentication will make him ineligible to participate as a student athlete in that sport.

3. ~~[An athlete's agent who violates this section is guilty of a gross misdemeanor.~~

~~4. The Secretary of State may impose an administrative fine of not more than $25,000 upon an athlete's agent for a violation of the Uniform Athletes' Agents Act.]~~ ***A person who willfully violates:***

(a) A provision of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act;

(b) A regulation adopted by the Secretary of State pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act; or

(c) An order denying, suspending or revoking the effectiveness of a registration, or an order to cease and desist, issued by the Secretary of State pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act,

is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $25,000, or by both fine and imprisonment. In addition to any other penalty, the court shall order the person to pay restitution.

4. A person who violates:

(a) A regulation adopted by the Secretary of State pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act; or

(b) An order denying, suspending or revoking the effectiveness of a registration, or an order to cease and desist, issued by the Secretary of State pursuant to NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act,

without knowledge of the regulation or order, is guilty of a misdemeanor and shall be punished by a fine of not more than $25,000.

5. The provisions of NRS 398.400 to 398.496, inclusive, and sections 2 to 6, inclusive, of this act, do not limit the power of the State of Nevada to punish a person for conduct which constitutes a crime pursuant to any other law.

2003 Statutes of Nevada, Page 2127

Senate Bill No. 491–Committee on Government Affairs

CHAPTER 375

AN ACT relating to public works; requiring certain subcontractors to become qualified to be subcontractors on contracts for public works; providing that those subcontractors are presumed to be qualified except under certain circumstances; authorizing the Board to disqualify subcontractors under certain circumstances; providing for a process to appeal such a disqualification; revising the criteria that the Board is required to adopt for the qualification of bidders on contracts for public works; authorizing the Board and the governing body of a local government to issue subpoenas relating to hearings on denials of applications for qualification to bid on or be subcontractors on contracts for public works; specifying the burden of proof in such hearings; revising the provisions governing the awarding of design-build contracts; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. **Chapter 338 of NRS** is hereby amended by adding thereto a new section to read as follows:

1. Each subcontractor whose name is required to be included in a bid pursuant to NRS 338.141 must, to be eligible to provide labor or a portion of the work or improvement to a contractor to whom the State Public Works Board awards a contract pursuant to this chapter, be qualified in accordance with criteria established by regulation by the State Public Works Board. The criteria established by the State Public Works Board pursuant to this subsection must be made applicable to a subcontractor but must otherwise be substantively identical to the criteria set forth in paragraph (b) of subsection 3 of NRS 338.1375.

2. A subcontractor shall be presumed to be qualified pursuant to subsection 1 unless the State Public Works Board has received information that:

(a) The State Public Works Board determines to be sufficient and verifiable; and

(b) Indicates the subcontractor does not meet the criteria established by regulation pursuant to subsection 1.

3. Upon receipt of sufficient and verifiable information of a type described in subsection 2, the State Public Works Board shall require a subcontractor regarding whom such information is received to submit to the State Public Works Board, on a form prescribed by the State Public Works Board, an application for qualification in accordance with the criteria established by regulation pursuant to subsection 1. After receiving such an application, the State Public Works Board shall determine whether the subcontractor is qualified in accordance with the criteria established by regulation pursuant to subsection 1. Except as otherwise provided in subsection 4, if the State Public Works Board determines that the subcontractor does not meet such criteria, the State Public Works Board

↓2003 Statutes of Nevada, Page 2128 (CHAPTER 375, SB 491)↓

may disqualify the subcontractor, for a period set by the State Public Works Board, from participating in public works projects which are sponsored by the State Public Works Board. The State Public Works Board shall provide written notice to the subcontractor of any such disqualification.

4. A subcontractor may appeal a disqualification pursuant to subsection 3 in the manner set forth in NRS 338.1381.

Sec. 2. **NRS 338.1373** is hereby amended to read as follows:

338.1373 1. A local government shall award a contract for the construction, alteration or repair of a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive; or

(b) NRS 338.143 to 338.148, inclusive.

2. The provisions of NRS 338.1375 to 338.1383, inclusive, ***and section 1 of this act*** and 338.139 do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 3. **NRS 338.1375** is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the person who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this state. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this state.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public agency or person in this state or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.1387; ~~[and]~~

(5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant ~~[.]~~ ***; and***

(6) The truthfulness and completeness of the application.

Sec. 4. **NRS 338.1381** is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying ~~[this application,]~~ ***an application pursuant to NRS 338.1379 or disqualifying a subcontractor pursuant to section 1 of this act,*** the applicant ***or subcontractor, as applicable,*** files a written request for a hearing with the State Public Works Board or the governing body of the local government, the Board or governing body shall set the matter for a hearing within ~~[10]~~ ***20*** days after receipt of the request. The hearing must be held not later than ~~[20]~~ ***45*** days after the receipt of the request for a hearing ~~[.]~~ ***unless the parties, by written stipulation, agree to extend the time.***

↓2003 Statutes of Nevada, Page 2129 (CHAPTER 375, SB 491)↓

2. The hearing must be held at a time and place prescribed by the Board or governing body. At least 10 days before the date set for the hearing, the Board or governing body shall serve the applicant ***or subcontractor*** with written notice of the hearing. The notice may be served by personal delivery to the applicant ***or subcontractor*** or by certified mail to the last known business or residential address of the applicant ~~[.]~~ ***or subcontractor.***

3. ***The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a contract for a public work.***

4. In conducting a hearing pursuant to this subsection, the Board or the governing body of a local government may:

(a) Administer oaths;

(b) Take testimony;

(c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;

(d) Require the production of related books, papers and documents; and

(e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The Board or governing body shall issue a decision on the matter within 5 days after the hearing and notify the applicant, in writing, of its decision within ~~[5]~~ ***15*** days after it is issued. The decision of the Board or governing body is a final decision for purposes of judicial review.

Sec. 5. NRS 338.1387 is hereby amended to read as follows:

338.1387 1. A public body awarding a contract for a public work shall not award the contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of his license. A subcontractor named by the contractor who is not properly licensed for that portion of the work ***, or who, at the time of the bid, is on disqualified status with the State Public Works Board pursuant to section 1 of this act,*** shall be deemed unacceptable. If the subcontractor is deemed unacceptable, the contractor shall provide an acceptable subcontractor before the award of the contract.

2. If, after awarding the contract, the public body discovers that the person to whom the contract was awarded is not licensed, or that the contract would exceed his license, the public body shall reject the bid and may accept the next lowest bid for that public work from a responsive bidder who was determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or was exempt from meeting such qualifications pursuant to NRS 338.1373 or 338.1383 without requiring that new bids be submitted.

Sec. 6. NRS 338.139 is hereby amended to read as follows:

338.139 1. A public body may award a contract for the construction, alteration or repair of a public work pursuant to NRS 338.1375 to 338.1389, inclusive, to a specialty contractor if:

(a) The majority of the work to be performed on the project to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed; and

↓2003 Statutes of Nevada, Page 2130 (CHAPTER 375, SB 491)↓

(b) The project to which the contract pertains is not part of a larger public work.

2. If a public body awards a contract to a specialty contractor pursuant to NRS 338.1375 to 338.1389, inclusive, all work to be performed on the project to which the contract pertains that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who ~~[is]~~ ***:***

(a) Is licensed to perform such work ~~[.]~~ ***; and***

(b) At the time of the performance of the work, is not on disqualified status with the State Public Works Board pursuant to section 1 of this act.

Sec. 7. **NRS 338.141** is hereby amended to read as follows:

338.141 1. Except as otherwise provided in subsection 2 ~~[,]~~ ***and NRS 338.1727,*** each bid submitted to any officer, department, board or commission for the construction of any public work or improvement must include:

(a) The name of each subcontractor who will provide labor or a portion of the work or improvement to the contractor for which he will be paid an amount exceeding 5 percent of the prime contractor's total bid. Within 2 hours after the completion of the opening of the bids, the contractors who submitted the three lowest bids must submit a list

containing the name of each subcontractor who will provide labor or a portion of the work or improvement to the contractor for which he will be paid an amount exceeding 1 percent of the prime contractor's total bid or $50,000, whichever is greater, and the number of the license issued to the subcontractor pursuant to chapter 624 of NRS. ~~[If]~~ ***Except as otherwise provided in this paragraph, if*** a contractor ~~[fails]~~ ***:***

(1) Fails to submit ~~[such a]~~ ***the*** list within the required time ~~[, his]~~ ***; or***

(2) Submits a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to section 1 of this act,
the contractor's bid shall be deemed not responsive. ***A contractor's bid shall not be deemed not responsive on the grounds that the contractor submitted a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to section 1 of this act if the contractor, before the award of the contract, provides an acceptable replacement subcontractor in the manner set forth in subsection 1 of NRS 338.1387.***

(b) A description of the portion of the work or improvement which each subcontractor named in the bid will complete.

2. The contractor shall list in his bid pursuant to subsection 1 the name of a subcontractor for each portion of the project that will be completed by a subcontractor.

3. A contractor whose bid is accepted shall not substitute any person for a subcontractor who is named in the bid, unless:

(a) The awarding authority objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or

(b) The substitution is approved by the awarding authority or an authorized representative of the awarding authority. The substitution must be approved if the awarding authority or authorized representative of the awarding authority determines that:

↓2003 Statutes of Nevada, Page 2131 (CHAPTER 375, SB 491)↓

(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the subcontractor with the same general terms that all other subcontractors on the project were offered;

(2) The named subcontractor files for bankruptcy or becomes insolvent; or

(3) The named subcontractor fails or refuses to perform his subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025.

4. As used in this section, "general terms" means the terms and conditions of a contract that set the basic requirements for a project and apply without regard to the particular trade or specialty of a subcontractor, but does not include any provision that controls or relates to the specific portion of the project that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

Sec. 8. NRS 338.1721 is hereby amended to read as follows:

338.1721 To qualify to participate in a project for the design and construction of a public work, a design-build team must:

1. Obtain a performance bond and payment bond as required pursuant to NRS 339.025;

2. Obtain insurance covering general liability and liability for errors and omissions;

3. Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause;

4. Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.1387, 338.145 or 408.333; ~~[and]~~

5. Ensure that the members of the design-build team possess the licenses and certificates required to carry out the functions of their respective professions within this state ~~[.]~~ ***; and***

6. If the project is for the design and construction of a public work of the State, ensure that the prime contractor is qualified to bid on a public work of the State pursuant to NRS 338.1379.

Sec. 9. NRS 338.1723 is hereby amended to read as follows:

338.1723 1. A public body shall advertise for preliminary proposals for the design and construction of a public work by a design-build team in a newspaper of general circulation in this state.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work to be designed and constructed;

(b) Separate estimates of the costs of designing and constructing the public work;

(c) The dates on which it is anticipated that the separate phases of the design and construction of the public work will begin and end;

(d) The date by which preliminary proposals must be submitted to the public body, which must not be less than 30 days after the date that the request for preliminary proposals is first published in a newspaper pursuant to subsection 1; ~~[and]~~

(e) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the public work may obtain the information necessary to submit a proposal, including, without limitation, the information set forth in subsection 3 ~~[.]~~ ***; and***

↓2003 Statutes of Nevada, Page 2132 (CHAPTER 375, SB 491)↓

(f) If the proposal is for a public work of the State, a statement setting forth that the prime contractor must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a preliminary proposal.

3. A public body shall maintain at the time and place set forth in the request for preliminary proposals the following information for inspection by a design-build team desiring to submit a proposal for the public work:

(a) The extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the public work that the public body determines to be necessary;

(b) A list of the requirements set forth in NRS 338.1721;

(c) A list of the factors that the public body will use to evaluate design-build teams who submit a proposal for the public work, including, without limitation:

(1) The relative weight to be assigned to each factor pursuant to NRS 338.1727; and

(2) A disclosure of whether the factors that are not related to cost are, when considered as a group, more or less important in the process of evaluation than the factor of cost;

(d) Notice that a design-build team desiring to submit a proposal for the public work must include with its proposal the information used by the public body to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 338.1725 and a description of that information;

(e) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.1389 or 338.147 should submit a copy of the certificate of eligibility with its proposal; and

(f) A statement as to whether a design-build team that is selected as a finalist pursuant to NRS 338.1725 but is not awarded the design-build contract pursuant to NRS 338.1727 will be partially reimbursed for the cost of preparing a final proposal and, if so, an estimate of the amount of the partial reimbursement.

Sec. 10. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. ***If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalists if at least two finalists remain.***

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If

↓2003 Statutes of Nevada, Page 2133 (CHAPTER 375, SB 491)↓

any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

~~[3.]~~ ***4.*** A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly ~~[,]~~ ***and*** be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1 ***.*** ~~[and comply with the provisions]~~ ***A final proposal is exempt from the requirements*** of NRS 338.141.

~~[4.]~~ ***5.*** After receiving the final proposals for the public work, the public body shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and ~~[2,]~~ ***3;*** or

(b) Reject all the final proposals.

~~[5.]~~ ***6.*** If a public body selects a final proposal pursuant to paragraph (a) of subsection ~~[4,]~~ ***5,*** the public body shall, at its next regularly scheduled meeting:

(a) Review and ratify the selection.

(b) Award the design-build contract to the design-build team whose proposal is selected.

(c) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(d) Make available to the public a summary setting forth the factors used by the public body to select the successful design-build team and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

~~[6.]~~ ***7.*** A contract awarded pursuant to this section:

(a) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(b) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(c) Except as otherwise provided in paragraph (d), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors,

omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(d) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

~~[7.]~~ *8.* Any provision of a contract that is in violation of paragraph (c) of subsection ~~[6]~~ *7* is declared to be contrary to the public policy of this state and is void.

~~[8.]~~ *9.* A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the public work.

Sec. 11. This act becomes effective upon passage and approval.

Assembly Bill No. 40–Assemblyman Oceguera

CHAPTER 376

AN ACT relating to civil practice; extending the period of limitations for commencing a civil action that has been dismissed because the court lacked jurisdiction over the subject matter of the action under certain circumstances; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. Chapter 11 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 this section, if an action that is commenced within the applicable period of limitations is dismissed because the court lacked jurisdiction over the subject matter of the action, the action may be recommenced in the court having jurisdiction within:

(a) The applicable period of limitations; or

(b) Ninety days after the action is dismissed,

whichever is later.

2. An action may be recommenced only one time pursuant to paragraph (b) of subsection 1.

3. An action may not be recommenced pursuant to paragraph (b) of subsection 1 more than 5 years after the date on which the original action was commenced.

4. Paragraph (b) of subsection 1 does not apply to a contract that is subject to the provisions of chapter 104 of NRS.

5. If an action is recommenced pursuant to paragraph (b) of subsection 1, any applicable findings of fact or conclusions of law entered by the court that dismissed the action shall be deemed binding in the action that is recommenced.

Sec. 2. This act applies to any action pending on October 1, 2003, or that is filed on or after October 1, 2003.

Assembly Bill No. 114–Committee on Government Affairs

CHAPTER 377

AN ACT relating to counties; providing qualifications for the county offices of sheriff and constable; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. Chapter 248 of NRS is hereby amended by adding thereto a new section to read as follows:

No person is eligible to the office of sheriff unless:

1. He will have attained the age of 21 years on the date he would take office if so elected; and

2. He is a qualified elector.

Sec. 2. Chapter 258 of NRS is hereby amended by adding thereto a new section to read as follows:

No person is eligible to the office of constable unless:

1. He will have attained the age of 21 years on the date he would take office if so elected or appointed; and

2. He is a qualified elector.

↓2003 Statutes of Nevada, Page 2136↓

Assembly Bill No. 240–Committee on Ways and Means

CHAPTER 378

AN ACT relating to education; extending the prospective expiration of certain provisions that authorize the board of trustees of a county school district to issue its general obligations to raise money to replace existing buildings or grounds for schools, and to purchase necessary equipment used in educating pupils, necessary furniture for school buildings and certain necessary equipment used for the transportation of pupils; requiring the board of trustees of a school district that issues its general obligations for such a purpose to prepare an annual written report describing the purposes for which the proceeds of the bonds were used; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. NRS 387.335 is hereby amended to read as follows:

387.335 1. The board of trustees of a county school district may issue its general obligations to raise money for the following purposes, and no others:

(a) Construction, design or purchase of new buildings for schools, including, but not limited to, teacherages, dormitories, dining halls, gymnasiums and stadiums.

(b) Enlarging, remodeling, repairing or replacing existing buildings or grounds for schools, including, but not limited to, teacherages, dormitories, dining halls, gymnasiums and stadiums.

(c) Acquiring sites for building schools, or additional real property for necessary purposes related to schools, including, but not limited to, playgrounds, athletic fields and sites for stadiums.

(d) Paying expenses relating to the acquisition of school facilities which have been leased by a school district pursuant to NRS 393.080.

(e) Purchasing necessary furniture and equipment for schools, including, without limitation, equipment used in educating pupils, furniture for school buildings and equipment used for the transportation of pupils. If money from the issuance of general obligations is used to purchase furniture and equipment to replace existing furniture and equipment, and that existing furniture and equipment subsequently is sold, the proceeds from the sale must be applied toward the

retirement of those obligations. If equipment used for the transportation of pupils is purchased pursuant to this paragraph, only the following equipment may be purchased:

(1) Motor vehicles that use biodiesel, compressed natural gas or a similar fuel formulated to reduce emissions from the amount of emissions produced from traditional fuels such as gasoline and diesel fuel;

(2) Equipment to retrofit motor vehicles to use biodiesel, compressed natural gas or a similar fuel formulated to reduce emissions from the amount of emissions produced from traditional fuels such as gasoline and diesel fuel; or

↓2003 Statutes of Nevada, Page 2137 (CHAPTER 378, AB 240)↓

(3) Equipment for the transportation, storage or dispensing of biodiesel, compressed natural gas or similar fuels formulated to reduce emissions from the amount of emissions produced from traditional fuels such as gasoline and diesel fuel.

2. Any one or more of the purposes enumerated in subsection 1 may, by order of the board of trustees entered in its minutes, be united and voted upon as one single proposition.

3. Any question submitted pursuant to this section and any question submitted pursuant to NRS 387.3285 may, by order of the board of trustees entered in its minutes, be united and voted upon as a single proposition.

4. ***If a school district issues general obligations to:***

(a) Replace existing buildings or grounds for schools, as set forth in paragraph (b) of subsection 1; or

(b) Purchase equipment used in educating pupils, furniture for school buildings or equipment used for the transportation of pupils, as set forth in paragraph (e) of subsection 1,

the school district shall prepare an annual written report that describes the purposes for which the proceeds of the bonds were used in the immediately preceding year. The school district shall, on or before October 1 of each year, submit the report to the Department and maintain a copy of the report for inspection by the general public.

5. As used in this section, "biodiesel" has the meaning ascribed to it in 42 U.S.C. § 13220.

Sec. 2. Section 60 of chapter 456, Statutes of Nevada 2001, at page 2338, is hereby amended to read as follows:

Sec. 60. 1. This section ~~[,]~~ ***and*** sections 48 and 59.5 of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 36, inclusive, 38, 40 to 43, inclusive, 46, 47 and 49 to 59, inclusive, of this act become effective on July 1, 2001.

3. Sections 37, 39, 44 and 45 of this act become effective at 12:01 a.m. on July 1, 2001.

4. Section 23 of this act becomes effective at 12:02 a.m. on July 1, 2001.

5. Section 48 of this act expires by limitation on July 1, ~~[2003.]~~ ***2007.***

Sec. 3. This act becomes effective upon passage and approval.

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↓2003 Statutes of Nevada, Page 2138↓

Assembly Bill No. 257–Committee on Ways and Means

CHAPTER 379

AN ACT making appropriations to restore the balance in the Contingency Fund and to assist school districts in paying for health insurance for their employees; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Contingency Fund created by NRS 353.266 the sum of $8,092,456 to restore and increase the balance in the Contingency Fund attributable to the State General Fund to $12,000,000.

2. There is hereby appropriated from the State Highway Fund to the Contingency Fund created by NRS 353.266 the sum of $1,889,536 to restore the balance in the Contingency Fund attributable to the State Highway Fund to $2,000,000. The money appropriated in this subsection must be accounted for separately and may only be used for expenditures that may be properly made from the State Highway Fund.

Sec. 2. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of $5,800,000 to provide allocations to school districts that incur unexpected expenses related to providing health insurance for their employees during the 2003-2005 biennium. No additional appropriation will be made for this

purpose. The money appropriated pursuant to this subsection must not be used to negotiate the salaries of educational personnel.

2. The State Board of Examiners shall adopt policies, procedures and criteria for the review of requests for allocations pursuant to subsection 3. Upon the adoption of such policies, procedures and criteria, the State Board of Examiners shall transmit a copy of the policies, procedures and criteria to the Interim Finance Committee for approval. Upon approval of the policies, procedures and criteria, the Interim Finance Committee shall transmit a copy of the policies, procedures and criteria to the Department of Education. The policies, procedures and criteria adopted by the State Board of Examiners may not be used until they are approved by the Interim Finance Committee.

3. If a school district finds that it has unexpected expenses related to providing health insurance to its employees during the 2003-2005 biennium, the school district may submit a request to the Department of Education for an allocation from the appropriation in subsection 1.

4. The Department of Education, the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau shall jointly review a request submitted pursuant to subsection 3, using the policies, procedures and criteria approved by the Interim Finance Committee pursuant to subsection 2. Upon completion of the review, a recommendation for or against an allocation to the requesting school district must be submitted by the Department of Education to the State Board of Examiners.

↓2003 Statutes of Nevada, Page 2139 (CHAPTER 379, AB 257)↓

5. The State Board of Examiners shall consider each request and recommend the amount of the allocation, if any, to the Interim Finance Committee.

6. The Interim Finance Committee is not required to approve the entire amount of an allocation recommended pursuant to subsection 5 or to allocate the entire amount appropriated by subsection 1.

7. Any remaining balance of the sum appropriated by subsection 1 must not be allocated by the Interim Finance Committee after June 30, 2005, and reverts to the State General Fund as soon as all payments of money committed have been made.

Sec. 3. This act becomes effective on July 1, 2003.

Assembly Bill No. 190–Assemblymen Parks, Giunchigliani, Gibbons, Anderson, Chowning, Atkinson, Buckley, Claborn, Conklin, Geddes, Goldwater, Grady, Griffin, Knecht, Koivisto, Leslie, Manendo, McClain, Mortenson, Oceguera, Perkins, Pierce, Sherer and Williams

Joint Sponsor: Senator Wiener

CHAPTER 380

AN ACT relating to contractors; revising the circumstances in which construction fraud occurs; clarifying the circumstances in which the Executive Officer of the State Contractors' Board may seek a cease and desist order; revising the circumstances in which the State Contractors' Board may require a licensed contractor to post a bond for wages; providing that the State Contractors' Board may suspend the license of a licensee who is prohibited from being awarded a contract for a public work; revising and clarifying the circumstances in which the State Contractors' Board may take disciplinary action against a licensee; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. Chapter 624 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 624.010, 624.020 and section 3 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Knowingly" imports a knowledge that the facts exist which constitute the act or omission, and does not require knowledge of the prohibition against the act or omission. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person upon inquiry.***

↓2003 Statutes of Nevada, Page 2140 (CHAPTER 380, AB 190)↓

Sec. 4. NRS 624.010 is hereby amended to read as follows:

624.010 ~~[As used in this chapter,]~~ "Board" means the State Contractors' Board.

Sec. 5. **NRS 624.020** is hereby amended to read as follows:

624.020 ~~[For the purposes of this chapter, unless the context otherwise requires:]~~

1. "Contractor" is synonymous with "builder."

2. A contractor is any person, except a registered architect or a licensed professional engineer, acting solely in his professional capacity, who in any capacity other than as the employee of another with wages as the sole compensation, undertakes to, offers to undertake to, purports to have the capacity to undertake to, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. Evidence of the securing of any permit from a governmental agency or the employment of any person on a construction project must be accepted by the Board or any court of this state as prima facie evidence that the person securing that permit or employing any person on a construction project is acting in the capacity of a contractor pursuant to the provisions of this chapter.

3. A contractor includes a subcontractor or specialty contractor, but does not include anyone who merely furnishes materials or supplies without fabricating them into, or consuming them in the performance of, the work of a contractor.

4. A contractor includes a construction manager who performs management and counseling services on a construction project for a professional fee.

Sec. 6. **NRS 624.165** is hereby amended to read as follows:

624.165 1. The Board shall:

(a) Designate one or more of its employees for the investigation of constructional fraud;

(b) Cooperate with other local, state or federal investigative and law enforcement agencies, and the Attorney General;

(c) Assist the Attorney General or any official of an investigative or a law enforcement agency of this state, any other state or the Federal Government who requests assistance in investigating any act of constructional fraud; and

(d) Furnish to those officials any information concerning its investigation or report on any act of constructional fraud.

2. The Board may obtain records of a law enforcement agency or any other agency that maintains records of criminal history, including, without limitation, records of:

(a) Arrests;
(b) Guilty pleas;
(c) Sentencing;
(d) Probation;
(e) Parole;
(f) Bail;
(g) Complaints; and

↓2003 Statutes of Nevada, Page 2141 (CHAPTER 380, AB 190)↓

(h) Final dispositions,

for the investigation of constructional fraud.

3. For the purposes of this section, constructional fraud occurs if a person engaged in construction knowingly:

(a) Misapplies money under the circumstances described in NRS 205.310;
(b) Obtains money, property or labor by false pretense as described in NRS 205.380;

(c) Receives payments and fails to state his own true name, or states a false name, contractor's license number, address or telephone number of the person offering a service;

(d) Commits any act of theft, forgery, fraud or embezzlement, in connection with a construction project, that violates a criminal statute of this state;

(e) Acts as a contractor without:

(1) Possessing a contractor's license issued pursuant to this chapter; or

(2) Possessing any other license required by this state or a political subdivision of this state; ~~[or]~~

(f) ***In any report relating to a contract for a public work, submits false information concerning a payroll to a public officer or agency; or***

(g) Otherwise fails to disclose a material fact.

Sec. 7. **NRS 624.212** is hereby amended to read as follows:

624.212 1. The Executive Officer, on behalf of the Board, shall issue an order to cease and desist to any person:

(a) Acting as a contractor ~~[;]~~ ***, including, without limitation, commencing work as a contractor;*** or

(b) Submitting a bid on a job situated in this state,

without ~~[a license as a contractor]~~ ***an active license of the proper classification*** issued pursuant to this chapter. The order must be served personally or by certified mail and is effective upon receipt.

2. If it appears that any person has engaged in acts or practices which constitute a violation of this chapter or the violation of an order issued pursuant to subsection 1, the Board may request the Attorney General, the district attorney of the county in which the alleged violation occurred or the district attorney of any other county in which that person maintains a place of business or resides to apply on behalf of the Board to the district court for an injunction restraining him from acting in violation of this chapter. Upon a proper showing, a temporary restraining order, a preliminary injunction or a permanent injunction may be granted. The Board as plaintiff in the action is not required to prove any irreparable injury.

3. In seeking injunctive relief against any person for an alleged violation of NRS 624.700, it is sufficient to allege that the person did, upon a certain day, and in a certain county of this state:

(a) Act as a contractor ~~[.]~~ ***, including, without limitation, commence work as a contractor;*** or
(b) Submit a bid on a job situated in this state,
without having ~~[a license to do so,]~~ ***an active license of the proper classification issued pursuant to this chapter,*** without alleging any further or more particular facts concerning the matter.

4. The issuance of a restraining order or an injunction does not relieve the person against whom the restraining order or injunction is issued from criminal prosecution for practicing without a license.
5. If the court finds that a person willfully violated an order issued pursuant to subsection 1, it shall impose a fine of not less than $250 nor more than $1,000 for each violation of the order.

Sec. 8. **NRS 624.270** is hereby amended to read as follows:

624.270 1. Before issuing a contractor's license to any applicant, the Board shall require that the applicant:
(a) File with the Board a surety bond in a form acceptable to the Board executed by the contractor as principal with a corporation authorized to transact surety business in the State of Nevada as surety; or
(b) In lieu of such a bond, establish with the Board a cash deposit as provided in this section.
2. Before granting renewal of a contractor's license to any applicant, the Board shall require that the applicant file with the Board satisfactory evidence that his surety bond or cash deposit is in full force, unless the applicant has been relieved of the requirement as provided in this section.
3. Failure of an applicant or licensee to file or maintain in full force the required bond or to establish the required cash deposit constitutes cause for the Board to deny, revoke, suspend or refuse to renew a license.
4. Except as otherwise provided in subsection 6, the amount of each bond or cash deposit required by this section must be fixed by the Board with reference to the contractor's financial and professional responsibility and the magnitude of his operations, but must be not less than $1,000 or more than $500,000. The bond must be continuous in form and must be conditioned that the total aggregate liability of the surety for all claims is limited to the face amount of the bond irrespective of the number of years the bond is in force. A bond required by this section must be provided by a person whose long-term debt obligations are rated "A" or better by a nationally recognized rating agency. The Board may increase or reduce the amount of any bond or cash deposit if evidence supporting such a change in the amount is presented to the Board at the time application is made for renewal of a license or at any hearing conducted pursuant to NRS 624.2545 or 624.291. Unless released earlier pursuant to subsection 5, any cash deposit may be withdrawn 2 years after termination of the license in connection with which it was established, or 2 years after completion of all work authorized by the Board after termination of the license, whichever occurs later, if there is no outstanding claim against it.
5. After a licensee has acted in the capacity of a licensed contractor in the State of Nevada for not less than 5 consecutive years, the Board may relieve the licensee of the requirement of filing a bond or establishing a cash deposit if evidence supporting such relief is presented to the Board. The Board may at any time thereafter require the licensee to file a new bond or establish a new cash deposit as provided in subsection 4:
(a) If evidence is presented to the Board supporting this requirement;
(b) Pursuant to subsection 6, after notification of a final written decision by the Labor Commissioner; or
(c) Pursuant to subsection 7.
If a licensee is relieved of the requirement of establishing a cash deposit, the deposit may be withdrawn 2 years after such relief is granted, if there is no outstanding claim against it.

6. If the Board is notified by the Labor Commissioner pursuant to NRS 607.165 ***or otherwise receives notification*** that three substantiated claims for wages have been filed against a contractor within a 2-year period, the Board shall require the contractor to file a bond or establish a cash deposit in an amount fixed by the Board. The contractor shall maintain the bond or cash deposit for the period required by the Board.
7. If a contractor who engages in the repair, restoration, improvement or construction of a residential pool or spa:
(a) Becomes licensed pursuant to this chapter on or after July 1, 2001;
(b) Is determined by the Board to have violated one or more of the provisions of NRS 624.301 to 624.305, inclusive;
(c) Enters into a contract on or after July 1, 2001, that is later found to be void and unenforceable against the owner pursuant to subsection 5 of NRS 597.719 or pursuant to any regulation adopted by the Board with respect to contracts for the repair, restoration, improvement or construction of a residential pool or spa; or
(d) Has five valid complaints filed against him with the Board within any 15-day period,
the contractor shall comply with the provisions of subsection 8.
8. A contractor described in subsection 7 shall, before commencing work for the repair, restoration, improvement or construction of a residential pool or spa, obtain:
(a) A performance bond in an amount equal to not less than 50 percent of the amount of the contract, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions set forth in the contract. The performance bond must be solely for the protection of the owner of the property to be improved.
(b) A payment bond in an amount equal to not less than 50 percent of the amount of the contract. The payment bond must be solely for the protection of persons supplying labor or materials to the contractor, or to any of his subcontractors, in carrying out the provisions of the contract.

A bond required pursuant to this subsection must be provided by a person whose long-term debt obligations are rated "A" or better by a nationally recognized rating agency. The contractor shall maintain the bond for the period required by the Board. The contractor shall furnish to the building department of the city or county, as applicable, in which the work will be carried out, a copy of any bond.

9. As used in this section, "substantiated ~~[claims]~~ ***claim*** for wages" has the meaning ascribed to it in NRS 607.165.

Sec. 9. **NRS 624.300** is hereby amended to read as follows:

624.300 1. Except as otherwise provided in ~~[subsection 3,]~~ ***subsections 3 and 4,*** the Board may:

(a) Suspend or revoke licenses already issued;

(b) Refuse renewals of licenses;

(c) Impose limits on the field, scope and monetary limit of the license;

(d) Impose an administrative fine of not more than $10,000;

(e) Order a licensee to repay to the account established pursuant to NRS 624.470, any amount paid out of the account pursuant to NRS 624.510 as a result of an act or omission of that licensee;

(f) Order the licensee to take action to correct a condition resulting from an act which constitutes a cause for disciplinary action, at the licensee's cost, that may consist of requiring the licensee to:

↓2003 Statutes of Nevada, Page 2144 (CHAPTER 380, AB 190)↓

(1) Perform the corrective work himself;

(2) Hire and pay another licensee to perform the corrective work; or

(3) Pay to the owner of the construction project a specified sum to correct the condition; or

(g) Reprimand or take other less severe disciplinary action, including, without limitation, increasing the amount of the surety bond or cash deposit of the licensee,

if the licensee commits any act which constitutes a cause for disciplinary action.

2. If the Board suspends or revokes the license of a contractor for failure to establish financial responsibility, the Board may, in addition to any other conditions for reinstating or renewing the license, require that each contract undertaken by the licensee for a period to be designated by the Board, not to exceed 12 months, be separately covered by a bond or bonds approved by the Board and conditioned upon the performance of and the payment of labor and materials required by the contract.

3. If a licensee violates the provisions of NRS 624.3014 or subsection 3 of NRS 624.3015, the Board may impose an administrative fine of not more than $20,000.

4. ***If a licensee is prohibited from being awarded a contract for a public work pursuant to NRS 338.017, the Board may suspend the license of the licensee for the period of the prohibition.***

5. If a licensee commits a fraudulent act which is a cause for disciplinary action under NRS 624.3016, the correction of any condition resulting from the act does not preclude the Board from taking disciplinary action.

~~[5.]~~ ***6.*** If the Board finds that a licensee has engaged in repeated acts that would be cause for disciplinary action, the correction of any resulting conditions does not preclude the Board from taking disciplinary action pursuant to this section.

~~[6.]~~ ***7.*** The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license by a licensee, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

~~[7.]~~ ***8.*** If discipline is imposed pursuant to this section, including any discipline imposed pursuant to a stipulated settlement, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Board.

~~[8.]~~ ***9.*** All fines collected pursuant to this section must be deposited with the State Treasurer for credit to the Construction Education Account created pursuant to NRS 624.580.

Sec. 10. **NRS 624.3016** is hereby amended to read as follows:

624.3016 The following acts or omissions, among others, constitute cause for disciplinary action under NRS 624.300:

1. Any fraudulent or deceitful act committed in the capacity of a contractor ~~[.]~~ ***, including, without limitation, misrepresentation or the omission of a material fact.***

2. A conviction of a violation of NRS 624.730 or a felony or a crime involving moral turpitude.

3. Knowingly making a false statement in or relating to the recording of a notice of lien pursuant to the provisions of NRS 108.226.

↓2003 Statutes of Nevada, Page 2145 (CHAPTER 380, AB 190)↓

4. Failure to give a notice required by NRS 108.245 or 108.246.

5. Failure to comply with NRS 597.713, 597.716 or 597.719 or any regulations of the Board governing contracts for the construction of residential pools and spas.

6. Failure to comply with NRS 624.600.

7. Misrepresentation or the omission of a material fact, or the commission of any other fraudulent or deceitful act, to obtain a license.

8. Failure to pay an assessment required pursuant to NRS 624.470.

9. Failure to file a certified payroll report that is required for a contract for a public work.

10. Knowingly submitting false information in an application for qualification or a certified payroll report that is required for a contract for a public work.

Sec. 11. **NRS 338.017** is hereby amended to read as follows:

338.017 If any administrative penalty is imposed against a person for the commission of an offense ~~[, that]~~ ***:***

1. That person, and the corporate officers, if any, of that person, may not be awarded a contract for a public work:

~~[1.]~~ ***(a)*** For the first offense, for a period of 3 years after the date of the imposition of the administrative penalty; and

~~[2.]~~ ***(b)*** For the second or subsequent offense, for a period of 5 years after the date of the imposition of the administrative penalty.

2. The Labor Commissioner shall notify the State Contractors' Board of each contractor who is prohibited from being awarded a contract for a public work pursuant to this section.

Sec. 12. NRS 607.165 is hereby amended to read as follows:

607.165 1. The Labor Commissioner shall notify the State Contractors' Board after three substantiated claims for wages have been filed against a contractor within a 2-year period. The notification must include a copy of the final written decision of the Labor Commissioner with regard to each such claim.

2. The Labor Commissioner may recommend to the State Contractors' Board the amount of the bond or cash deposit that a contractor should be required to file or establish pursuant to subsection 6 of NRS 624.270.

3. As used in this section:

(a) "Contractor" has the meaning ascribed to it in NRS 624.020.

(b) ***"Employee" means a natural person who receives wages or other remuneration from a contractor for personal services, including, without limitation, commissions, bonuses and remuneration payable in a medium other than cash.***

(c) "Substantiated ~~[claims]~~ ***claim*** for wages" means ~~[claims]~~ ***a claim*** for wages ***by an employee*** against a contractor that the Labor Commissioner determines to be valid after providing notice and ~~[conducting]~~ ***an opportunity for*** a hearing pursuant to the provisions of this chapter.

↓2003 Statutes of Nevada, Page 2146↓

Senate Bill No. 486–Committee on Natural Resources

CHAPTER 381

AN ACT relating to animals; increasing the number of persons on the State Board of Agriculture; abolishing the State Board of Sheep Commissioners; transferring the powers and duties of the State Board of Sheep Commissioners to the State Board of Agriculture and the State Quarantine Officer; establishing a minimum for the special tax on sheep; revising provisions governing the payment of administrative expenses incurred by the State Board of Agriculture; authorizing a fee for brand inspections; providing for the gathering and disposition of feral livestock; abolishing the Nevada Beef Council; repealing the tax to promote beef; making various changes relating to quarantines of livestock and other animals; providing in certain circumstances for the recovery of the full appraised value of diseased animals which are destroyed; providing penalties; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. **NRS 561.045** is hereby amended to read as follows:

561.045 There is hereby created in the Department a State Board of Agriculture composed of ~~[10]~~ ***11*** members appointed by the Governor.

Sec. 2. **NRS 561.055** is hereby amended to read as follows:

561.055 1. Three members of the Board must be actively engaged in range or semirange cattle production, one in ~~[dairying,]~~ ***dairy production, one in range or semirange sheep production,*** one in general farming, one in general agriculture, one in growing crops which are planted in rows spaced to permit mechanical cultivation, one in the control of pests, one in the petroleum industry and one in raising nursery stock.

2. Not more than two members may be residents of the same county, and the range or semirange cattle production members must be residents of different counties.

Sec. 3. **NRS 561.218** is hereby amended to read as follows:

561.218 1. The Director shall appoint a person to manage the activities of the Department relating to natural resources, land use planning and the management and control of wild horses ~~[and estrays.]~~ ***, estrays and feral livestock.***

The person must be appointed on the basis of merit and is in the unclassified service of the State. The Director may remove the person from office with the approval of the Board.

2. The person appointed shall:

(a) Establish and carry out a policy for the management and control of estrays and the preservation and allocation of natural resources necessary to advance and protect the livestock and agricultural industries in this state.

(b) Develop cooperative agreements and working relationships with federal and state agencies and local governments for land use planning and the preservation and allocation of natural resources necessary to advance and protect the livestock and agricultural industries in this state.

↓2003 Statutes of Nevada, Page 2147 (CHAPTER 381, SB 486)↓

(c) Cooperate with private organizations and governmental agencies to develop procedures and policies for the management and control of wild horses.

(d) Monitor gatherings of estrays ***and feral livestock*** conducted pursuant to the provisions of NRS 569.040 to 569.130, inclusive, ***and section 30 of this act,*** and assist district brand inspectors in identifying estrays before they are sold or given a placement or other disposition through a cooperative agreement established pursuant to NRS 569.031.

(e) Provide the members of the general public with information relating to the activities of the Department and solicit recommendations from the members of the general public and advisory groups concerning those activities.

(f) Make assessments of the level of competition between livestock and wildlife for food and water, collect data concerning the movement of livestock and perform activities necessary to control noxious weeds.

(g) Participate in land use planning relating to the competition for food and water between livestock and wildlife to ensure the maintenance of the habitat of both livestock and wildlife.

(h) Present testimony, conduct research and prepare reports for the Governor, the Legislature, the Director and any other person or governmental entity as directed by the Director.

(i) Develop and carry out a program to educate the members of the general public concerning the programs administered by the Department, including programs for the management and control of estrays ~~[.]~~ ***and feral livestock.***

(j) Make proposals to the Director for the amendment of the regulations adopted by the Board pursuant to NRS 561.105.

(k) Perform such other duties as directed by the Director.

3. As used in this section:

(a) "Estray" has the meaning ascribed to it in ~~[NRS 569.005.]~~ ***section 27 of this act.***

(b) ***"Feral livestock" has the meaning ascribed to it in section 28 of this act.***

(c) "Wild horse" has the meaning ascribed to it in NRS 504.430.

Sec. 4. **NRS 561.305** is hereby amended to read as follows:

561.305 The Department shall establish and maintain a laboratory for the following purposes:

1. The diagnosis of infectious, contagious and parasitic diseases of ~~[livestock,]~~ ***animals,*** as may be necessary under the provisions of chapter 571 of NRS.

2. The diagnosis of infectious, contagious and parasitic diseases of bees, as may be necessary under the provisions of NRS 552.085 to 552.310, inclusive.

3. The diagnosis of infectious, contagious and destructive diseases of agricultural commodities, and infestations thereof by pests, as may be necessary under the provisions of NRS 554.010 to 554.240, inclusive.

4. The survey and identification of insect pests, plant diseases and noxious weeds, and the maintenance of a herbarium, as may be necessary under the provisions of NRS 555.010 to 555.249, inclusive.

5. The testing of pesticides, as may be necessary under the provisions of NRS 555.2605 to 555.460, inclusive, and 586.010 to 586.450, inclusive.

↓2003 Statutes of Nevada, Page 2148 (CHAPTER 381, SB 486)↓

6. The safekeeping and maintenance of official standards of weights and measures, as may be necessary under the provisions of chapter 581 of NRS.

7. The testing and grading of agricultural products and the testing of the purity and germinating power of agricultural seeds and the testing of the spray residue contained in produce, as may be necessary under the provisions of chapter 587 of NRS.

8. The analysis and testing of commercial fertilizers and agricultural minerals, as may be necessary under the provisions of NRS 588.010 to 588.350, inclusive.

9. The analysis and testing of petroleum products, as may be necessary under the provisions of NRS 590.010 to 590.150, inclusive.

10. The analysis and testing of antifreeze, as may be necessary under the provisions of NRS 590.340 to 590.450, inclusive.

11. Any laboratory examinations, diagnoses, analyses or testing as may be deemed necessary by the Director and which can be made with equipment available in any such laboratory. Any resident of this state may submit samples to the Department for examination, diagnosis, analysis or testing, subject to such rules and regulations as may be adopted by the Director.

Sec. 5. **NRS 561.335** is hereby amended to read as follows:

561.335 1. The Revolving Account for Agriculture Working Capital in the amount of $10,000 is hereby created for the use of the Department.

2. The Account must be used specifically for carrying out the provisions of NRS 569.005 to 569.080, inclusive, ***and sections 24 to 30, inclusive, of this act,*** and 569.100 to 569.130, inclusive.

3. The Account may be used for:

(a) Paying the expenses of all programs and laws administered by the Department, except expenses related to estrays ***and feral livestock*** which are required to be paid pursuant to NRS 569.090. The Account must be reimbursed promptly from the proper funds in the State Treasury by claims paid as other claims against the State are paid for any expenses paid pursuant to this paragraph.

(b) Providing advance money to officers and employees of the Department for travel expenses and subsistence allowances arising out of their official duties or employment. Such an advance constitutes a lien in favor of the Department upon the accrued wages of the requesting officer or employee in an amount equal to the sum advanced, but the Director may advance more than the amount of the accrued wages of the officer or employee. Upon the return of the officer or employee, he is entitled to receive any authorized expenses and subsistence in excess of the amount advanced, and a sum equal to the advance must be paid into the Revolving Account for Agriculture Working Capital.

(c) Making grants and loans for any purpose authorized by subsection 2 of NRS 561.445. Any loan or grant made pursuant to this paragraph must be reimbursed promptly, as other claims against the State are paid, from the money deposited in the State Treasury pursuant to subsection 1 of NRS 561.445.

4. The Revolving Account for Agriculture Working Capital must be deposited in a bank or credit union qualified to receive deposits of public money and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.

↓2003 Statutes of Nevada, Page 2149 (CHAPTER 381, SB 486)↓

Sec. 6. **NRS 561.344** is hereby amended to read as follows:

561.344 1. The Livestock Inspection Account is hereby created in the State General Fund for the use of the Department.

2. The following special taxes, fees and other money must be deposited in the Livestock Inspection Account:

(a) All special taxes on livestock as provided by law **.** ~~[, except the assessment collected pursuant to NRS 565.075 and any tax levied pursuant to NRS 575.070.]~~

(b) Fees and other money collected pursuant to the provisions of chapter 564 of NRS.

(c) Fees collected pursuant to the provisions of chapter 565 of NRS.

(d) Unclaimed proceeds from the sale of estrays ***and feral livestock*** by the Department pursuant to NRS 569.005 to 569.130, inclusive, ***and sections 24 to 30, inclusive, of this act,*** or proceeds required to be deposited in the Livestock Inspection Account pursuant to a cooperative agreement established pursuant to NRS 569.031.

(e) Fees collected pursuant to the provisions of chapter 573 of NRS.

(f) Fees collected pursuant to the provisions of chapter 576 of NRS.

(g) Laboratory fees collected for the diagnosis of infectious, contagious and parasitic diseases of ~~[livestock,]~~ ***animals,*** as authorized by NRS 561.305, and as are necessary pursuant to the provisions of chapter 571 of NRS.

3. Expenditures from the Livestock Inspection Account must be made only for carrying out the provisions of this chapter and chapters 564, 569, 571, 573 and 576 of NRS.

4. The interest and income earned on the money in the Livestock Inspection Account, after deducting any applicable charges, must be credited to the Account.

Sec. 7. **NRS 562.010** is hereby amended to read as follows:

562.010 As used in this chapter, "Board" means the State Board of ~~[Sheep Commissioners.]~~ ***Agriculture.***

Sec. 8. **NRS 562.130** is hereby amended to read as follows:

562.130 The Board may:

1. Employ a secretary and such inspectors and other employees as it may find necessary to carry out the provisions of this chapter.

2. Prescribe the duties and fix the compensation and travel and subsistence expenses of its employees and volunteers.

3. Require such bonds from its inspectors as it determines necessary.

4. Request the Director of the State Department of Agriculture to designate, pursuant to NRS 561.225, one or more employees of the Department to issue sheep permits **.** ~~[and act as sheep inspectors if the Board and its inspectors are unable to do so.]~~

Sec. 9. **NRS 562.150** is hereby amended to read as follows:

562.150 The Board shall render a ***written*** report of its activities ~~[in writing]~~ ***relating to the implementation of this chapter*** to the Governor on or before October 31, ~~[1968,]~~ ***2003,*** and each 2 years thereafter.

Sec. 10. **NRS 562.170** is hereby amended to read as follows:

562.170 1. ~~[The]~~ ***Except as otherwise provided in this section, the*** rate of tax fixed by the Board, as provided for in NRS 562.160, must not exceed the equivalent of 18 cents per head on all sheep. ***The minimum tax that must be paid annually by an owner of sheep is $5.***

2. The tax paid by an owner of sheep must be deposited in the state or county treasury in which the State Sheep Inspection Account is located for

↓2003 Statutes of Nevada, Page 2150 (CHAPTER 381, SB 486)↓

credit to that Account. The money in the State Sheep Inspection Account must be made available and disbursed by the proper state or county officials upon request of the Board for the purposes provided for in this chapter.

Sec. 11. **NRS 562.220** is hereby amended to read as follows:

562.220 ***1.*** The salaries, compensation and expenses provided for in this chapter must be paid out of the State Sheep Inspection Account.

2. Necessary administrative expenses incurred by the Board in carrying out the provisions of this chapter may be paid from the State Sheep Inspection Account, except that such administrative expenses must not exceed 5 percent of the annual collected tax receipts.

Sec. 12. **NRS 562.250** is hereby amended to read as follows:

562.250 ~~[The Board shall have]~~ ***1. Except as otherwise provided in subsection 2, the Board has*** exclusive control of all matters pertaining to the sheep industry.

2. The State Quarantine Officer has exclusive authority over matters concerning diseases of sheep and may adopt such regulations as are necessary to carry out his duties pursuant to this subsection.

Sec. 13. **NRS 562.270** is hereby amended to read as follows:

562.270 The Board ~~[shall have the power to]~~ ***may*** make and enforce ~~[:~~

~~1. Rules and regulations for governing itself.~~

~~2. Rules]~~ ***rules*** and regulations deemed necessary by it for the enforcement of the provisions of this chapter.

Sec. 14. (Deleted by amendment.)

Sec. 15. **NRS 562.460** is hereby amended to read as follows:

562.460 1. Each inspector shall:

(a) ~~[Inspect all the sheep within the district assigned to him when so ordered by the Board.~~

~~(b) Make and issue a certificate or bill of health for all sheep whose owners have complied with the law and the orders, rules and regulations made and adopted by the Board.~~

~~2. Each certificate or bill of health shall describe the sheep with the marks and brands thereon, which certificate or bill of health shall entitle the owner or agent in charge to pass with such sheep from one district to another in the State.~~

~~3. The inspector shall immediately file with the Board a duplicate of all certificates issued by him.]~~ ***At the request of the owner of sheep, perform a brand inspection of the sheep for brands or marks; and***

(b) Upon the completion of such an inspection, issue a brand inspection clearance certificate in accordance with NRS 565.120.

2. The State Department of Agriculture may levy and collect a reasonable fee for brand inspections as authorized under the provisions of this chapter. Any fee so levied must be collected in the manner prescribed by the Director of the Department and deposited into the Livestock Inspection Account.

Sec. 16. **NRS 567.030** is hereby amended to read as follows:

567.030 The Committee consists of five members. ~~[One member]~~ ***Two members*** must be designated ~~[from among its members]~~ by the State Board of Agriculture ~~[.]~~ ***from among its members, one of which must be the appointee for range or semirange sheep production.*** One member must be designated ~~[from among its members]~~ by the Board of Wildlife Commissioners ~~[. One member must be designated]~~ from among its members ***.*** ~~[by the State Board of Sheep Commissioners.]~~ One member must be

↓2003 Statutes of Nevada, Page 2151 (CHAPTER 381, SB 486)↓

designated ~~[from among its members]~~ by the State Board of Health ~~[.]~~ ***from among its members.*** One member must be designated ~~[from among its members]~~ by the Nevada Farm Bureau ~~[.]~~ ***from among its members.***

Sec. 17. **NRS 567.040** is hereby amended to read as follows:

567.040 1. Upon and following its organization the Committee shall select its own Chairman.

2. The Secretary of the State Board of ~~[Sheep Commissioners]~~ ***Agriculture*** shall serve as Secretary of the Committee.

Sec. 18. **NRS 567.060** is hereby amended to read as follows:

567.060 1. The office of the Committee must be located in the office of the State Board of ~~[Sheep Commissioners.]~~ ***Agriculture.***

2. Such miscellaneous administrative expenses as are necessary for the conduct of the Committee's affairs, aside from travel and subsistence expenses of the members and the Secretary, such as stationery and postage, must be paid from and are a proper charge against the State Sheep Inspection Account of the State Board of ~~[Sheep Commissioners.]~~ ***Agriculture.***

Sec. 19. **NRS 567.100** is hereby amended to read as follows:

567.100 As used in NRS 567.100 to 567.170, inclusive:

1. "Board" means the State Board of ~~[Sheep Commissioners.]~~ ***Agriculture.***

2. "Committee" means the Committee to Control Predatory Animals of the State Board of ~~[Sheep Commissioners.]~~ ***Agriculture.***

Sec. 20. **NRS 567.110** is hereby amended to read as follows:

567.110 1. Upon receipt of the reports from the Committee for Assessing Livestock pursuant to NRS 575.180, the ~~[State Board of Sheep Commissioners,]~~ ***Board,*** acting as the Committee to Control Predatory Animals, may levy an annual special tax of not to exceed the equivalent of 20 cents per head on all sheep and goats.

2. The special tax is designated as the tax for control of predatory animals.

3. Notice of the tax must be sent by the Board to the county assessor or treasurer of each county that is administering the special taxes on livestock, and to the State Department of Agriculture on or before the first Monday in May of each year.

Sec. 21. **NRS 567.110** is hereby amended to read as follows:

567.110 1. Upon receipt of the reports from the State Department of Agriculture pursuant to NRS 575.180, the ~~[State Board of Sheep Commissioners,]~~ ***Board,*** acting as the Committee to Control Predatory Animals, may levy an annual special tax of not to exceed the equivalent of 20 cents per head on all sheep and goats.

2. The special tax is designated as the tax for control of predatory animals.

3. Notice of the tax must be sent by the Board to the State Department of Agriculture on or before the first Monday in May of each year.

Sec. 22. **NRS 567.170** is hereby amended to read as follows:

567.170 ~~[Administrative expenses necessary on the part of]~~ ***Necessary administrative expenses incurred by*** the Board in carrying out the provisions of NRS 567.100 to 567.170, inclusive, are a proper charge against and payable from the State Sheep Inspection Account ~~[.]~~ ***, except that such administrative expenses must not exceed 5 percent of the annual collected tax receipts.***

↓2003 Statutes of Nevada, Page 2152 (CHAPTER 381, SB 486)↓

Sec. 23. **Chapter 569 of NRS** is hereby amended by adding thereto the provisions set forth as sections 24 to 30, inclusive, of this act.

Sec. 24. ***"Alternative livestock" has the meaning ascribed to it in NRS 501.003.***

Sec. 25. ***"Department" means the State Department of Agriculture.***

Sec. 26. ***"Director" means the Director of the Department.***

Sec. 27. ***"Estray" means any domesticated livestock or progeny of domesticated livestock showing signs of domestication, running at large upon public or private lands in the State of Nevada, whose owner is unknown in the section where the animal is found.***

Sec. 28. ***"Feral livestock" means any formerly domesticated livestock or progeny of domesticated livestock which have become wild and are running at large upon public or private lands in the State of Nevada, and which have no physical signs of domestication. The term does not include horses or burros that are subject to the jurisdiction of the Federal Government pursuant to the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331 to 1340, inclusive, and any regulations adopted pursuant thereto, or any other federal statute or regulation.***

Sec. 29. ***"Livestock" means:***

1. All cattle or animals of the bovine species;

2. All horses, mules, burros and asses or animals of the equine species;

3. All swine or animals of the porcine species;

4. All goats or animals of the caprine species;

5. All sheep or animals of the ovine species;

6. All poultry or domesticated fowl or birds; and

7. All alternative livestock.

Sec. 30. ***1. The Department may sell all feral livestock which it has gathered if the Department determines that the sale of the feral livestock is necessary to facilitate the placement or other disposition of the feral livestock.***

2. Except as otherwise provided in subsection 3, before the Department may sell feral livestock, the Department must publish notice of the sale of the feral livestock in a newspaper published at the county seat of the county in which the gathering of the feral livestock occurred. If there is no newspaper published at the county seat of the county, the notice must be published in the newspaper published at the nearest point to that county seat. A notice of a sale published pursuant to this section need not include full descriptions of the feral livestock, but may include such information and details as the Department determines necessary.

3. The Department may sell injured, sick or otherwise debilitated feral livestock if, as determined by the Department, the sale of the feral livestock is necessary to facilitate the placement or other disposition of the feral livestock. If feral livestock is sold pursuant to this subsection, the Department shall give a brand inspection clearance certificate to the purchaser.

Sec. 31. **NRS 569.005** is hereby amended to read as follows:

569.005 As used in NRS 569.005 to 569.130, inclusive, ***and sections 24 to 30, inclusive, of this act,*** unless the context otherwise requires ~~[:~~

~~1. "Department" means the State Department of Agriculture.~~

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

↓2003 Statutes of Nevada, Page 2153 (CHAPTER 381, SB 486)↓

~~3. "Estray" means any livestock running at large upon public or private lands in the State of Nevada, whose owner is unknown in the section where the animal is found.~~

~~4. "Livestock" means:~~

~~(a) All cattle or animals of the bovine species;~~

~~(b) All horses, mules, burros and asses or animals of the equine species;~~

~~(c) All swine or animals of the porcine species;~~

~~(d) All goats or animals of the caprine species;~~

~~(e) All sheep or animals of the ovine species; and~~

~~(f) All poultry or domesticated fowl or birds.~~] ***, the words and terms defined in sections 24 to 29, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 32. **NRS 569.010** is hereby amended to read as follows:

569.010 1. Except as otherwise provided by law, all estrays ***and feral livestock*** within this state shall be deemed for the purpose of this section to be the property of the Department.

2. The Department has all rights accruing pursuant to the laws of this state to owners of those animals, and may:

(a) Dispose of estrays ***and feral livestock*** by sale through an agent appointed by the Department; or

(b) Provide for the control, placement or disposition of estrays ***and feral livestock*** through cooperative agreements pursuant to NRS 569.031.

3. Except as otherwise provided by law, all money collected for the sale or for the injury or killing of any such animals must be held for 1 year, subject to the claim of any person who can establish legal title to any animal concerned. All money remaining unclaimed must be deposited in the Livestock Inspection Account after 1 year. The Department may disallow all claims if it deems the claims illegal or not showing satisfactory evidence of title.

4. The Department or any political subdivision of this state is not liable for any trespass or other damage caused by any of those estrays ~~[.]~~ ***or feral livestock.***

Sec. 33. **NRS 569.020** is hereby amended to read as follows:

569.020 1. Any county, city, town, township or other peace officer or poundmaster who impounds under the provisions of any state law or county or municipal ordinance any livestock shall, immediately after impounding the livestock, send a written notice to the Department.

2. The notice must contain a full description, including all brands and marks, sex, age, weight, color and kind ***,*** of each animal so impounded.

3. ~~[If]~~ ***For the sale of livestock if*** the owner of the livestock is not known, and ~~[in case of]~~ ***for*** the sale of the impounded livestock as prescribed by law, all notices posted or advertisements published by any officer or other person having charge of the sale must include***, unless the livestock is feral livestock,*** a complete description of each animal to be sold, including all brands and marks, sex, age, weight, color and kind.

Sec. 34. **NRS 569.031** is hereby amended to read as follows:

569.031 The Department may enter into a cooperative agreement for the control, placement or disposition of the livestock with another agency of this state or with a county, city, town, township, peace officer, poundmaster or nonprofit organization. If an agreement is entered into, it must provide for:

↓2003 Statutes of Nevada, Page 2154 (CHAPTER 381, SB 486)↓

1. The responsibility for the payment of the expenses incurred in taking up, holding, advertising and making the disposition of the estray ~~[.]~~ ***or feral livestock,*** and any damages for trespass allowed pursuant to NRS 569.440;

2. The disposition of any money received from the sale of the livestock;

3. The protection of the rights of a lawful owner of an estray ***or feral livestock*** pursuant to NRS 569.040 to 569.130, inclusive ~~[.]~~ ***, and section 30 of this act;*** and

4. The designation of the specific geographic area of this state to which the cooperative agreement applies.

The Department shall annually review the actions of the cooperating person or entity for compliance with the agreement. The Department may cancel the agreement upon a finding of noncompliant actions.

Sec. 35. **NRS 569.040** is hereby amended to read as follows:

569.040 1. Except as otherwise provided in subsection 2, NRS 569.040 to 569.130, inclusive, ***and section 30 of this act,*** or pursuant to a cooperative agreement established pursuant to NRS 569.031, it is unlawful for any person or his employees or agents, other than an authorized agent of the Department, to:

(a) Take up any estray ***or feral livestock*** and retain possession of it; or

(b) Feed any estray ~~[.]~~ ***or feral livestock.***

2. For a first violation of paragraph (b) of subsection 1, a person ~~[may]~~ ***must*** not be cited or charged criminally but must be informed that it is unlawful to feed an estray ~~[.]~~ ***or feral livestock.***

Sec. 36. **NRS 569.045** is hereby amended to read as follows:

569.045 1. Before any person gathers any ~~[estray horses, he shall]~~ ***estrays or feral livestock, he must*** cause notice of the gathering to be published in a newspaper of general circulation within the county in which the gathering is to take place.

2. The notice must:

(a) Be published at least once a week for the 4 weeks preceding the gathering;

(b) Clearly identify the area in which the gathering is to take place and the date and time of the gathering;

(c) ***If feral livestock are to be gathered, include a full description of the species of feral livestock to be gathered;***

(d) Indicate a location where owners or possible owners of the ~~[estray horses]~~ ***estrays or feral livestock*** may go to claim an estray ~~[horse]~~ ***or feral livestock*** that was gathered; and

~~[(d)]~~ ***(e)*** List the name and telephone number of a person who may be contacted if an owner or possible owner is interested in viewing the ~~[estray horses]~~ ***estrays or feral livestock*** gathered.

Sec. 37. **NRS 569.070** is hereby amended to read as follows:

569.070 1. Except as otherwise provided in subsection 4, if the owner or probable owner of an estray cannot with reasonable diligence be determined by the Department or its authorized agent, the Department shall advertise the estray or cause it to be advertised.

2. A notice of the estray, with a full description, giving brands, marks and colors thereon, must be published in a newspaper published at the county seat of the county in which the estray was taken up. If there is no newspaper

published at the county seat of the county, the notice must be published in the newspaper published at the nearest point to that county.

3. Expenses incurred in carrying out the provisions of subsections 1 and 2 must be deducted from the proceeds of the sale of the estray advertised.

4. ~~[Except as otherwise provided in NRS 562.420, the]~~ ***The*** Department may sell an injured, sick or otherwise debilitated estray if, as determined by the Department, the sale of the estray is necessary to facilitate the placement or other disposition of the estray. If an estray is sold pursuant to this subsection, the Department shall give a brand inspection clearance certificate to the purchaser.

Sec. 38. **NRS 569.080** is hereby amended to read as follows:

569.080 1. If an estray is not claimed within 5 working days after the last publication of the advertisement required by NRS 569.070, it must be:

(a) Sold by the Department; or

(b) Held by the Department until the estray is given a placement or other disposition through a cooperative agreement established pursuant to NRS 569.031.

2. ***If feral livestock is not claimed by the date of sale published pursuant to section 30 of this act, the feral livestock must be sold by the Department pursuant to section 30 of this act or placed pursuant to NRS 569.031.***

3. If the Department sells the estray ~~[.]~~ ***or feral livestock,*** the Department shall give a brand inspection clearance certificate to the purchaser.

~~[3. Estray horses]~~

4. Estrays and feral livestock must be marked ***,*** ~~[or]~~ branded ***or identified with an individual animal identification*** before ***sale or*** placement.

Sec. 39. **NRS 569.090** is hereby amended to read as follows:

569.090 1. Except as otherwise provided pursuant to a cooperative agreement established pursuant to NRS 569.031, the Department shall:

(a) Pay the reasonable expenses incurred in taking up, holding, advertising and selling the estray ~~[.]~~ ***or feral livestock,*** and any damages for trespass allowed pursuant to NRS 569.440, from the proceeds of the sale of the estray ***or feral livestock*** and shall place the balance in an interest-bearing checking account in a bank or credit union qualified to receive deposits of public money. The proceeds from the sale and any interest on those proceeds, which are not claimed pursuant to subsection 2 within 1 year after the sale, must be deposited in the State Treasury for credit to the Livestock Inspection Account.

(b) Make a complete record of the transaction, including ~~[the]~~ ***any*** marks and brands and other means of identification of the estray, and shall keep the record available for inspection by members of the general public.

2. If the lawful owner of the estray ***or feral livestock*** is found within 1 year after its sale and proves ownership to the satisfaction of the Department, the net amount received from the sale must be paid to the owner.

3. If any claim pending 1 year after the date of sale is denied, the proceeds and any interest thereon must be deposited in the Livestock Inspection Account.

Sec. 40. **NRS 569.100** is hereby amended to read as follows:

569.100 1. A person who takes up an estray ***or feral livestock*** as provided for in NRS 569.040 to 569.130, inclusive, ***and section 30 of this act*** is entitled to hold the estray ***or feral livestock*** lawfully until relieved of custody by the Department.

2. A person shall not use or cause to be used, for profit or otherwise, any estray ***or feral livestock*** in his keeping under the provisions of NRS 569.040 to 569.130, inclusive ~~[.]~~ ***, and section 30 of this act.*** A violation of this subsection shall be deemed grand larceny or petit larceny, as set forth in NRS 205.2175 to 205.2707, inclusive, and the person shall be punished as provided in those sections.

3. Any person taking, leading or driving an estray ***or feral livestock*** away from the possession of the lawful holder, as specified in NRS 569.040 to 569.130, inclusive, ***and section 30 of this act,*** except as otherwise provided in this section, is subject to all the penalties under the law, whether ***or not*** he is the claimant of the estray or ~~[not.]~~ ***feral livestock.***

Sec. 41. **NRS 569.110** is hereby amended to read as follows:

569.110 If any ~~[such estray or estrays,]~~ ***estray or feral livestock,*** after having been taken up ***by a person*** in accordance with the provisions of NRS 569.040 to 569.130, inclusive, ~~[escape or are]~~ ***and section 30 of this act, escapes or is*** removed from the custody of the ~~[taker-up]~~ ***person*** before being disposed of under the provisions of NRS 569.040 to 569.130, inclusive, ~~[then such taker-up shall have]~~ ***and section 30 of this act, the person has*** the legal right to recover the ~~[same]~~ ***estray or feral livestock*** wherever found ~~[, to be held by such taker-up]~~ ***and to hold it*** until ***it is*** disposed of as provided ~~[for]~~ in NRS 569.040 to 569.130, inclusive ~~[.]~~ ***, and section 30 of this act.***

Sec. 42. **NRS 569.120** is hereby amended to read as follows:

569.120 Estrays ***and feral livestock*** may be taken up by authorized agents of the Department. The disposal of the estrays ***and feral livestock*** must be conducted in the manner set forth in the provisions of NRS 569.040 to 569.130, inclusive ~~[.]~~ ***, and section 30 of this act.***

Sec. 43. **NRS 569.130** is hereby amended to read as follows:

569.130 Any person, ***including, without limitation, any*** firm, company, association or corporation **,** who takes up or retains in his ~~[or its]~~ possession any estray ***or feral livestock*** not his ~~[or its]~~ property, without the owner's consent, or except in accordance with the provisions of NRS 569.040 to 569.130, inclusive, ~~[shall be]~~ ***and section 30 of this act, is*** guilty of a misdemeanor.

Sec. 44. **Chapter 571 of NRS** is hereby amended by adding thereto the provisions set forth as sections 45 to 51, inclusive, of this act.

Sec. 45. ***"Alternative livestock" has the meaning ascribed to it in NRS 501.003.***

Sec. 46. ***"Animal" means any living creature other than a member of the human race.***

Sec. 47. ***"Department" means the State Department of Agriculture.***

Sec. 48. ***"Director" means the Director of the Department.***

Sec. 49. ***"Importation" means the transportation or movement of animals by any railroad, express company, truckline or other carrier, or by any persons, by vehicle or otherwise, into this state.***

Sec. 50. ***"Livestock" means:***

1. All cattle or animals of the bovine species.

2. All horses, mules, burros and asses or animals of the equine species.

3. All swine or animals of the porcine species.

4. All goats or animals of the caprine species.

5. All sheep or animals of the ovine species.

↓2003 Statutes of Nevada, Page 2157 (CHAPTER 381, SB 486)↓

6. All poultry or domesticated fowl or birds.

7. All dogs, cats or other animals domesticated or under the restraint or control of man.

8. All alternative livestock.

Sec. 51. ***"State Quarantine Officer" means the Director.***

Sec. 52. **NRS 571.015** is hereby amended to read as follows:

571.015 As used in this chapter, unless the context ***otherwise*** requires ~~[otherwise:~~

~~1. "Department" means the State Department of Agriculture.~~

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

~~3. "Importation" means the transportation or movement of livestock by any railroad, express company, truckline or other carrier, or by any persons, by vehicle or otherwise, into this state.~~

~~4. "Livestock" means:~~

~~(a) All cattle or animals of the bovine species.~~

~~(b) All horses, mules, burros and asses or animals of the equine species.~~

~~(c) All swine or animals of the porcine species.~~

~~(d) All goats or animals of the caprine species.~~

~~(e) All poultry or domesticated fowl or birds.~~

~~(f) All dogs, cats or other animals domesticated or under the restraint or control of man.~~

~~(g) Alternative livestock as defined in NRS 501.003.~~

~~5. "State Quarantine Officer" means the Director.]~~ ***, the words and terms defined in sections 45 to 51, inclusive, of this act, have the meanings ascribed to them in those sections.***

Sec. 53. **NRS 571.025** is hereby amended to read as follows:

571.025 1. For the purposes of this chapter, infestation with internal or external parasites, or exposure to such possible infestation, shall be deemed equivalent to infection with or exposure to infection with an infectious, contagious or parasitic disease.

2. The provisions of this chapter applicable to ~~[livestock]~~ ***animals*** infected with or exposed to infection with any infectious, contagious or parasitic disease, or to any premises, grounds, cars, vehicles or other carriers infected or contaminated with any infectious, contagious or parasitic disease, also apply to any ~~[livestock,]~~ ***animals,*** premises, grounds, cars, vehicles, or other carriers infested with or exposed to infestation or contamination with any internal or external parasites.

Sec. 54. **NRS 571.045** is hereby amended to read as follows:

571.045 1. The State Quarantine Officer may proclaim and enforce quarantine against any state, territory or district, or any portion of any state, territory or district, with respect to the importation into or transportation through the State of Nevada of ~~[livestock]~~ ***animals*** which may be infected with, or which may have been exposed to infection with, any infectious, contagious or parasitic disease.

2. No quarantine ~~[shall]~~ ***may*** be issued under the provisions of NRS 571.045 to 571.110, inclusive, which will conflict with the provisions of the Constitution of the United States or any act of the Congress of the United States.

3. ~~[The quarantine shall remain]~~ ***A quarantine remains*** effective until vacated by order of the State Quarantine Officer.

↓2003 Statutes of Nevada, Page 2158 (CHAPTER 381, SB 486)↓

Sec. 55. **NRS 571.050** is hereby amended to read as follows:

571.050 1. Any quarantine issued under the provisions of NRS 571.045 to 571.110, inclusive, may:

(a) Consist of a complete embargo against the importation into or transportation through the State of any ~~[livestock]~~ ***animals*** so quarantined against; or

(b) Provide for the importation into or transportation through the State of ***any*** such ~~[livestock]~~ ***animals*** under such rules and regulations as may be set forth and prescribed in the quarantine at the time the same is issued.

2. Any quarantine issued under the provisions of NRS 571.045 to 571.110, inclusive, ~~[shall remain]~~ ***remains*** in force and effect until removed or modified by the State Quarantine Officer, but:

(a) The State Quarantine Officer may amend from time to time any quarantine so issued; and

(b) Any such amendments ~~[shall]~~ ***must*** be general in their application and ~~[shall]~~ ***must*** not apply to any individual shipment or importation.

Sec. 56. **NRS 571.060** is hereby amended to read as follows:

571.060 If a quarantine is declared as provided in NRS 571.045 to 571.110, inclusive, against the importation into or transportation through this state of any ~~[livestock]~~ ***animals*** from any other state, territory or district or any portion or portions thereof, a certified copy of ~~[such quarantine shall]~~ ***the quarantine must*** be personally delivered by the State Quarantine Officer or his representative or mailed by certified or registered mail to each of the following:

1. The Governor or the proper quarantine official of such state, territory or district.
2. The United States quarantine official having jurisdiction over the same character of quarantine.
3. The state agent or other qualified official of any interstate railroad, express company or other common carrier doing business within this state.

Sec. 57. **NRS 571.080** is hereby amended to read as follows:

571.080 1. Any ~~[livestock]~~ ***animals*** imported into or being transported through this state in violation of any quarantine issued under the provisions of NRS 571.045 to 571.110, inclusive, ~~[shall]~~ ***must*** be seized immediately by the State Quarantine Officer or his authorized representative and treated in a manner approved by the State Quarantine Officer, or destroyed, or sent out of the State within 48 hours, at the expense of the owner thereof.

2. When the movement of any ~~[livestock]~~ ***animals*** seized by the State Quarantine Officer, as provided in subsection 1, to some point without the State would further endanger any industry of this state, the ~~[livestock]~~ ***animals*** so seized by the State Quarantine Officer ~~[shall]~~ ***must*** be destroyed at the expense of the owner.

Sec. 58. **NRS 571.090** is hereby amended to read as follows:

571.090 It is unlawful for any railroad, express company or other common carrier, or any persons, to import into or transport through the State of Nevada any ~~[livestock]~~ ***animals*** in violation of the provisions of NRS 571.045 to 571.110, inclusive, or to make delivery of any such ~~[livestock]~~ ***animals*** to any persons within the limits of this state.

Sec. 59. **NRS 571.100** is hereby amended to read as follows:

571.100 In any criminal proceeding arising under the provisions of NRS 571.045 to 571.110, inclusive, proof that any ~~[livestock,]~~ ***animal,***

↓2003 Statutes of Nevada, Page 2159 (CHAPTER 381, SB 486)↓

prohibited by proclamation of quarantine from importation into or transportation through this state, was imported into or transported through this state in violation of ~~[such]~~ ***the*** quarantine shall be deemed proof within the meaning of NRS 571.045 to 571.110, inclusive, that the ~~[same]~~ ***animal*** was diseased, exposed to disease or infected, or exposed to infection.

Sec. 60. **NRS 571.120** is hereby amended to read as follows:

571.120 1. The Department shall do all things necessary for the control and eradication of infectious, contagious or parasitic diseases of ~~[livestock.]~~ ***animals.***

2. The Director shall cooperate with the Administrator of the Division of Wildlife of the State Department of Conservation and Natural Resources in a program to prevent the spread of communicable diseases in ~~[livestock and wildlife]~~ ***animals*** in this state.

~~[3. As used in this section, "wildlife" has the meaning ascribed to it in NRS 501.097.]~~

Sec. 61. **NRS 571.130** is hereby amended to read as follows:

571.130 The State Quarantine Officer may adopt rules and regulations of the Secretary of Agriculture of the United States relating to the control and suppression of disease in ~~[livestock,]~~ ***animals,*** and may cooperate with the Secretary of Agriculture and his officers in the enforcement of such rules and regulations.

Sec. 62. **NRS 571.140** is hereby amended to read as follows:

571.140 The State Quarantine Officer, or his representatives or his agents, may inspect, test, treat, quarantine and condemn ~~[livestock]~~ ***animals*** affected with any infectious, contagious or parasitic disease, and any such person may enter upon any ground or premises of this state to enforce the inspection, testing, treatment, quarantine and condemnation laws and all the rules, regulations and orders of the Department.

Sec. 63. **NRS 571.150** is hereby amended to read as follows:

571.150 The State Quarantine Officer may inspect, test or quarantine any ~~[livestock]~~ ***animal*** in the State infected with, suspected of being or which have been exposed to an infectious, contagious or parasitic disease, and compel testing or treatment at such times and as often as he deems necessary to insure the suppression of disease.

Sec. 64. **NRS 571.160** is hereby amended to read as follows:

571.160 If any ~~[livestock]~~ ***animal*** becomes infected with any infectious, contagious or parasitic disease as defined by rules and regulations adopted by the State Quarantine Officer, the owner or agent in charge ~~[, an]~~ ***of the infected animal, or any*** inspector of the Department or any practicing veterinarian ***who has knowledge of the infected animal,***

shall immediately notify the State Quarantine Officer. A notification of disease received pursuant to this section must be kept confidential unless:

1. The reported disease is specifically regulated pursuant to NRS 571.130 for mandatory control and eradication to protect the public health, other ~~[livestock]~~ ***animals*** or wildlife; or

2. The State Quarantine Officer determines that a public health emergency exists.

Sec. 65. **NRS 571.170** is hereby amended to read as follows:

571.170 1. If ~~[livestock]~~ ***an animal*** is found diseased, the State Quarantine Officer may make regulations for ~~[their]~~ ***its*** quarantine at once, and he may define the place and limits within which ~~[such livestock]~~ ***the***

animal may be grazed, herded or driven. Such ~~[livestock]~~ ***an animal*** may be held in quarantine until released by the State Quarantine Officer.

2. The expense of treatment, feeding and taking care of ~~[all livestock]~~ ***animals*** quarantined under the provisions of NRS 571.120 to 571.250, inclusive, ~~[shall]~~ ***must*** be paid by the owner or agent in charge of ~~[such livestock,]~~ ***the animals,*** and such expense ~~[shall be]~~ ***is*** a lien upon ~~[such livestock]~~ ***the animals*** until paid.

3. The expense of testing ~~[livestock]~~ ***an animal*** and the expense of handling ~~[livestock]~~ ***an animal*** for the purpose of testing ~~[shall]~~ ***must*** be paid by the owner or agent in charge of ~~[such livestock,]~~ ***the animal,*** at the option of the State Quarantine Officer, and such expense ~~[shall be]~~ ***is*** a lien upon ~~[such livestock]~~ ***the animal*** until paid.

Sec. 66. **NRS 571.180** is hereby amended to read as follows:

571.180 ~~[In no case shall any quarantined livestock, livestock products or livestock suspected of being infected with or of being or]~~ ***Quarantined animals, and any animals or animal products*** which have been ***, or are suspected to have been, infected with or*** exposed to infectious, contagious or parasitic diseases ***, must not*** be removed from one point to another within any area, or from one area to another, without a written permit from the State Quarantine Officer.

Sec. 67. **NRS 571.190** is hereby amended to read as follows:

571.190 1. The State Quarantine Officer may order and have destroyed any ~~[livestock]~~ ***animal*** infected with or exposed to any infectious, contagious or parasitic disease.

2. The Department shall compensate the owners of any ~~[livestock]~~ ***animal*** so destroyed separately or jointly with any county or municipality of the State or any agency of the Federal Government, the amount of the compensation to be determined by appraisal before the affected ~~[livestock]~~ ***animal*** is destroyed.

3. The appraisal must be made by the State Quarantine Officer or a qualified agent designated by him and the owners or their authorized representative. In the event of their failure to reach an agreement, the two so selected shall designate a disinterested person, who by reason of experience in such matters is a qualified judge of ~~[livestock values,]~~ ***values of animals,*** to act with them. The judgment of any two such appraisers is binding and final upon all persons.

4. The total amount received by the owners of ~~[livestock]~~ ***any animal*** so destroyed, including compensation paid by the Department, any county or municipality or any agency of the Federal Government or any ~~[livestock insurance company,]~~ ***company that insures animals,*** and the salvage received from the sale of hides or carcasses or any other source, combined, must not exceed ~~[75 percent of]~~ the actual appraised value of the destroyed ~~[livestock.]~~ ***animal.***

5. Any natural person or corporation purchasing any ~~[livestock]~~ ***animal*** which was at the time of purchase under quarantine by any state, county or municipal authorities or any agency of the Federal Government authorized to lay such quarantine, or who purchases any ~~[livestock]~~ ***animal*** which due diligence and caution would have shown to be diseased or which ~~[have been]~~ ***was*** shipped or transported in violation of the rules and regulations of any agency of the Federal Government or the State of Nevada, is not entitled to receive compensation, and the Department may order the destruction of the ~~[livestock]~~ ***animal*** without making any compensation to the owner.

6. No payment may be made hereunder as compensation for or on account of any such ~~[livestock]~~ ***animal*** destroyed if, at the time of inspection or test of the ~~[livestock]~~ ***animal*** or at the time of the ordered destruction thereof, the ~~[livestock]~~ ***animal*** belongs to or is upon the premises of any person, firm or corporation to which the ~~[livestock]~~ ***animal*** has been sold, shipped or delivered for slaughter.

7. In no case may any payment by the Department pursuant to the provisions of this section ~~[be more than $75 for any grade livestock or more than $200 for any purebred livestock, and no payment may]~~ be made unless the owner has complied with all quarantine rules and regulations of the Department.

Sec. 68. **NRS 571.200** is hereby amended to read as follows:

571.200 1. The owner or agent in charge of any ~~[livestock]~~ ***animal*** that has died or has been killed as a result of any infectious, contagious or parasitic disease shall immediately bury the ~~[carcasses]~~ ***carcass*** thereof at least 3 feet underground or cause the ~~[carcasses]~~ ***carcass*** to be consumed by fire, and ~~[such carcasses shall]~~ ***the carcass must*** not be sold or given away.

2. In order to carry out the requirements of subsection 1, ~~[such carcasses]~~ ***the carcass*** may be conveyed on a public highway or public road, or conveyed on land not owned by the owner or agent ***,*** ~~[in charge of such carcasses,]~~ in accordance with rules and regulations promulgated by the State Quarantine Officer.

3. The expense of burying, burning or conveying ~~[such carcasses shall]~~ ***the carcass must*** be paid by the owner or agent ***,*** ~~[in charge of such carcasses,]~~ and such expense ~~[shall be]~~ ***is*** a lien upon remaining ~~[livestock]~~ ***animals*** or other

real or personal property of [such] *the* owner or agent [in charge] until paid.

Sec. 69. **NRS 571.210** is hereby amended to read as follows:

571.210 1. [Livestock] *Animals* not under special quarantine by the State of Nevada, the Federal Government, or the state, territory or district of origin may enter the State of Nevada in compliance with regulations adopted by the State Quarantine Officer.

2. Notice that [livestock] *an animal* is in transit is not required unless the [livestock] *animal* remains in the State, or is to be unloaded to feed and rest for longer than 48 hours.

3. A person, his agents or employees shall not bring [livestock] *any animal* into this state unless he has obtained a health certificate showing that the [livestock] *animal* is free from contagious, infectious or parasitic diseases or exposure thereto. This requirement does not apply to animals whose accustomed range is on both sides of the Nevada state line and which are being moved from one portion to another of the accustomed range merely for pasturing and grazing thereon. The State Quarantine Officer shall adopt regulations concerning the form of the certificate.

4. A person shall not:

(a) Alter a health certificate; or

(b) Divert [livestock] *any animal* from the destination described on the health certificate without notifying the State Quarantine Officer within 72 hours after the diversion of the [livestock,] *animal.*

5. Any [livestock] *animal* brought into this state without complying with this section may be seized, destroyed or sent out of this state by the State Quarantine Officer within 48 hours. The expense of seizing, destroying or removing the [livestock] *animal* must be paid by the owner or his agent in

↓2003 Statutes of Nevada, Page 2162 (CHAPTER 381, SB 486)↓

charge of the [livestock] *animal* and the expense is a lien on the [livestock,] *animal,* unless it was destroyed, until paid.

Sec. 70. **NRS 571.220** is hereby amended to read as follows:

571.220 1. The State Quarantine Officer shall quarantine any corrals, pens, slaughterhouses, buildings, places, cars, trucks or vehicles where [livestock] *any animal* may have been handled, and compel the cleaning and disinfecting of [the same] *such places or vehicles* when deemed necessary for the purposes of this chapter.

2. Where owners or persons in charge of such places or vehicles refuse to clean and disinfect them, an inspector may take charge of such places or vehicles and cause them to be cleaned and disinfected. The expense of such cleaning and disinfecting [shall] *must* be paid by the owners or persons in charge, and [shall be] *is* a lien upon such corrals, pens, slaughterhouses, buildings, places, cars, trucks or vehicles until [such] *the* expense is paid.

Sec. 71. **NRS 571.230** is hereby amended to read as follows:

571.230 Inspectors may at all times enter any premises, farms, fields, corrals, pens, slaughterhouses, buildings, places, cars, trucks or vehicles where any [livestock] *animal* is quartered for the purpose of examining such places, vehicles or [livestock in order] *animals* to determine whether they are affected with any infectious, contagious or parasitic disease.

Sec. 72. **NRS 571.240** is hereby amended to read as follows:

571.240 1. Inspectors may inspect any [or all livestock] *animal* about to be shipped, driven, transported or otherwise removed from the State.

2. Consignors, possessors or persons in charge of such [livestock] *an animal* shall, upon demand, fully establish title to [such livestock] *the animal* or the legal right to so ship, transport, drive or otherwise remove the [livestock] *animal* from the State.

Sec. 73. **NRS 575.080** is hereby amended to read as follows:

575.080 As used in NRS 575.080 to 575.230, inclusive, unless the context otherwise requires:

1. "Board" means the State Board of [Sheep Commissioners.] *Agriculture.*
2. "Department" means the State Department of Agriculture.
3. "Livestock" means the animals subject to the taxes levied pursuant to NRS 571.035 . [and 575.070.]
4. "Sheep" means the animals subject to the taxes levied pursuant to NRS 562.170 and 567.110.
5. "Tax" means any of the taxes levied pursuant to NRS 562.170, 567.110 [, 571.035 and 575.070.] *and 571.035.*

Sec. 74. **NRS 575.090** is hereby amended to read as follows:

575.090 1. There is hereby created in each county a committee for assessing livestock composed of:

(a) Two persons who own livestock in the county and who are appointed by the [State Board of Agriculture;] *Board;*

(b) One person who owns sheep in the county and who is appointed by the Board or, if there is no owner of sheep in the county, another person who owns livestock in the county who is appointed by the [State Board of Agriculture;] *Board;*

(c) A brand inspector who is designated by the Director of the Department; and

(d) In [a] *:*

↓2003 Statutes of Nevada, Page 2163 (CHAPTER 381, SB 486)↓

(1) A county where the Department elects to administer the special tax, another person who owns livestock, appointed by the [State Board of Agriculture, otherwise] *Board; or*

(2) Any other county, the county assessor or a person designated by him.

2. Except as otherwise provided in this subsection, the term of each member is 2 years, and any vacancy must be filled by appointment for the unexpired term. The term of the county assessor expires upon the expiration of the term of his office. A person designated by the county assessor serves at the pleasure of the county assessor. The brand inspector serves at the pleasure of the Director of the Department.

3. While engaged in official business of the committee for assessing livestock, each member of the committee is entitled to:

(a) A salary not exceeding $60 per day for attending meetings or performing other official business, to be paid from any money available to the Department.

(b) The per diem allowance and travel expenses fixed for state officers and employees.

Sec. 75. **NRS 575.170** is hereby amended to read as follows:

575.170 1. An owner of sheep or livestock who wishes to challenge the accuracy of the report as changed by the committee for assessing livestock may, within 15 days after receiving notice of the change, file a statement with the committee for assessing livestock for his county specifying the alleged inaccuracy.

2. Upon receipt of the statement under subsection 1, the committee for assessing livestock shall review the allegations and may make any changes it considers necessary to make the report accurate and complete. An owner of sheep or livestock, the Board, or the Director of the Department may appeal from any decision of the committee for assessing livestock to and in the manner prescribed by the ~~[State Board of Agriculture.]~~ ***Board.***

Sec. 76. **NRS 575.170** is hereby amended to read as follows:

575.170 1. An owner of sheep or livestock who wishes to challenge the accuracy of the report as changed by the Department may, within 15 days after receiving notice of the change, file a statement with the Department for assessing livestock for his county specifying the alleged inaccuracy.

2. Upon receipt of the statement under subsection 1, the Department shall review the allegations and may make any changes it considers necessary to make the report accurate and complete. An owner of sheep or livestock or the Board may appeal from any decision of the Department to and in the manner prescribed by the ~~[State Board of Agriculture.]~~ ***Board.***

Sec. 77. **NRS 575.180** is hereby amended to read as follows:

575.180 1. When the report of owners of livestock and sheep is approved by the committee for assessing livestock as complete and accurate, the approval must be noted on the report. The report must be returned to the county assessor, or the Department if it is administering the special tax, and a copy sent to the Board ~~[,]~~ ***and*** the Department unless it is administering the special tax ***.*** ~~[, and the Nevada Beef Council.]~~

2. If, as the result of a challenge of the accuracy of the report, any change is ordered in the report of owners of livestock and sheep after it has been approved by the committee for assessing livestock, each recipient of the report or copy must be notified of the change.

.....

↓2003 Statutes of Nevada, Page 2164 (CHAPTER 381, SB 486)↓

Sec. 78. **NRS 575.180** is hereby amended to read as follows:

575.180 1. When the report of owners of livestock and sheep is approved by the Department as complete and accurate, the approval must be noted on the report. A copy of the approved report must be sent to the Board ***.*** ~~[and the Nevada Beef Council.]~~

2. If, as the result of a challenge of the accuracy of the report, any change is ordered in the report of owners of livestock and sheep after it has been approved by the Department, each recipient of a copy of the report must be notified of the change.

Sec. 79. **NRS 575.190** is hereby amended to read as follows:

575.190 Using the tax levies from the Board ~~[,]~~ ***and from*** the Department ***,*** ~~[and the Nevada Beef Council,]~~ the county assessor, auditor or treasurer, or the Department if it is administering the special tax, shall calculate the total taxes due from each owner of livestock or sheep based on the report of owners of livestock or sheep approved by the committee for assessing livestock.

Sec. 80. **NRS 575.190** is hereby amended to read as follows:

575.190 Using the tax levies from the Board ~~[,]~~ ***and from*** the Department ***,*** ~~[and the Nevada Beef Council,]~~ the Department shall calculate the total taxes due from each owner of livestock or sheep based on the report of owners of livestock or sheep approved by the Department.

Sec. 81. **NRS 575.210** is hereby amended to read as follows:

575.210 Whenever any taxes, or penalties or interest for delinquencies pursuant to NRS 562.175 or 575.130 are paid to the county treasurer, he shall record the payment and the date thereof with the name of the person liable therefor, and the amount of taxes, penalties and interest collected pursuant to NRS 562.170, 562.175, 567.110, 571.035 ~~[, 575.070]~~ and 575.130, and transmit the revenue thereof to the State Controller for deposit into the appropriate account or fund in the State Treasury.

Sec. 82. **NRS 575.210** is hereby amended to read as follows:

575.210 Whenever any taxes, or penalties or interest for delinquencies pursuant to NRS 562.175, 575.130 or 575.205 are paid to the Department, the Department shall record the payment and the date thereof with the name of the person liable therefor, and the amount of taxes, penalties and interest collected pursuant to NRS 562.170, 562.175, 567.110, 571.035, ~~[575.070,]~~ 575.130 and 575.205, and transmit the revenue thereof to the State Controller for deposit into the appropriate account or fund in the State Treasury.

Sec. 83. **NRS 575.220** is hereby amended to read as follows:

575.220 Any taxes delinquent must be reported by the county assessor or county treasurer to the:

1. Department, if the taxes were levied pursuant to NRS 571.035 ***;*** ~~[and 575.070,]~~ or

2. Board, if the taxes were levied pursuant to NRS 562.170 and 567.110.

Sec. 84. **NRS 575.230** is hereby amended to read as follows:

575.230 A brand inspection clearance certificate described in NRS ***562.460 or*** 565.120 ~~[or a certificate or bill of health described in NRS 562.460 may]~~ ***must*** not be issued for the movement of any sheep or livestock owned by a person delinquent in the payment of a tax. The Department may collect any delinquent tax and the penalty and interest thereon at the time of a brand or health inspection. The appropriate county authority must be notified if the tax is so collected.

Sec. 85. **NRS 233B.039** is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) The Department of Corrections.

(c) The University and Community College System of Nevada.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) The Nevada Gaming Commission.

(g) The Welfare Division of the Department of Human Resources.

(h) The Division of Health Care Financing and Policy of the Department of Human Resources.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division ***of Industrial Relations of the Department of Business and Industry*** in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 703 of NRS for the judicial review of decisions of the Public Utilities Commission of Nevada;

(d) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(e) NRS 90.800 for the use of summary orders in contested cases,

prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Human Resources in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health ~~[, the State Board of Sheep Commissioners]~~ or any other agency of this state in the discharge of a

responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184; or

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 86. **NRS 289.290** is hereby amended to read as follows:

289.290 1. A person designated by the Director of the State Department of Agriculture as a field agent or an inspector pursuant to subsection 2 of NRS 561.225 has the powers of a peace officer to make investigations and arrests and to execute warrants of search and seizure, and may temporarily stop a vehicle in the enforcement of the provisions of titles 49 and 50 of NRS and chapters 581, 582, 583, 586, 587, 588 and 590 of NRS.

2. ~~[An inspector of the State Board of Sheep Commissioners and his deputies have the powers of a peace officer.~~

~~3.]~~ An officer appointed by the Nevada Junior Livestock Show Board pursuant to NRS 563.120 has the powers of a peace officer for the preservation of order and peace on the grounds and in the buildings and the approaches thereto of the livestock shows and exhibitions that the Board conducts.

~~[4.]~~ ***3.*** In carrying out the provisions of chapter 565 of NRS, an inspector of the State Department of Agriculture has the powers of a peace officer to make investigations and arrests and to execute warrants of search and seizure. The provisions of this subsection do not authorize any inspector to retire under the Public Employees' Retirement System before having attained the minimum service age of 60 years.

Sec. 87. **NRS 484.1345** is hereby amended to read as follows:

484.1345 "Regulatory agency" means any of the agencies granted police or enforcement powers under the provisions of subsection 2 of NRS 289.250, NRS 289.260, subsection 3 of NRS 289.270, NRS 289.280, subsection ~~[4]~~ ***3*** of NRS 289.290 or NRS 289.320, 289.340, 407.065, 472.040, 481.048, 501.349, 565.155 or 706.8821.

Sec. 88. **Section 61 of chapter 331, Statutes of Nevada 2001, at page 1570**, is hereby amended to read as follows:

Sec. 61. 1. This section and sections 1 to 10, inclusive, 11, 12, 14 to 25, inclusive, 27 to 44, inclusive, and 59 of this act become effective on July 1, 2001.

2. Sections 13 and 26 of this act become effective at 12:01 a.m. on July 1, 2001.

3. Section 10 of this act expires by limitation on June 30, 2003.

4. Section 10.5 of this act becomes effective at 12:02 a.m. on July 1, 2003.

5. Sections 45 ***, 46, 47, 47.5, 49*** to 58, inclusive, and 60 of this act become effective on July 1, 2004.

Sec. 89. 1. **NRS 562.020, 562.060, 562.070, 562.090, 562.100, 562.110, 562.120, 562.280, 562.290, 562.320, 562.330, 562.340, 562.350, 562.360, 562.370, 562.380, 562.390, 562.400, 562.410, 562.420, 562.430,**

↓2003 Statutes of Nevada, Page 2167 (CHAPTER 381, SB 486)↓

562.450, 562.510, 563.151, 563.161, 563.171, 563.181, 563.191, 563.201, 563.211, 563.221, 565.075 and 575.070 are hereby repealed.

2. **Section 48 of chapter 331, Statutes of Nevada 2001, at page 1567**, is hereby repealed.

Sec. 90. 1. Any contracts or other agreements entered into by the State Board of Sheep Commissioners are binding upon:

(a) The State Board of Agriculture; or

(b) If the contract or agreement directly relates to diseases of sheep, the State Quarantine Officer.

2. Such contracts and other agreements may be enforced by the State Board of Agriculture or State Quarantine Officer, as appropriate.

Sec. 91. The State Controller shall transfer any money in the Account for the Promotion of Beef created in the State General Fund as of July 1, 2003, that is attributable to the assessment required by 7 U.S.C. §§ 2901 to 2911, inclusive, to:

1. The entity that is certified pursuant to 7 U.S.C. §§ 2901 to 2911, inclusive, as the qualified beef council for the State of Nevada; or

2. If no entity is certified as of July 1, 2003, as the qualified beef council for the State of Nevada, the Cattlemen's Beef Promotion and Research Board established pursuant to 7 U.S.C. § 2904.

Sec. 92. 1. This section and sections 1 to 20, inclusive, 22 to 75, inclusive, 77, 79, 81 and 83 to 91, inclusive, of this act become effective on July 1, 2003.

2. Sections 20, 74, 75, 77, 79, 81 and 83 of this act expire by limitation on June 30, 2004.

3. Sections 21, 76, 78, 80 and 82 of this act become effective on July 1, 2004.

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↓2003 Statutes of Nevada, Page 2168↓

Senate Bill No. 453–Committee on Government Affairs

CHAPTER 382

AN ACT relating to elections; requiring the Secretary of State to establish a statewide voter registration list; establishing certain standards for voting systems; establishing the use of provisional ballots for elections for federal offices held in this state; changing the types of acceptable identification for certain persons voting for the first time; requiring the posting of certain information at each polling place; requiring county and city clerks to take certain actions to assist elderly persons and persons with disabilities in voting; changing the type of identification required to register to vote; making various changes concerning voting by persons who are in the Armed Forces of the United States or overseas; requiring the county clerk to cancel the registration of a voter under certain circumstances; extending the period for registering to vote; exempting the Secretary of State from the State Purchasing Act for awarding certain contracts concerning the statewide voter registration list and

certain contracts concerning voting systems throughout this state; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. **Chapter 293 of NRS** is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this act.

Sec. 2. *"Statewide voter registration list" means the list of registered voters established and maintained pursuant to section 3 of this act.*

Sec. 3. *1. The Secretary of State shall establish and maintain an official statewide voter registration list, which may be maintained on the Internet, in consultation with each county and city clerk.*

2. The statewide voter registration list must:

(a) Be a uniform, centralized and interactive computerized list;

(b) Serve as the single method for storing and managing the official list of registered voters in this state;

(c) Serve as the official list of registered voters for the conduct of all elections in this state;

(d) Contain the name and registration information of every legally registered voter in this state;

(e) Include a unique identifier assigned by the Secretary of State to each legally registered voter in this state;

(f) Be coordinated with the appropriate databases of other agencies in this state;

(g) Be electronically accessible to each state and local election official in this state at all times;

(h) Allow for data to be shared with other states under certain circumstances; and

(i) Be regularly maintained to ensure the integrity of the registration process and the election process.

↓2003 Statutes of Nevada, Page 2169 (CHAPTER 382, SB 453)↓

3. Each county and city clerk shall:

(a) Electronically enter into the statewide voter registration list all information related to voter registration obtained by the county or city clerk at the time the information is provided to the county or city clerk; and

(b) Provide the Secretary of State with information concerning the voter registration of the county or city and other reasonable information requested by the Secretary of State in the form required by the Secretary of State to establish or maintain the statewide voter registration list.

4. In establishing and maintaining the statewide voter registration list, the Secretary of State shall enter into a cooperative agreement with the Department of Motor Vehicles to match information in the database of the statewide voter registration list with information in the appropriate database of the Department of Motor Vehicles to verify the accuracy of the information in an application to register to vote.

5. The Department of Motor Vehicles shall enter into an agreement with the Social Security Administration pursuant to 42 U.S.C. § 15483, to verify the accuracy of information in an application to register to vote.

Sec. 4. *If a county or city uses paper ballots or punch cards in an election, including, without limitation, for absent ballots and ballots voted in a mailing precinct, the county or city clerk shall provide a voter education program specific to the voting system used by the county or city. The voter education program must include, without limitation, information concerning the effect of overvoting and the procedures for correcting a vote on a ballot before it is cast and counted and for obtaining a replacement ballot.*

Sec. 5. *The Secretary of State and each county and city clerk shall ensure that each voting system used in this state:*

1. Secures to each voter privacy and independence in the act of voting, including, without limitation, confidentiality of the ballot of the voter;

2. Allows each voter to verify privately and independently the votes selected by the voter on the ballot before the ballot is cast and counted;

3. Provides each voter with the opportunity, in a private and independent manner, to change the ballot and to correct any error before the ballot is cast and counted, including, without limitation, the opportunity to correct an error through the issuance of a replacement ballot if the voter is otherwise unable to change the ballot or correct the error;

4. Provides a permanent paper record with a manual audit capacity which must be available as an official record for a recount; and

5. Meets or exceeds the standards for voting systems established by the Federal Election Commission, including, without limitation, the error rate standards.

Sec. 6. *1. Each voting system used by a county or city shall provide voting materials in English and other languages in compliance with the provisions of 42 U.S.C. § 1973aa-1a.*

2. As used in this section, the term "voting materials" has the meaning ascribed to it in 42 U.S.C. § 1973aa-1a.

Sec. 7. *A person at a polling place may cast a provisional ballot in an election to vote for a candidate for federal office if the person complies with the applicable provisions of section 8 of this act and:*

↓2003 Statutes of Nevada, Page 2170 (CHAPTER 382, SB 453)↓

1. Declares that he has registered to vote and is eligible to vote at that election in that jurisdiction, but his name does not appear on a voter registration list as a voter eligible to vote in that election in that jurisdiction or an election official asserts that the person is not eligible to vote in that election in that jurisdiction;

2. Applies by mail, on or after January 1, 2003, to register to vote and has not previously voted in an election for federal office in this state and fails to provide the identification required pursuant to paragraph (a) of subsection 1 of section 10 of this act to the election board officer at the polling place; or

3. Declares that he is entitled to vote after the polling place would normally close as a result of a court order or other order extending the time established for the closing of polls pursuant to a law of this state in effect 10 days before the date of the election.

Sec. 8. *1. Before a person may cast a provisional ballot pursuant to section 7 of this act, the person must complete a written affirmation on a form provided by an election board officer, as prescribed by the Secretary of State, at the polling place which includes:*

(a) The name of the person casting the provisional ballot;

(b) The reason for casting the provisional ballot;

(c) A statement in which the person casting the provisional ballot affirms under penalty of perjury that he is a registered voter in the jurisdiction and is eligible to vote in the election;

(d) The date and type of election;

(e) The signature of the person casting the provisional ballot;

(f) The signature of the election board officer;

(g) A unique affirmation identification number assigned to the person casting the provisional ballot;

(h) If the person is casting the provisional ballot pursuant to subsection 1 of section 7 of this act:

(1) An indication by the person as to whether or not he provided the required identification at the time he applied to register to vote;

(2) The address of the person as listed on his application to register to vote;

(3) Information concerning the place, manner and approximate date on which the person applied to register to vote;

(4) Any other information that the person believes may be useful in verifying that the person has registered to vote; and

(5) A statement informing the voter that if the voter does not provide identification at the time the voter casts the provisional ballot, the required identification must be provided to the county or city clerk not later than 5 p.m. on the Friday following election day and that failure to do so will result in the provisional ballot not being counted;

(i) If the person is casting the provisional ballot pursuant to subsection 2 of section 7 of this act:

(1) The address of the person as listed on his application to register to vote;

(2) The voter registration number, if any, issued to the person; and

(3) A statement informing the voter that the required identification must be provided to the county or city clerk not later than 5 p.m. on the Friday following election day and that failure to do so will result in the provisional ballot not being counted; and

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↓2003 Statutes of Nevada, Page 2171 (CHAPTER 382, SB 453)↓

(j) If the person is casting the provisional ballot pursuant to subsection 3 of section 7 of this act, the voter registration number, if any, issued to the person.

2. After a person completes a written affirmation pursuant to subsection 1:

(a) The election board officer shall provide the person with a receipt that includes the unique affirmation identification number described in subsection 1 and that explains how the person may use the free access system established pursuant to section 13 of this act to ascertain whether his vote was counted, and, if his vote was not counted, the reason why the vote was not counted;

(b) The voter's name and applicable information must be entered into the roster in a manner which indicates that the voter cast a provisional ballot; and

(c) The election board officer shall issue a provisional ballot to the person to vote only for candidates for federal offices.

Sec. 9. *A person may cast a ballot by mail to vote for a candidate for federal office, which must be treated as a provisional ballot by the county or city clerk if the person:*

1. Applies by mail to register to vote and has not previously voted in an election for federal office in this state;

2. Fails to provide the identification required pursuant to paragraph (b) of subsection 1 of section 10 of this act to the county or city clerk at the time that he mails his ballot; and

3. Completes the written affirmation set forth in subsection 1 of section 8 of this act.

Sec. 10. *1. Except as otherwise provided in subsection 2, in sections 7 and 9 of this act and in federal law, a person who registers by mail to vote in this state and who has not previously voted in an election for federal office in this state:*

(a) May vote at a polling place only if the person presents to the election board officer at the polling place:

(1) A current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including, without limitation, a check, which indicates the name and address of the person; and

(b) May vote by mail only if the person provides to the county or city clerk:

(1) A copy of a current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including, without limitation, a check, which indicates the name and address of the person.

2. The provisions of this section do not apply to a person who:

(a) Registers to vote by mail and submits with his application to register to vote:

(1) A copy of a current and valid photo identification; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including, without limitation, a check, which indicates the name and address of the person;

(b) Registers to vote by mail and submits with his application to register to vote a driver's license number or at least the last four digits of

↓2003 Statutes of Nevada, Page 2172 (CHAPTER 382, SB 453)↓

his social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in his application;

(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;

(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or

(e) Is entitled to vote otherwise than in person under any other federal law.

Sec. 11. *Each county and city clerk shall establish procedures to:*

1. Keep each provisional ballot cast pursuant to section 7 or 9 of this act separate from other ballots until it has been determined whether or not the voter was registered and eligible to vote in the election in that jurisdiction;

2. Keep each provisional ballot cast pursuant to subsection 3 of section 7 of this act separate from all other provisional ballots; and

3. Inform a person whose name does not appear on a voter registration list as an eligible voter for a polling place or who an election official asserts is not eligible to vote at the polling place of the ability of the person to cast a provisional ballot.

Sec. 12. *1. Following each election, a canvass of the provisional ballots cast in the election must be conducted pursuant to NRS 293.387 and, if appropriate, pursuant to NRS 293C.387.*

2. The county and city clerk shall not:

(a) Include any provisional ballot in the unofficial results reported on election night; or

(b) Open any envelope containing a provisional ballot before 8 a.m. on the Wednesday following election day.

3. Except as otherwise provided in subsection 4, a provisional ballot must be counted if:

(a) The county or city clerk determines that the person who cast the provisional ballot was registered to vote in the election, eligible to vote in the election and issued the appropriate ballot for the address at which he resides;

(b) A voter who failed to provide required identification at the polling place or with his mailed ballot provides the required identification to the county or city clerk not later than 5 p.m. on the Friday following election day; or

(c) A court order has not been issued by 5 p.m. on the Friday following election day directing that provisional ballots cast pursuant subsection 3 of section 7 of this act not be counted, and the provisional ballot was cast pursuant to subsection 3 of section 7 of this act.

4. A provisional ballot must not be counted if the county or city clerk determines that the person who cast the provisional ballot cast the wrong ballot for the address at which he resides.

Sec. 13. *1. The Secretary of State shall establish a free access system such as a toll-free telephone number or an Internet website to inform a person who cast a provisional ballot whether his vote was counted and, if his vote was not counted, the reason why the vote was not counted.*

↓2003 Statutes of Nevada, Page 2173 (CHAPTER 382, SB 453)↓

2. The free access system must ensure secrecy of the ballot while protecting the confidentiality and integrity of personal information contained therein.

3. Access to information concerning a provisional ballot must be restricted to the person who cast the provisional ballot.

Sec. 14. *The Secretary of State and each county and city clerk shall ensure that a copy of each of the following is posted in a conspicuous place at each polling place on election day:*

1. A sample ballot;

2. Information concerning the date and hours of operation of the polling place;

3. Instructions for voting and casting a ballot, including a provisional ballot;

4. Instructions concerning the identification required for persons who registered by mail and are first-time voters for federal office in this state;

5. Information concerning the accessibility of polling places to persons with disabilities; and

6. General information concerning federal and state laws which prohibit acts of fraud and misrepresentation.

Sec. 15. *1. The Secretary of State shall:*

(a) Provide information regarding voter registration and absentee voting by Armed Forces personnel and overseas voters;

(b) Within 90 days after the date of each general election and general city election in which electors voted for federal offices, submit to the Election Assistance Commission established pursuant to 42 U.S.C. § 15321 a report of the combined number of absentee ballots transmitted to absent Armed Forces personnel and overseas voters for the election and the combined number of such ballots that were returned by such voters and cast in the election;

(c) Make each report submitted pursuant to paragraph (b) available to the public; and

(d) Adopt any regulations which are necessary to comply with the provisions of the Help America Vote Act of 2002, Public Law 107-252, and which are not inconsistent with the provisions of this chapter to the extent the provisions of this chapter are consistent with the Help American Vote Act of 2002, Public Law 107-252.

2. Each county and city clerk shall provide such information as is requested by the Secretary of State to comply with the provisions of this section.

Sec. 15.5. *1. The county clerk shall cancel the registration of a voter, if:*

(a) After consultation with the district attorney, the district attorney determines that there is probable cause to believe that information in the registration concerning the identity or residence of the voter is fraudulent;

(b) The county clerk provides a notice as required pursuant to subsection 2 or executes an affidavit of cancellation pursuant to subsection 3; and

(c) The voter fails to present satisfactory proof of his identity and residence pursuant to subsection 2, 4 or 5.

2. Except as otherwise provided in subsection 3, the county clerk shall notify the voter by registered or certified mail, return receipt requested, of a determination made pursuant to subsection 1. The notice must set forth the

↓2003 Statutes of Nevada, Page 2174 (CHAPTER 382, SB 453)↓

grounds for cancellation. Unless the voter, within 15 days after the return receipt has been filed in the office of the county clerk, presents satisfactory proof of his identity and residence to the county clerk, the county clerk shall cancel his registration.

3. If insufficient time exists before a pending election to provide the notice required by subsection 2, the county clerk shall execute an affidavit of cancellation and file the affidavit of cancellation with the registrar of voters' register and:

(a) In counties where records of registration are not kept by computer, the county clerk shall attach a copy of the affidavit of cancellation in the election board register.

(b) In counties where records of registration are kept by computer, the county clerk shall have the affidavit of cancellation printed on the computer entry for the registration and add a copy of it to the election board register.

4. If a voter appears to vote at the election next following the date that an affidavit of cancellation was executed for the voter pursuant to this section, the voter must be allowed to vote only if he furnishes:

(a) Official identification which contains a photograph of himself, including, without limitation, a driver's license or other official document; and

(b) Satisfactory identification that contains proof of the address at which he actually resides and that address is consistent with the address listed on the election board register.

5. If a determination is made pursuant to subsection 1 concerning information in the registration to vote of a voter and an absent ballot or a ballot voted by a voter who resides in a mailing precinct is received from the voter, the ballot must be kept separate from other ballots and must not be counted unless the voter presents satisfactory proof to the county clerk of his identity and residence before such ballots are counted on election day.

Sec. 16. **NRS 293.010** is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 17. **NRS 293.1279** is hereby amended to read as follows:

293.1279 1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the Secretary of State shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. If the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than the sum of 100 percent

↓2003 Statutes of Nevada, Page 2175 (CHAPTER 382, SB 453)↓

of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the

county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100 percent or more of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until he has removed each name as requested pursuant to NRS 295.055 or 306.015.

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the ***county*** clerk shall determine from the records of registration what number of registered voters have signed the petition. If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition, the ***county*** clerk ~~[may use any file or list of registered voters maintained by his office or facsimiles of voters' signatures.]~~ ***must use the statewide voter registration list.*** The county clerk may rely on the appearance of the signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk shall immediately attach to the documents of the petition an amended certificate ***,*** properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office.

5. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not forward to the Secretary of State the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the Secretary of State as of the date on which he receives certificates from the county clerks showing the petition to be signed by the requisite number of voters of the State.

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, he shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

Sec. 18. **NRS 293.272** is hereby amended to read as follows:

293.272 1. Except as otherwise provided in subsection 2 ~~[,]~~ ***and in sections 9 and 10 of this act,*** a person who registered to vote pursuant to the provisions of NRS 293.5235 ~~[,]~~ shall, for the first election in which he votes at which that registration is valid, vote in person unless he has previously voted in the county in which he is registered to vote.

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

↓2003 Statutes of Nevada, Page 2176 (CHAPTER 382, SB 453)↓

(a) Is entitled to vote in the manner prescribed in NRS 293.343 to 293.355, inclusive;

(b) Is entitled to vote an absent ballot pursuant to federal law or NRS 293.316 or 293.3165;

(c) Is disabled;

(d) Submits or has previously submitted a written request for an absent ballot that is signed by the registered voter before a notary public or other person authorized to administer an oath; or

(e) Requests an absent ballot in person at the office of the county clerk.

Sec. 19. **NRS 293.277** is hereby amended to read as follows:

293.277 1. ~~[If]~~ ***Except as otherwise provided in section 15.5 of this act, if*** a person's name appears in the election board register or if he provides an affirmation pursuant to NRS 293.525, he is entitled to vote and must sign his name in the election board register when he applies to vote. His signature must be compared by an election board officer with the signature or a facsimile thereof on his original application to register to vote or one of the forms of identification listed in subsection 2.

2. ~~[The]~~ ***Except as otherwise provided in section 10 of this act, the*** forms of identification which may be used individually to identify a voter at the polling place are:

(a) The card issued to the voter at the time he registered to vote;

(b) A driver's license;

(c) An identification card issued by the Department of Motor Vehicles;

(d) A military identification card; or

(e) Any other form of identification issued by a governmental agency which contains the voter's signature and physical description or picture.

Sec. 20. **NRS 293.2955** is hereby amended to read as follows:

293.2955 1. Except as otherwise provided in subsection 2, at all times during which a polling place is open, the polling place must:

(a) Be accessible to a voter who is elderly or ~~[disabled;]~~ ***a voter with a disability;*** and

(b) Have at least one voting booth that is:

(1) Designed to allow a voter in a wheelchair to vote;

(2) Designated for use by a voter who is elderly or ~~[disabled; and]~~ ***a voter with a disability;***

(3) Equipped to allow a voter who is elderly or ~~[disabled]~~ ***a voter with a disability*** to vote with the same privacy as a voter who is not elderly or ~~[disabled.]~~ ***as a voter without a disability; and***

(4) Equipped with a mechanical recording device which directly records the votes electronically and which may be used by a voter with a disability.

2. A polling place that does not comply with the provisions of subsection 1 may be used if necessary because of a natural disaster, including, without limitation, an earthquake, flood, fire or storm.

3. At each polling place, the county clerk is encouraged to:

(a) Post in a conspicuous place, in at least 12-point type, instructions for voting;

(b) Provide ballots in alternative audio and visual formats for use by a voter who is elderly or ~~[disabled,]~~ ***a voter with a disability;*** and

(c) Provide, in alternative audio and visual formats for use by a voter who is elderly or ~~[disabled,]~~ ***a voter with a disability,*** all materials that are:

(1) Related to the election; and

(2) Made available to a voter in printed form at the polling place.

Sec. 21. **NRS 293.313** is hereby amended to read as follows:

293.313 1. Except as otherwise provided in NRS 293.272 and 293.502, a registered voter who provides sufficient written notice to the county clerk may vote an absent ballot as provided in this chapter.

2. A registered voter who:

(a) Is at least 65 years of age; or

(b) Has a physical disability or condition which substantially impairs his ability to go to the polling place,

may request an absent ballot for all elections held during the year he requests an absent ballot. The registered voter must include in his request a description of his physical disability or condition.

3. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot which is signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State which is completed and signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

4. A county clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as a request for ~~[both]~~ ***an absent ballot for*** the ***two*** primary and general elections ~~[unless otherwise specified in]~~ ***immediately following the date on which the county clerk received*** the request.

5. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 22. **NRS 293.320** is hereby amended to read as follows:

293.320 1. The county clerk shall determine before issuing an absent ballot that the person making application is a registered voter in the proper county.

2. Armed Forces personnel who are not registered to vote and are applying for absent ballots must complete:

(a) The application to register to vote required by NRS 293.517 for registration; or

(b) The form provided by the Federal Government for registration and request of an absent ballot,

before receiving an absent ballot.

3. If the county clerk rejects an application submitted pursuant to subsection 2 or submitted by an overseas voter, the county clerk shall inform the applicant of the reason for the rejection.

Sec. 23. **NRS 293.504** is hereby amended to read as follows:

293.504 1. The following offices shall serve as voter registration agencies:

(a) Such offices that provide public assistance as are designated by the Secretary of State;

(b) Each office that receives money from the State of Nevada to provide services to persons in this state who are disabled;

(c) The offices of the Department of Motor Vehicles;

(d) The offices of the city and county clerks; and

(e) Such other offices as the Secretary of State deems appropriate.

2. Each voter registration agency shall:

(a) Post in a conspicuous place, in at least 12-point type, instructions for registering to vote;

(b) Make applications to register to vote which may be returned by mail available to each person who applies for or receives services or assistance from the agency;

(c) Provide the same amount of assistance to an applicant in completing an application to register to vote as the agency provides to a person completing any other forms for the agency; and

(d) Accept completed applications to register to vote.

3. Except as otherwise provided in this subsection and NRS 293.524, any application to register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. ~~[During]~~ ***The applications must be forwarded daily during*** the 2 weeks immediately preceding the ~~[close of registration for an election, the applications must be forwarded daily.]~~ ***fifth Sunday preceding an election.*** The county clerk shall accept any application to register to vote which is ***obtained from a voter registration agency pursuant to***

this section and completed by the ~~[last day to register]~~ *fifth Sunday preceding an election* if he receives the application not later than 5 days after ~~[the close of registration.]~~ *that date.*

4. The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this state to apply to register to vote at recruitment offices of the United States Armed Forces.

Sec. 24. **NRS 293.505** is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which he is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform his duties as the county clerk may direct.

3. A field registrar shall demand of any person who applies for registration all information required by the application to register to vote and shall administer all oaths required by this chapter.

4. When a field registrar has in his possession five or more completed applications to register to vote he shall forward them to the county clerk, but in no case may he hold any number of them for more than 10 days.

5. ~~[Immediately]~~ *Each field registrar shall forward to the county clerk all completed applications in his possession immediately* after the ~~[close of registration, each field registrar shall forward to the county clerk all completed applications in his possession.]~~ *fifth Sunday preceding an election.* Within 5 days after the ~~[close of registration for a]~~ *fifth Sunday preceding any* general election or general city election, a field registrar shall return all unused applications in his possession to the county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.

↓2003 Statutes of Nevada, Page 2179 (CHAPTER 382, SB 453)↓

6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.

7. Each field registrar shall post notices sent to him by the county clerk for posting in accordance with the election laws of this state.

8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection ~~[10]~~ *12* of NRS 293.5235 shall not:

(a) Delegate any of his duties to another person; or

(b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself out to be or attempt to exercise the duties of a field registrar unless he has been so appointed.

10. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection ~~[10]~~ *12* of NRS 293.5235 shall not:

(a) Solicit a vote for or against a particular question or candidate;

(b) Speak to a voter on the subject of marking his ballot for or against a particular question or candidate; or

(c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election,

while he is registering an elector.

11. When the county clerk receives applications to register to vote from a field registrar **,** he shall issue a receipt to the field registrar. The receipt must include:

(a) The number of persons registered; and

(b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection ~~[10]~~ *12* of NRS 293.5235 shall not:

(a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote;

(b) Alter or deface an application to register to vote that has been signed by an elector except to correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required; or

(c) Register a person who fails to provide satisfactory proof of identification and the address at which he actually resides.

13. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

14. A person who violates any of the provisions of subsection 8, 9, 10 or 12 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 25. **NRS 293.507** is hereby amended to read as follows:

293.507 1. The Secretary of State shall prescribe:

(a) A standard form for applications to register to vote; and

(b) A special form for registration to be used in a county where registrations are performed and records of registration are kept by computer.

2. The county clerks shall provide forms for applications to register to vote to field registrars in the form and number prescribed by the Secretary of State.

3. A form for an application to register to vote must include a duplicate copy or receipt to be retained by the applicant upon completion of the form.

4. The form for an application to register to vote must include:

(a) A line for use by the county clerk to enter ~~[the number:~~

~~(1) Indicated on the voter's social security card,]~~ ***:***

(1) The number indicated on the voter's current and valid driver's license ~~[or identification card]~~ issued by the Department of Motor Vehicles, ~~[or any other identification card issued by an agency of this state or the Federal Government that contains:~~

~~(I) An identifying number; and~~

~~(II) A photograph or physical description of the voter; or~~

~~(2) Issued]~~ ***if the voter has such a driver's license;***

(2) The last four digits of the voter's social security number, if the voter does not have a driver's license issued by the Department of Motor Vehicles and does have a social security number; or

(3) The number issued to the voter pursuant to subsection 5 ~~[.]~~ ***, if the voter does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number.***

(b) A line on which to enter the address at which the voter actually resides, as set forth in NRS 293.486.

(c) A notice that the voter may not list a business as the address required pursuant to paragraph (b) unless he actually resides there.

(d) A line on which to enter an address at which the voter may receive mail, including, without limitation, a post office box or general delivery.

5. If a voter does not ~~[:~~

~~(a) Possess any of]~~ ***have*** the identification set forth in subparagraph (1) ***or (2)*** of paragraph (a) of subsection 4 ***,*** ~~[; or~~

~~(b) Wish to provide to the county clerk the number indicated on that identification,]~~ the ***voter shall sign an affidavit stating that he does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number. Upon receipt of the affidavit, the*** county clerk shall issue an identification number to the voter ~~[.]~~ ***which must be the same number as the unique identifier assigned to the voter for purposes of the statewide voter registration list.***

6. The Secretary of State shall adopt regulations to carry out the provisions of subsections 4 and 5.

Sec. 26. **NRS 293.517** is hereby amended to read as follows:

293.517 1. Any elector residing within the county may register:

(a) ~~[By]~~ ***Except as otherwise provided in NRS 293.560 and 293C.527, by*** appearing before the county clerk, ***a*** field registrar or a voter registration agency, completing the application to register to vote ***,*** ~~[and]~~ giving true and satisfactory answers to all questions relevant to his identity and right to vote ~~[;]~~ ***, and providing proof of his residence and identity;***

(b) By completing and mailing or personally delivering to the county clerk an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) Pursuant to the provisions of NRS 293.501 or 293.524; or

(d) At his residence with the assistance of a field registrar pursuant to NRS 293.5237.

The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering him. ***If the applicant registers to vote pursuant***

to this subsection and fails to provide proof of his residence and identity, the applicant must provide proof of his residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to section 7 or 9 of this act.

2. The application to register to vote must be signed and verified under penalty of perjury by the elector registering.

3. Each elector who is or has been married must be registered under his own given or first name, and not under the given or first name or initials of his spouse.

4. An elector who is registered and changes his name must complete a new application to register to vote. He may obtain a new application:

(a) At the office of the county clerk or field registrar;

(b) By submitting an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to register to vote; or

(d) At any voter registration agency.

If the elector fails to register under his new name, he may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may be required to furnish proof of identity and subsequent change of name.

5. An elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of his application to register to vote.

6. After the county clerk determines that the application to register to vote of a person is complete and that the person is eligible to vote, he shall issue a voter registration card to the voter which contains:

(a) The name, address, political affiliation and precinct number of the voter;

(b) The date of issuance; and

(c) The signature of the county clerk.

Sec. 27. NRS 293.5235 is hereby amended to read as follows:

293.5235 1. Except as otherwise provided in NRS 293.502, a person may register to vote by mailing an application to register to vote to the county clerk of the county in which he resides. The county clerk shall, upon request, mail an application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to register to vote may be used to correct information in the registrar of voters' register.

2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is personally delivered to the county clerk shall be deemed to have been returned by mail.

3. The applicant must complete ***the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 9*** and ~~[~~~~sign~~~~]~~ ***signing*** the application.

4. The county clerk shall, upon receipt of an application, determine whether the application is complete.

5. If he determines that the application is complete, he shall, within 10 days after he receives the application, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

The applicant shall be deemed to be registered or to have corrected the information in the register as of the date the application is postmarked or personally delivered.

6. If the county clerk determines that the application is not complete, he shall, as soon as possible, mail a notice to the applicant informing him that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after he receives the information, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

The applicant shall be deemed to be registered or to have corrected the information in the register as of the date the application is postmarked or personally delivered. If the applicant does not provide the additional information within the prescribed period, the application is void.

7. ***If the applicant fails to check the box described in paragraph (b) of subsection 9, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at his assigned polling place.***

8. The Secretary of State shall prescribe the form for an application to register to vote by mail which must be used to register to vote by mail in this state.

9. The application to register to vote by mail must include ~~[~~~~a~~~~]~~ ***:***

(a) A notice in at least 10-point type which states:

> NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.

~~[~~~~8.~~~~]~~ ***(b) The question, "Are you a citizen of the United States?" and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.***

(c) The question, "Will you be at least 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.

(d) A statement instructing the applicant not to complete the application if the applicant checked "no" in response to the question set forth in paragraph (b) or (c).

(e) A statement informing the applicant that if the application is submitted by mail and the applicant is registering to vote for the first time, the applicant must submit the information set forth in paragraph (a) of subsection 2 of section 10 of this act to avoid the requirements of subsection 1 of section 10 of this act upon voting for the first time.

10. The county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.

~~[9.]~~ ***11.*** The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person's current residence is other than that indicated on his application to register to vote in the manner set forth in NRS 293.530.

~~[10.]~~ ***12.*** A person who, by mail, registers to vote pursuant to this section may be assisted in completing the application to register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to provide the information required by this subsection will not result in the application being deemed incomplete.

~~[11.]~~ ***13.*** An application to register to vote must be made available to all persons, regardless of political party affiliation.

~~[12.]~~ ***14.*** An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.

~~[13.]~~ ***15.*** A person who willfully violates any of the provisions of subsection ~~[10, 11 or]~~ 12 ***, 13 or 14*** is guilty of a category E felony and shall be punished as provided in NRS 193.130.

~~[14.]~~ ***16.*** The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 28. **NRS 293.5237** is hereby amended to read as follows:

293.5237 Any time before the ~~[close of registration]~~ ***fifth Sunday preceding an election,*** a person who because of illness, disability or for other good cause shown requires assistance to complete an application to register to vote may request the county clerk in writing or by telephone to register him at his residence. Upon request, the county clerk shall direct the appropriate field registrar to go to the home of such a person to register him to vote.

Sec. 29. **NRS 293.524** is hereby amended to read as follows:

293.524 1. The Department of Motor Vehicles shall provide an application to register to vote to each person who applies for the issuance or renewal of any type of driver's license or for an identification card.

2. The county clerk shall use the applications to register to vote which are signed and completed pursuant to subsection 1 to register applicants to vote or to correct information in the registrar of voters' register. An application that is not signed must not be used to register or correct the registration of the applicant.

3. For the purposes of this section, each employee specifically authorized to do so by the Director of the Department may oversee the completion of an application. The authorized employee shall check the application for completeness and verify the information required by the application. Each application must include a duplicate copy or receipt to be retained by the applicant upon completion of the form. The Department shall, except as otherwise provided in this subsection, forward each application on a weekly basis to the county clerk or, if applicable, to the registrar of voters of the county in which the applicant resides. ~~[During]~~ ***The applications must***

be forwarded daily during the 2 weeks immediately preceding the ~~[close of registration for an election, the applications must be forwarded daily.]~~ ***fifth Sunday preceding an election.***

4. The county clerk shall accept any application to register to vote which is ***obtained from the Department of Motor Vehicles pursuant to this section and*** completed by the ~~[last day to register]~~ ***fifth Sunday preceding an election*** if he receives the application not later than 5 days after ~~[the close of registration.]~~ ***that date.*** Upon receipt of an application, the county clerk or field registrar of voters shall determine whether the application is complete. If he determines that the application is complete, he shall notify the applicant and the applicant shall be deemed to be registered as of the date of the submission of the application. If he determines that the application is not complete, he shall notify the applicant of the additional information required. The applicant shall be deemed to be registered as of the date of the initial submission of the application if the additional information is provided within 15 days after the notice for the additional information is mailed. If the applicant has not provided the additional information within 15 days after the notice for the additional information is mailed, the incomplete application is void. Any notification required by this subsection must be given by mail at the mailing address on the application not more than 7 working days after the determination is made concerning whether the application is complete.

5. The county clerk shall use any form submitted to the Department to correct information on a driver's license or identification card to correct information in the registrar of voters' register, unless the person indicates on the form that the correction is not to be used for the purposes of voter registration. The Department shall forward each such form to the county clerk or, if applicable, to the registrar of voters of the county in which the person resides in the same manner provided by subsection 3 for applications to register to vote.

6. Upon receipt of a form to correct information, the county clerk shall compare the information to that contained in the registrar of voters' register. If the person is a registered voter, the county clerk shall correct the information to reflect any changes indicated on the form. After making any changes, the county clerk shall notify the person by mail that his records have been corrected.

7. The Secretary of State shall, with the approval of the Director, adopt regulations to:

(a) Establish any procedure necessary to provide an elector who applies to register to vote pursuant to this section the opportunity to do so;

(b) Prescribe the contents of any forms or applications which the Department is required to distribute pursuant to this section; and

(c) Provide for the transfer of the completed applications of registration from the Department to the appropriate county clerk for inclusion in the election board registers and registrar of voters' register.

Sec. 30. **NRS 293.530** is hereby amended to read as follows:

293.530 ***Except as otherwise provided in section 15.5 of this act:***

1. County clerks may use any reliable and reasonable means available to correct the ~~[official registration lists]~~ ***portions of the statewide voter registration list which are relevant to the county clerks*** and ***to*** determine whether a registered voter's current residence is other than that indicated on his application to register to vote.

2. A county clerk may, with the consent of the board of county commissioners, make investigations of registration in the county by census, by house-to-house canvass or by any other method.

3. A county clerk shall cancel the registration of a voter pursuant to this section if:

(a) He mails a written notice to the voter which the United States Postal Service is required to forward;

(b) He mails a return postcard with the notice which has a place for the voter to write his new address, is addressed to the county clerk and has postage guaranteed;

(c) The voter does not respond; and

(d) The voter does not appear to vote in an election before the polls have closed in the second general election following the date of the notice.

4. For the purposes of this section, the date of the notice is deemed to be 3 days after it is mailed.

5. The county clerk shall maintain records of:

(a) Any notice mailed pursuant to subsection 3;

(b) Any response to such notice; and

(c) Whether a person to whom a notice is mailed appears to vote in an election,

for not less than 2 years after creation.

6. The county clerk shall use any postcards which are returned to correct the ~~[official registration lists.]~~ ***portions of the statewide voter registration list which are relevant to the county clerk.***

7. If a voter fails to return the postcard mailed pursuant to subsection 3 within 30 days, the county clerk shall designate the voter as inactive on his application to register to vote.

8. The Secretary of State shall adopt regulations to prescribe the method for maintaining a list of voters who have been designated as inactive pursuant to subsection 7.

Sec. 31. **NRS 293.5303** is hereby amended to read as follows:

293.5303 In addition to the methods described in NRS 293.530, the county clerk in each county may enter into an agreement with the United States Postal Service or any person authorized by it to obtain the data compiled by the United States Postal Service concerning changes of addresses of its postal patrons for use by the county clerk to correct ***the portions of the statewide*** voter registration ~~[lists.]~~ ***list relevant to the county clerk.***

Sec. 32. **NRS 293.5307** is hereby amended to read as follows:

293.5307 If a county clerk enters into an agreement pursuant to NRS 293.5303, he shall review each notice of a change of address filed with the United States Postal Service by a resident of the county and identify each resident who is a registered voter and has moved to a new address. Before removing or correcting information in the ~~[official]~~ ***statewide voter*** registration list, the county clerk shall mail a notice to each such registered voter and follow the procedures set forth in NRS 293.530.

Sec. 32.5. **NRS 293.540** is hereby amended to read as follows:

293.540 The county clerk shall cancel the registration:

1. If he has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in his office.

2. If the insanity or mental incompetence of the person registered is legally established.

3. Upon the determination that the person registered has been convicted of a felony.

4. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.

5. Upon the request of any registered voter to affiliate with any political party or to change his affiliation, if that change is made before the end of the last day to register to vote in the election.

6. At the request of the person registered.

7. If he has discovered an incorrect registration pursuant to the provisions of NRS 293.5235, 293.530, or 293.535 and the elector has failed to respond or appear to vote within the required time.

8. ***As required by section 15.5 of this act.***

9. Upon verification that the application to register to vote is a duplicate if he has the original or another duplicate of the application on file in his office.

Sec. 33. **NRS 293.560** is hereby amended to read as follows:

293.560 1. Except as otherwise provided in NRS 293.502, registration must close at 9 p.m. on the ~~[~~fifth Saturday~~]~~ ***third Tuesday*** preceding any primary or general election and at 9 p.m. on the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary or general election, registration must close at 9 p.m. on the ~~[~~fifth Saturday~~]~~ ***third Tuesday*** preceding the day of the elections.

2. The ~~[~~offices~~]~~ ***office*** of the county clerk ~~[~~and other ex officio registrars~~]~~ must be open from 9 a.m. to 5 p.m. and ~~[~~the office of the county clerk must also be open~~]~~ from 7 p.m. to 9 p.m., including Saturdays, during the last days before the close of registration, according to the following schedule:

(a) In a county whose population is less than 100,000, ~~[~~those offices~~]~~ ***the office of the county clerk*** must be open during the last ~~[~~3 days~~]~~ ***day*** before registration closes.

(b) In all other counties, ~~[~~those offices~~]~~ ***the office of the county clerk*** must be open during the last 5 days before registration closes.

3. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The county clerk of each county shall cause a notice signed by him to be published in a newspaper having a general circulation in the county indicating the day that registration will be closed. If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in this state.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

4. The offices of the county clerk and other ex officio registrars may remain open on the last Friday in October in each even-numbered year.

5. For the period beginning the fifth Sunday preceding any primary or general election and ending the third Tuesday preceding any primary or general election, an elector may register to vote only by appearing in person at the office of the county clerk.

Sec. 34. **NRS 293B.063** is hereby amended to read as follows:

293B.063 ~~[~~1. Except as otherwise provided in subsection 2, no~~]~~ ***No*** mechanical voting system may be used in this state unless it meets or exceeds the standards for voting systems established by the Federal Election Commission.

↓2003 Statutes of Nevada, Page 2187 (CHAPTER 382, SB 453)↓

~~[~~2. A mechanical voting system that does not comply with the standards established by the Federal Election Commission for computers or software for computers may be used if it is demonstrated to the Secretary of State that the system performs all functions required by the Commission.~~]~~

Sec. 35. **NRS 293B.065** is hereby amended to read as follows:

293B.065 A mechanical voting system must secure to the voter ~~[~~secrecy~~]~~ ***privacy and independence*** in the act of voting.

Sec. 36. **NRS 293B.084** is hereby amended to read as follows:

293B.084 ***1.*** A mechanical recording device which directly records votes electronically must:

~~[~~1.~~]~~ ***(a)*** Bear a number which identifies that mechanical recording device.

~~[~~2.~~]~~ ***(b)*** Be equipped with a storage device which:

~~[~~(a)~~]~~ ***(1)*** Stores the ballots voted on the mechanical recording device;

~~[~~(b)~~]~~ ***(2)*** Can be removed from the mechanical recording device for the purpose of transporting the ballots stored therein to a central counting place; and

~~[~~(c)~~]~~ ***(3)*** Bears the same number as the mechanical recording device.

~~[~~3.~~]~~ ***(c)*** Be designed in such a manner that voted ballots may be stored within the mechanical recording device and the storage device required pursuant to subsection 2 at the same time.

~~[~~4.~~]~~ ***(d)*** Provide a record printed on paper of:

~~[~~(a)~~]~~ ***(1)*** Each ballot voted on the mechanical recording device; and

~~[~~(b)~~]~~ ***(2)*** The total number of votes recorded on the mechanical recording device for each candidate and for or against each measure.

2. The paper record described in paragraph (d) of subsection 1 must be made available for a manual audit and must serve as an official record for a recount.

Sec. 37. **NRS 293C.265** is hereby amended to read as follows:

293C.265 1. Except as otherwise provided in subsection 2 ~~[~~,~~]~~ ***and in sections 9 and 10 of this act,*** a person who registered to vote pursuant to the provisions of NRS 293.5235 ~~[~~,~~]~~ shall, for the first city election in which he votes at which that registration is valid, vote in person unless he has previously voted in the county in which he is registered to vote.

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

(a) Is entitled to vote in the manner prescribed in NRS 293C.342 to 293C.352, inclusive;

(b) Is entitled to vote an absent ballot pursuant to federal law or NRS 293C.317 or 293C.318;

(c) Is disabled;

(d) Submits or has previously submitted a written request for an absent ballot that is signed by the registered voter before a notary public or other person authorized to administer an oath; or

(e) Requests an absent ballot in person at the office of the city clerk.

Sec. 38. **NRS 293C.281** is hereby amended to read as follows:

293C.281 1. Except as otherwise provided in subsection 2, at all times during which a polling place is open, the polling place must:

(a) Be accessible to a voter who is elderly or ~~[~~disabled;~~]~~ ***a voter with a disability;*** and

(b) Have at least one voting booth that is:
(1) Designed to allow a voter in a wheelchair to vote;

(2) Designated for use by a voter who is elderly or ~~[disabled; and]~~ ***a voter with a disability;***
(3) Equipped to allow a voter who is elderly or ~~[disabled]~~ ***a voter with a disability*** to vote with the same privacy as a voter who is not elderly or ~~[disabled.]~~ ***as a voter without a disability; and***
(4) Equipped with a mechanical recording device which directly records the votes electronically and which may be used by persons with disabilities.
2. A polling place that does not comply with the provisions of subsection 1 may be used if necessary because of a natural disaster, including, without limitation, an earthquake, flood, fire or storm.
3. At each polling place, the city clerk is encouraged to:
(a) Post in a conspicuous place, in at least 12-point type, instructions for voting;
(b) Provide ballots in alternative audio and visual formats for use by a voter who is elderly or ~~[disabled,]~~ ***a voter with a disability;*** and
(c) Provide, in alternative audio and visual formats for use by a voter who is elderly or ~~[disabled,]~~ ***a voter with a disability,*** all materials that are:
(1) Related to the election; and
(2) Made available to a voter in printed form at the polling place.

Sec. 39. NRS 293C.310 is hereby amended to read as follows:

293C.310 1. Except as otherwise provided in NRS 293.502 and 293C.265, a registered voter who provides sufficient written notice to the city clerk may vote an absent ballot as provided in this chapter.
2. A registered voter who:
(a) Is at least 65 years of age; or
(b) Has a physical disability or condition that substantially impairs his ability to go to the polling place,
may request an absent ballot for all elections held during the year he requests an absent ballot. The registered voter must include in his request a description of his physical disability or condition.
3. As used in this section, "sufficient written notice" means a:
(a) Written request for an absent ballot that is signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine;
(b) Form prescribed by the Secretary of State that is completed and signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine; or
(c) Form provided by the Federal Government.
4. A city clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as ~~[a]~~ ***:***
(a) A request for the primary city election and the general city election unless otherwise specified in the request ~~[.]~~ ***; and***
(b) A request for an absent ballot for the two primary and general elections immediately following the date on which the city clerk received the request.
5. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates any provision of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 40. NRS 293C.527 is hereby amended to read as follows:

293C.527 1. Except as otherwise provided in NRS 293.502, registration must close at 9 p.m. on the ~~[fifth Saturday]~~ ***third Tuesday*** preceding any primary city election or general city election and at 9 p.m. on the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary city election or general city election, registration must close at 9 p.m. on the ~~[fifth Saturday]~~ ***third Tuesday*** preceding the day of the elections.
2. The ~~[offices]~~ ***office*** of the city ~~[and county clerk and other ex officio registrars]~~ ***clerk*** must be open from 9 a.m. to 5 p.m. and ~~[the offices of the city and county clerk must also be open]~~ from 7 p.m. to 9 p.m., including Saturdays, during the last days before the close of registration before a primary city election or general city election, according to the following schedule:
(a) In a city whose population is less than 25,000, ~~[those offices]~~ ***the office of the city clerk*** must be open during the last 3 days before registration closes.
(b) In a city whose population is 25,000 or more, ~~[those offices]~~ ***the office of the city clerk*** must be open during the last 5 days before registration closes.
3. Except for a special election held pursuant to chapter 306 or 350 of NRS:
(a) The city clerk of each city shall cause a notice signed by him to be published in a newspaper having a general circulation in the city indicating the day that registration will be closed. If no newspaper is of general circulation in that city, the publication may be made in a newspaper of general circulation in the nearest city in this state.
(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

4. For the period beginning the fifth Sunday preceding any primary city election or general city election and ending the third Tuesday preceding any primary city election or general city election, an elector may register to vote only by appearing in person at the office of the city clerk.

Sec. 41. **NRS 293C.532** is hereby amended to read as follows:

293C.532 1. Each person who resides within the boundaries of the city at the time of the holding of any city election, and whose name appears upon the ~~[official register of voters for]~~ ***statewide voter registration list as a registered voter of*** the city, is entitled to vote at each special election, primary city election and general city election, and for all officers to be voted for and on all questions submitted to the people at those elections except as otherwise provided in chapter 266 of NRS.

2. The governing body of a city may provide for a supplemental registration.

Sec. 42. **NRS 293C.535** is hereby amended to read as follows:

293C.535 1. Except as otherwise provided by special charter, registration of electors in incorporated cities must be accomplished in the manner provided in this chapter.

2. The county clerk shall ***use the statewide voter registration list to*** prepare for the city clerk of each incorporated city within his county the election board register of all electors eligible to vote at a regular or special city election.

2003 Statutes of Nevada, Page 2190 (CHAPTER 382, SB 453)

3. The official register must be prepared in suitable books, one for each ward or other voting district within each incorporated city. The entries in the election board register must be arranged alphabetically with the surnames first.

4. The county clerk shall keep duplicate originals or copies of the applications to register to vote contained in the official register in his office.

Sec. 43. 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. 44. The provisions of chapter 333 of NRS do not apply to a contract awarded before January 1, 2005, by the Secretary of State:

1. To establish and maintain the statewide voter registration list created pursuant to section 3 of this act; or
2. To upgrade or replace voting systems throughout this state.

Sec. 45. 1. This section and sections 43 and 44 of this act become effective upon passage and approval.

2. Section 3 of this act becomes effective on passage and approval for purposes of awarding contracts to establish and maintain a statewide voter registration list pursuant to section 3 of this act, and:

(a) If the State of Nevada obtains a waiver in the manner set forth in 42 U.S.C. § 15483(d)(1)(B), on January 1, 2006, for all other purposes; or

(b) If the State of Nevada does not obtain such a waiver, on January 1, 2004, for all other purposes.

3. Sections 10, 15.5 and 32.5 of this act become effective July 1, 2003.

4. Sections 1, 2, 4 to 9, inclusive, 11 to 19, inclusive, 21 to 37, inclusive, and 39 to 42, inclusive, of this act become effective on January 1, 2004.

5. Sections 20 and 38 of this act become effective on January 1, 2006.

Senate Bill No. 78–Committee on Government Affairs

CHAPTER 383

AN ACT relating to affordable housing; providing that the Housing Division of the Department of Business and Industry may develop or acquire one or more information systems; revising the provisions governing the issuance of letters of credit by the Division; increasing the permissible aggregate principal amount of the outstanding obligations of the Division; extending the prospective expiration of certain provisions regarding assistance to finance housing; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. NRS 319.140 is hereby amended to read as follows:

319.140 1. The Division shall administer the provisions of this chapter. The Administrator may adopt, amend or rescind regulations, consistent with the provisions of this chapter, appropriate to carry out its purposes.

2003 Statutes of Nevada, Page 2191 (CHAPTER 383, SB 78)

2. The Administrator may make copies of all proceedings and other records and documents of the Division and issue certificates under the seal of the Division to the effect that the copies are true copies, and all persons dealing with the Division may rely upon such certificates.

3. The Division has perpetual succession, subject to termination in accordance with statute, and may:

(a) Sue and be sued in its own name, subject to chapter 41 of NRS;

(b) Adopt an official seal and alter the same at the pleasure of the Division;

(c) Maintain such offices at any place or places within the State as it determines necessary to carry out the provisions of this chapter;

(d) ~~[Adopt, amend and repeal regulations as provided in chapter 233B of NRS, consistent with the provisions of this chapter and appropriate to carry out its purposes;~~

~~(e)]~~ Maintain records, proceedings and documents of the Division, subject to chapters 239, 239A and 239B of NRS;

(e) Develop or purchase, lease or otherwise acquire one or more information systems that the Division determines are necessary or convenient for the exercise of its powers and duties pursuant to this chapter and acquire any consulting, support or other service for such information systems;

(f) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions pursuant to this chapter with any governmental agency, private corporation or other entity, or natural person;

(g) Enter into agreements or other transactions with, and accept grants from and cooperate with, any governmental agency or other source in furtherance of the purposes of this chapter;

(h) Acquire real or personal property or any interest therein, by gift, purchase, foreclosure, deed in lieu of foreclosure, lease, option or otherwise;

(i) Hold, sell, assign, lease, encumber, mortgage, release or otherwise dispose of any real or personal property or any interest therein, by public or private sale, with or without public bidding, notwithstanding any other provision of law;

(j) Employ or contract for the services of attorneys, accountants, financial experts and any other advisers, employees, consultants and agents as the Administrator may determine to be necessary;

(k) Create or cause to be created legal entities, including nonprofit corporations, grantor trusts and other legal entities, which the Division determines are necessary or convenient for the exercise of its powers and duties pursuant to this chapter, provided, however, that the issuance of bonds, notes or other evidence of indebtedness by any legal entity controlled by the Division is subject to the approval of the State Board of Finance;

(l) Provide advice, technical information, training and educational services related to the development of housing, building technologies and related fields;

(m) Conduct research, make grants, and promote the development of housing, building technologies and related fields; and

(n) Do any and all things necessary or appropriate to carry out its purposes and exercise the powers expressly granted pursuant to this chapter.

4. Before September 1 of each even-numbered year, the Division shall submit a report of its activities for the biennium ending June 30 of that year

.....

↓2003 Statutes of Nevada, Page 2192 (CHAPTER 383, SB 78)↓

to the Governor, State Treasurer and the Legislature. Each such report ~~[shall]~~ ***must*** set forth a complete operating and financial statement of the Division during such biennium. The Division shall cause an audit of its books and accounts to be made at least once in each fiscal year by a certified public accountant. The certified public accountant may audit the Division's books and accounts for consecutive audit periods as requested by the Division.

5. The Division is exempt from the provisions of chapter 333 of NRS.

Sec. 2. **NRS 319.140** is hereby amended to read as follows:

319.140 1. The Division shall administer the provisions of this chapter. The Administrator may adopt, amend or rescind regulations, consistent with the provisions of this chapter, appropriate to carry out its purposes.

2. The Administrator may make copies of all proceedings and other records and documents of the Division and issue certificates under the seal of the Division to the effect that the copies are true copies, and all persons dealing with the Division may rely upon such certificates.

3. The Division may ~~[employ]~~ ***:***

(a) Employ or contract for the services of attorneys, accountants, financial experts and any other advisers, employees, consultants and agents as the Administrator may determine to be necessary ~~[.]~~ ***; and***

(b) Develop or purchase, lease or otherwise acquire one or more information systems that the Division determines are necessary or convenient for the exercise of its powers and duties pursuant to this chapter and acquire any consulting, support or other service for such information systems.

4. Before September 1 of each even-numbered year, the Division shall submit a report of its activities for the biennium ending June 30 of that year to the Governor, State Treasurer and the Legislature. Each such report ~~[shall]~~ ***must*** set forth a complete operating and financial statement of the Division during such biennium. The Division shall cause an audit of its books and accounts to be made at least once in each fiscal year by a certified public accountant. The certified public accountant may audit the Division's books and accounts for consecutive audit periods as requested by the Division.

Sec. 3. **NRS 319.190** is hereby amended to read as follows:

319.190 ***1.*** The Division may make, undertake commitments to make and participate with lending institutions in the making of mortgage loans ~~[,]~~ ***and may*** make temporary loans and advances in anticipation of mortgage loans ~~[, and~~

~~issue letters of credit]~~ to finance the acquisition, construction, development, renewal, redevelopment, rehabilitation or refinancing of residential housing, including ***, without limitation,*** multifamily housing, within this state.

2. The Division may issue letters of credit to finance the acquisition, construction, development, renewal, redevelopment, rehabilitation or refinancing of residential housing, including, without limitation, multifamily housing, within this state if, at the time a letter of credit is issued, the Division has a credit rating within one of the three highest rating categories of a nationally recognized rating agency.

Sec. 4. NRS 319.190 is hereby amended to read as follows:

319.190 1. The Division may make, undertake commitments to make and participate with lending institutions in the making of mortgage loans ~~[,]~~ ***and may*** make temporary loans and advances in anticipation of mortgage loans ~~[, and issue letters of credit pursuant to subsection 2]~~ to finance the

acquisition, construction or rehabilitation of residential housing, including ***, without limitation,*** multifamily housing. Any loan made by the Division pursuant to this section must be insured or guaranteed unless it is financed by an issue of obligations of the Division that are insured or secured by surety bonds, letters of credit not issued by the Division, guaranties or other means of assuring repayment of those obligations. Such loans may be made ~~[or letters of credit issued]~~ only after a determination by the Administrator that mortgage loans ~~[or letters of credit]~~ are not otherwise available from private lenders upon reasonable equivalent terms and conditions.

2. The Division may issue a letter of credit ***to finance the acquisition, construction or rehabilitation of residential housing, including, without limitation, multifamily housing,*** only if ~~[sufficient]~~ ***:***

(a) At the time a letter of credit is issued, the Division has a credit rating within one of the three highest rating categories of a nationally recognized rating agency;

(b) Sufficient reserves in the funds established by the Division are deposited in a separate account to be used to pay any liabilities that may be incurred by issuing the letter of credit ~~[.]~~ ***;***

(c) The aggregate amount of outstanding letters of credit issued by the Division ~~[must]~~ ***and the proposed letter of credit does*** not exceed $5,000,000 ~~[.]~~ ***; and***

(d) The Administrator has determined that a letter of credit is not otherwise available from a private lender upon reasonable equivalent terms and conditions.

Sec. 5. NRS 319.270 is hereby amended to read as follows:

319.270 1. Subject to the limitation imposed by subsections 4 and 5, the Division may issue its negotiable notes and bonds in such principal amount as the Administrator determines to be necessary to provide sufficient money for achieving any of its statutory purposes, including the payment of interest on notes and bonds of the Division, establishment of bond reserve funds and other reserves to secure the notes and bonds, and all other expenditures of the Division necessary or convenient to carry out its statutory purposes and powers.

2. Subject to any agreements with holders of notes or bonds, all notes and bonds issued by the Division are special obligations of the Division payable out of any revenues, money or other assets of the Division pledged thereto.

3. In issuing the notes and bonds, the Division acts as an agency or instrumentality of the State of Nevada.

4. Before any notes or bonds may be issued pursuant to this section, except those issued for the purpose of refunding outstanding notes or bonds, the Administrator must submit a copy of his finding of the conditions prerequisite to the financing of residential housing under this chapter to the State Board of Finance. If that Board approves, the Division may proceed to issue its notes or bonds in the amount approved, subject to the further limitation of subsection 5.

5. The aggregate principal amount of outstanding bonds, notes and other obligations of the Division must not exceed ~~[$2,000,000,000,]~~ ***$5,000,000,000,*** of which $100,000,000 must be allocated to veterans who qualify for loans under this chapter, exclusive of any bonds, notes or obligations which have been refunded ~~[.]~~ ***or which were issued at a time when the Division had a credit rating within one of three highest rating***

categories of a nationally recognized rating agency. The establishment of this debt limitation does not prohibit the Division from issuing additional bonds, notes or other obligations if the debt limitation is subsequently increased.

Sec. 6. NRS 242.131 is hereby amended to read as follows:

242.131 1. The Department shall provide state agencies and elected state officers with all their required design of information systems. All agencies and officers must use those services and equipment, except as otherwise provided in subsection 2.

2. The following agencies may negotiate with the Department for its services or the use of its equipment, subject to the provisions of this chapter, and the Department shall provide those services and the use of that equipment as may be mutually agreed:

(a) The Court Administrator;
(b) The Department of Motor Vehicles;
(c) The Department of Public Safety;
(d) The Department of Transportation;
(e) The Employment Security Division of the Department of Employment, Training and Rehabilitation;

(f) The Division of Wildlife of the State Department of Conservation and Natural Resources;
(g) ***The Housing Division of the Department of Business and Industry;***
(h) The Legislative Counsel Bureau;
~~[(h)]~~ ***(i)*** The State Controller;
~~[(i)]~~ ***(j)*** The State Gaming Control Board and Nevada Gaming Commission; and
~~[(j)]~~ ***(k)*** The University and Community College System of Nevada.

3. Any state agency or elected state officer who uses the services of the Department and desires to withdraw substantially from that use must apply to the Director for approval. The application must set forth justification for the withdrawal. If the Director denies the application, the agency or officer must:

(a) If the Legislature is in regular or special session, obtain the approval of the Legislature by concurrent resolution.

(b) If the Legislature is not in regular or special session, obtain the approval of the Interim Finance Committee. The Director shall, within 45 days after receipt of the application, forward the application together with his recommendation for approval or denial to the Interim Finance Committee. The Interim Finance Committee has 45 days after the application and recommendation are submitted to its Secretary within which to consider the application. Any application which is not considered by the Committee within the 45-day period shall be deemed approved.

4. If the demand for services or use of equipment exceeds the capability of the Department to provide them, the Department may contract with other agencies or independent contractors to furnish the required services or use of equipment and is responsible for the administration of the contracts.

Sec. 7. Section 8 of chapter 418, Statutes of Nevada 2001, at page 2123, is hereby amended to read as follows:

Sec. 8. This act becomes effective on July 1, 2001, and expires by limitation on July 1, ~~[2003.]~~ ***2009.***

Sec. 8. 1. This section and sections 1, 3, 5, 6 and 7 of this act become effective on July 1, 2003.

2. Sections 1 and 3 of this act expire by limitation on June 30, 2009.

↓2003 Statutes of Nevada, Page 2195 (CHAPTER 383, SB 78)↓

3. Sections 2 and 4 of this act become effective on July 1, 2009.

Senate Bill No. 82–Committee on Human Resources and Facilities

CHAPTER 384

AN ACT relating to public health; establishing procedures for the isolation or quarantine of a person with a communicable disease; authorizing public health officials to isolate and quarantine a group of persons; prohibiting a health authority from requiring a person to be involuntarily treated without a court order requiring the person to submit to treatment; requiring the State Board of Health to develop a syndromic reporting and active surveillance system for monitoring public health; expanding the exclusive jurisdiction of the family court to include proceedings for an involuntary court-ordered isolation or quarantine; and providing other matters properly relating thereto.

[Approved: June 9, 2003]

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

Section 1. NRS 439.360 is hereby amended to read as follows:

439.360 The county board of health may:

1. Abate nuisances in accordance with law.

2. Establish and maintain an isolation hospital or quarantine station when necessary ~~[.]~~ ***for the isolation or quarantine of a person or a group of persons.***

3. Restrain, quarantine and disinfect any person ***or group of persons*** sick with or exposed to any contagious or infectious disease that is dangerous to the public health.

4. Appoint quarantine officers when necessary to enforce a quarantine, shall provide whatever medicines, disinfectants and provisions which may be required, and shall arrange for the payment of all debts or charges so incurred from any funds available, but each patient shall, if he is able, pay for his food, medicine, clothes and medical attendance.

5. Subject to the prior review and approval of the board of county commissioners and except as otherwise provided in NRS 576.128, adopt a schedule of reasonable fees to be collected for issuing or renewing any health permit or license required to be obtained from the board pursuant to a law of this state or an ordinance adopted by any political subdivision of this state. Such fees must be for the sole purpose of defraying the costs and expenses of the procedures for issuing licenses and permits, and investigations related thereto, and not for the purposes of general revenue.

Sec. 2. NRS 439.470 is hereby amended to read as follows:

439.470 The city board of health may:

1. Abate nuisances in accordance with law.

2. Establish a temporary isolation hospital or quarantine station when *an* emergency demands ~~[.]~~ *the isolation or quarantine of a person or a group of persons.*

3. Restrain, quarantine and disinfect any person *or group of persons* sick with or exposed to any contagious or infectious disease which is dangerous to the public health.

4. Appoint quarantine officers when necessary to enforce a quarantine, and shall provide whatever medicines, disinfectants and provisions which may be required. The city council shall pay all debts or charges so incurred *,* ~~[.]~~ but each patient shall, if able, pay for his food, medicine, clothes and medical attendance.

5. Subject to the prior review and approval of the governing body of the city and except as otherwise provided in NRS 576.128, adopt a schedule of reasonable fees to be collected for issuing or renewing any health permit or license required to be obtained from such board pursuant to state law or an ordinance adopted by any political subdivision. Such fees must be for the sole purpose of defraying the costs and expenses of the procedures for issuing licenses and permits, and investigations related thereto, and not for the purposes of general revenue.

Sec. 3. Chapter 441A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 27, inclusive, of this act.

Sec. 4. *"Isolation" means the physical separation and confinement of a person or a group of persons infected or reasonably believed by a health authority to be infected with a communicable disease from persons who are not infected with and have not been exposed to the communicable disease, to limit the transmission of the communicable disease to persons who are not infected with and have not been exposed to the communicable disease.*

Sec. 5. *"Quarantine" means the physical separation and confinement of a person or a group of persons exposed to or reasonably believed by a health authority to have been exposed to a communicable disease who do not yet show any signs or symptoms of being infected with the communicable disease from persons who are not infected with and have not been exposed to the communicable disease, to limit the transmission of the communicable disease to persons who are not infected with and have not been exposed to the communicable disease.*

Sec. 6. *As used in sections 6 to 26, inclusive, of this act, unless the context otherwise requires, "health authority" means:*

1. The officers and agents of the Health Division;

2. The officers and agents of a health district; or

3. The district health officer in a district, or his designee, or, if none, the State Health Officer, or his designee.

Sec. 7. *1. If a health authority isolates, quarantines or treats a person or group of persons infected with, exposed to, or reasonably believed by a health authority to have been infected with or exposed to a communicable disease, the authority must isolate, quarantine or treat the person or group of persons in the manner set forth in sections 6 to 26, inclusive, of this act.*

2. A health authority shall provide each person whom it isolates or quarantines pursuant to sections 6 to 26, inclusive, of this act with a document informing the person of his rights. The Board shall adopt regulations:

(a) Setting forth the rights of a person who is isolated or quarantined that must be included in the document provided pursuant to this subsection; and

(b) Specifying the time and manner in which the document must be provided pursuant to this subsection.

Sec. 7.5. *1. A person who is isolated or quarantined pursuant to sections 6 to 26, inclusive, of this act has the right:*

(a) To make a reasonable number of completed telephone calls from the place where he is isolated or quarantined as soon as reasonably possible after his isolation or quarantine; and

(b) To possess and use a cellular phone or any other similar means of communication to make and receive calls in the place where he is isolated or quarantined.

2. If a person who is isolated or quarantined pursuant to sections 6 to 26, inclusive, of this act is unconscious or otherwise unable to communicate because of mental or physical incapacity, the health authority that isolated or quarantined the person must notify the spouse or legal guardian of the person by telephone and certified mail. If a person described in this subsection is isolated or quarantined in a medical facility and the health authority did not provide the notice required by this subsection, the medical facility must provide the notice. If the case of a person described in this subsection is before a court and the health authority, and medical facility, if any, did not provide the notice required by this subsection, the court must provide the notice.

Sec. 7.7. *A person who is isolated or quarantined pursuant to sections 6 to 26, inclusive, of this act has the right to refuse treatment and may not be required to submit to involuntary treatment unless a court issues an order requiring the person to submit to treatment.*

Sec. 8. *1. If a person infected with or exposed to a communicable disease is voluntarily isolated or quarantined in a public or private medical facility, the facility shall not change the status of the person to an emergency isolation or quarantine unless, before the change in status is made:*

(a) The facility provides:

(1) An application to a health authority for an emergency isolation or quarantine pursuant to section 10 of this act; and

(2) The certificate of a health authority, physician, licensed physician assistant or registered nurse to a health authority pursuant to section 11 of this act; or

(b) The facility receives an order for isolation or quarantine issued by a health authority.

2. A person whose status is changed to an emergency isolation or quarantine pursuant to subsection 1:

(a) Must not be detained in excess of 48 hours after the change in status is made, unless within that period a written petition is filed by a health authority with the clerk of the district court pursuant to section 14 of this act; and

(b) May, immediately after his status is changed, seek an injunction or other appropriate process in district court challenging his detention.

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.

4. Nothing in this section limits the actions that a public or private medical facility may take to prevent or limit the transmission of

↓2003 Statutes of Nevada, Page 2198 (CHAPTER 384, SB 82)↓

communicable diseases within the medical facility, including, without limitation, practices for the control of infections.

Sec. 9. *1. Any person or group of persons alleged to have been infected with or exposed to a communicable disease may be detained in a public or private medical facility, a residence or other safe location under emergency isolation or quarantine for testing, examination, observation and the provision of or arrangement for the provision of consensual medical treatment in the manner set forth in sections 6 to 26, inclusive, of this act, and subject to the provisions of subsection 2:*

(a) Upon application to a health authority pursuant to section 10 of this act;

(b) Upon order of a health authority; or

(c) Upon voluntary consent of the person, parent of a minor person or legal guardian of the person.

2. Except as otherwise provided in subsection 3, 4 or 5, a person voluntarily or involuntarily isolated or quarantined under subsection 1 must be released within 72 hours, including weekends and holidays, from the time of his admission to a medical facility or isolation or quarantine in a residence or other safe location, unless within that period:

(a) The additional voluntary consent of the person, the parent of a minor person or a legal guardian of the person is obtained;

(b) A written petition for an involuntary court-ordered isolation or quarantine is filed with the clerk of the district court pursuant to section 14 of this act, including, without limitation, the documents required pursuant to section 15 of this act; or

(c) The status of the person is changed to a voluntary isolation or quarantine.

3. A person who is involuntarily isolated or quarantined under subsection 1 may, immediately after he is isolated or quarantined, seek an injunction or other appropriate process in district court challenging his detention.

4. 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.

5. During a state of emergency or declaration of disaster regarding public health proclaimed by the Governor or the Legislature pursuant to NRS 414.070, a health authority may, before the expiration of the period of 72 hours set forth in subsection 2, petition, with affidavits supporting its request, a district court for an order finding that a reasonably foreseeable immediate threat to the health of the public requires the 72-hour period of time to be extended for no longer than the court deems necessary for available governmental resources to investigate, file and prosecute the relevant written petitions for involuntary court-ordered isolation or quarantine pursuant to sections 6 to 26, inclusive, of this act.

Sec. 10. *1. An application to a health authority for an order of emergency isolation or quarantine of a person or a group of persons alleged to have been infected with or exposed to a communicable disease may only be made by another health authority, a physician, a licensed physician assistant, a registered nurse or a medical facility by submitting the certificate required by section 11 of this act. Within its jurisdiction,*

↓2003 Statutes of Nevada, Page 2199 (CHAPTER 384, SB 82)↓

upon application or on its own, subject to the provisions of sections 6 to 26, inclusive, a health authority may:

(a) Pursuant to its own order and without a warrant:

(1) Take a person or group of persons alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease into custody in any safe location under emergency isolation or quarantine for testing, examination, observation and the provision of or arrangement for the provision of consensual medical treatment; and

(2) Transport the person or group of persons alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease to a public or private medical facility, a residence or

other safe location for that purpose, or arrange for the person or group of persons to be transported for that purpose by:

(I) A local law enforcement agency;

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

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

only if the health authority acting in good faith has, based upon personal observation, its own epidemiological investigation or an epidemiological investigation by another health authority, a physician, a licensed physician assistant or a registered nurse as stated in a certificate submitted pursuant to section 11 of this act, if such a certificate was submitted, of the person or group of persons alleged to have been infected with or exposed to a communicable disease, a reasonable factual and medical basis to believe that the person or group of persons has been infected with or exposed to a communicable disease, and that because of the risks of that disease the person or group of persons is likely to be an immediate threat to the health of members of the public who have not been infected with or exposed to the communicable disease.

(b) Petition a district court for an emergency order requiring:

(1) Any health authority or peace officer to take a person or group of persons alleged to have been infected with or exposed to a communicable disease into custody to allow the health authority to investigate, file and prosecute a petition for the involuntary court-ordered isolation or quarantine of the person or group of persons alleged to have been infected with or exposed to a communicable disease in the manner set forth in sections 6 to 26, inclusive, of this act; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport, in accordance with such court order, the person or group of persons alleged to have been infected with or exposed to a communicable disease to a public or private medical facility, a residence or other safe location for that purpose.

2. The district court may issue an emergency order for isolation or quarantine pursuant to paragraph (b) of subsection 1:

(a) Only for the time deemed necessary by the court to allow a health authority to investigate, file and prosecute each petition for involuntary court-ordered isolation or quarantine pursuant to sections 6 to 26, inclusive, of this act; and

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↓2003 Statutes of Nevada, Page 2200 (CHAPTER 384, SB 82)↓

(b) Only if it is satisfied that there is probable cause to believe that the person or group of persons alleged to have been infected with or exposed to a communicable disease has been infected with or exposed to a communicable disease, and that because of the risks of that disease the person or group of persons is likely to be an immediate threat to the health of the public.

Sec. 11. *A health authority shall not accept an application for an emergency isolation or quarantine under section 10 of this act unless that application is accompanied by a certificate of another health authority or a physician, licensed physician assistant or registered nurse stating that he has examined the person or group of persons alleged to have been infected with or exposed to a communicable disease or has investigated the circumstances of potential infection or exposure regarding the person or group of persons alleged to have been infected with or exposed to a communicable disease and that he has concluded that the person or group of persons has been infected with or exposed to a communicable disease, and that because of the risks of that disease the person or group of persons is likely to be an immediate threat to the health of the public. The certificate required by this section may be obtained from a physician, licensed physician assistant or registered nurse who is employed by the public or private medical facility in which the person or group of persons is admitted or detained and from the facility from which the application is made.*

Sec. 12. *1. No application or certificate authorized under section 10 or 11 of this act may be considered if made by a person on behalf of a medical facility or by a health authority, physician, licensed physician assistant or registered nurse who is related by blood or marriage to the person alleged to have been infected with or exposed to a communicable disease, or who is financially interested, in a manner that would be prohibited pursuant to NRS 439B.425 if the application or certificate were deemed a referral, in a medical facility in which the person alleged to have been infected with or exposed to a communicable disease is to be detained.*

2. No application or certificate of any health authority or person authorized under section 10 or 11 of this act may be considered unless it is based on personal observation, examination or epidemiological investigation of the person or group of persons alleged to have been infected with or exposed to a communicable disease made by such health authority or person not more than 72 hours before the making of the application or certificate. The certificate must set forth in detail the facts and reasons on which the health authority or person who submitted the certificate pursuant to section 11 of this act based his opinions and conclusions.

Sec. 13. *In addition to any notice required pursuant to section 7.5 of this act, within 24 hours after a person's involuntary admission into a public or private medical facility under emergency isolation or quarantine, the administrative officer of the public or private medical facility shall reasonably attempt to ascertain the identification and location of the spouse or legal guardian of that person and, if reasonably possible, mail notice of the admission by certified mail to the spouse or legal guardian of that person.*

Sec. 14. *A proceeding for an involuntary court-ordered isolation or quarantine of any person in this state may be commenced by a health*

authority filing a petition with the clerk of the district court of the county where the person is to be isolated or quarantined. The petition may be pled in the alternative for both isolation and quarantine, if required by developing or changing facts, and must be accompanied:

1. By a certificate of a health authority or a physician, a licensed physician assistant or a registered nurse stating that he has examined the person alleged to have been infected with or exposed to a communicable disease or has investigated the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to a communicable disease and has concluded that the person has been infected with or exposed to a communicable disease, and that because of the risks of that disease the person is likely to be an immediate threat to the health of the public; or

2. By a sworn written statement by the health authority that:

(a) The health authority has, based upon its personal observation of the person alleged to have been infected with or exposed to a communicable disease, or its epidemiological investigation of the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to a communicable disease, a reasonable factual and medical basis to believe that the person has been infected with or exposed to a communicable disease and, that because of the risks of that disease the person is likely to be an immediate threat to the health of the public; and

(b) The person alleged to have been infected with or exposed to a communicable disease has refused to submit to voluntary isolation or quarantine, examination, testing, or treatment known to control or resolve the transmission of the communicable disease.

Sec. 15. *In addition to the requirements of section 14 of this act, a petition filed pursuant to that section with the clerk of the district court to commence proceedings for involuntary court-ordered isolation or quarantine of a person pursuant to section 8 or 9 of this act must include a certified copy of:*

1. If an application for an order of emergency isolation or quarantine of the person was made pursuant to section 10 of this act, the application for the emergency isolation or quarantine of the person made to the petitioning health authority pursuant to section 10 of this act; and

2. A petition executed by a health authority, including, without limitation, a sworn statement that:

(a) The health authority or a physician, licensed physician assistant or registered nurse who submitted a certificate pursuant to section 11 of this act, if such a certificate was submitted, has examined the person alleged to have been infected with or exposed to a communicable disease;

(b) In the opinion of the health authority, there is a reasonable degree of certainty that the person alleged to have been infected with or exposed to a communicable disease is currently capable of transmitting the disease, or is likely to become capable of transmitting the disease in the near future;

(c) Based on either the health authority's personal observation of the person alleged to have been infected with or exposed to the communicable disease or the health authority's epidemiological investigation of the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to the communicable disease,

and on other facts set forth in the petition, the person likely poses an immediate threat to the health of the public; and

(d) In the opinion of the health authority, involuntary isolation or quarantine of the person alleged to have been infected with or exposed to a communicable disease to a public or private medical facility, residence or other safe location is necessary to prevent the person from immediately threatening the health of the public.

Sec. 16. *1. Immediately after he receives any petition filed pursuant to section 14 or 15 of this act, the clerk of the district court shall transmit the petition to the appropriate district judge, who shall set a time, date and place for its hearing. The date must be within 5 judicial days after the date on which the petition is received by the clerk.*

2. The court shall give notice of the petition and of the time, date and place of any proceedings thereon to the subject of the petition, his attorney, if known, the petitioner and the administrative office of any public or private medical facility in which the subject of the petition is detained.

3. The provisions of this section do not preclude a health authority from ordering the release from isolation or quarantine of a person before the time set pursuant to this section for the hearing concerning the person, if appropriate.

4. After the filing of a petition pursuant to section 14 or 15 of this act and before any court-ordered involuntary isolation or quarantine, a health authority shall file notice with the court of any order of the health authority issued after the petition was filed to release the person from emergency isolation or quarantine, upon which the court may dismiss the petition without prejudice.

Sec. 17. *1. After the filing of a petition to commence proceedings for the involuntary court-ordered isolation or quarantine of a person pursuant to section 14 or 15 of this act, the court shall promptly cause two or more physicians or licensed physician assistants, at least one of whom must always be a physician, to either examine the person alleged to have been infected with or exposed to a communicable disease or assess the likelihood that the person alleged to have been infected with or exposed to a communicable disease has been so infected or exposed.*

2. To conduct the examination or assessment of a person who is not being detained at a public or private medical facility, residence or other safe location under emergency isolation or quarantine pursuant to the emergency order of a health authority or court made pursuant to section 9 or 10 of this act, the court may order a peace officer to take the person into protective custody and transport him to a public or private medical facility, residence or other safe location where he may be detained until a hearing is held upon the petition.

3. If the person is being detained at his home or other place of residence under an emergency order of a health authority or court pursuant to section 9 or 10 of this act, he may be allowed to remain in his home or other place of residence pending an ordered assessment, examination or examinations and to return to his home or other place of residence upon completion of the assessment, examination or examinations if such remaining or returning would not constitute an immediate threat to others residing in his home or place of residence.

4. Each physician and licensed physician assistant who examines or assesses a person pursuant to subsection 1 shall, not later than 24 hours

before the hearing set pursuant to section 16 of this act, submit to the court in writing a summary of his findings and evaluation regarding the person alleged to have been infected with or exposed to a communicable disease.

Sec. 18. *1. The Health Division shall establish such evaluation teams as are necessary to aid the courts under sections 17 and 24 of this act.*

2. Each team must be composed of at least two physicians, or at least one physician and one physician assistant.

3. Fees for the evaluations must be established and collected as set forth in section 19 of this act.

Sec. 19. *1. In counties where the examining personnel required pursuant to section 17 of this act are not available, proceedings for involuntary court-ordered isolation or quarantine shall be conducted in the nearest county having such examining personnel available in order that there be minimum delay.*

2. The entire expense of proceedings for involuntary court-ordered isolation or quarantine shall be paid by the county in which the application is filed.

Sec. 20. *1. The person alleged to have been infected with or exposed to a communicable disease, or any relative or friend on his behalf, is entitled to retain counsel to represent him in any proceeding before the district court relating to involuntary court-ordered isolation or quarantine, and if he fails or refuses to obtain counsel, the court shall advise him and his guardian or next of kin, if known, of the right to counsel and shall appoint counsel, who may be the public defender or his deputy.*

2. Any counsel appointed pursuant to subsection 1 must be awarded compensation by the court for his services in an amount determined by the court to be fair and reasonable. Except as otherwise provided in this subsection, the compensation must be charged against the estate of the person for whom the counsel was appointed or, if the person is indigent, against the county in which the application for involuntary court-ordered isolation or quarantine was filed. In any proceeding before the district court relating to involuntary court-ordered isolation or quarantine, if the person for whom counsel was appointed is challenging his isolation or quarantine or any condition of his isolation or quarantine and the person succeeds in his challenge, the compensation must be charged against the county in which the application for involuntary court-ordered isolation or quarantine was filed.

3. The court shall, at the request of counsel representing the person alleged to have been infected with or exposed to a communicable disease in proceedings before the court relating to involuntary court-ordered isolation or quarantine, grant a recess in the proceedings for the shortest time possible, but for not more than 5 days, to give the counsel an opportunity to prepare his case.

4. Each district attorney or his deputy shall appear and represent the State in all involuntary court-ordered isolation or quarantine proceedings in his county. The district attorney is responsible for the presentation of evidence, if any, in support of the involuntary court-ordered isolation or quarantine of a person to a medical facility, residence or other safe location in proceedings held pursuant to section 14 or 15 of this act.

Sec. 21. *In proceedings for involuntary court-ordered isolation or quarantine, the court shall hear and consider all relevant testimony,*

including, but not limited to, the testimony of examining personnel who participated in the evaluation of the person alleged to have been infected with or exposed to a communicable disease and the certificates, if any, of a health authority or a physician, licensed physician assistant or registered nurse accompanying the petition.

Sec. 22. *1. In proceedings for an involuntary court-ordered isolation or quarantine, the person with respect to whom the proceedings are held has the right:*

(a) To be present by live telephonic conferencing or videoconferencing; and

(b) To testify in his own behalf, to the extent that the court determines he is able to do so without endangering the health of others.

2. A person who is alleged to have been infected with or exposed to a communicable disease does not have the right to be physically present during the proceedings if such person, if present in the courtroom, would likely pose an immediate threat to the health of the judge or the staff or officers of the court.

Sec. 23. *Witnesses subpoenaed under the provisions of sections 6 to 26, inclusive, of this act shall be paid the same fees and mileage as are paid to witnesses in the courts of the State of Nevada.*

Sec. 24. *1. If the district court finds, after proceedings for the involuntary court-ordered isolation or quarantine of a person to a public or private medical facility, residence or other safe location:*

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has been infected with or exposed to a communicable disease or is likely to be an immediate threat to the health of the public, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility, residence or other safe location.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has been infected with or exposed to a communicable disease and, because of that disease, is likely to be an immediate threat to the health of the public, the court may order the involuntary isolation or quarantine of the person and may order the most appropriate course of treatment after considering the rights of the person and the desires of the person concerning treatment and vaccination, including, without limitation, the tenets of the person's religion and the tenets of any group or organization of which the person is a member, the rights set forth in NRS 441A.210, the rights set forth in section 7.5 of this act, the right to counsel set forth in section 20 of this act, and the right of a person to challenge his isolation or quarantine or any condition of his isolation or quarantine. The order of the court must be interlocutory and must not become final if, within 14 days after the court orders the involuntary isolation or quarantine, the person is unconditionally released by a health authority from the medical facility, residence or other safe location.

2. An involuntary isolation or quarantine pursuant to paragraph (b) of subsection 1 automatically expires at the end of 30 days if not terminated previously by a health authority. At the end of the court-ordered period of isolation or quarantine, the health authority may petition to renew the detention of the person for additional periods which each must not exceed the shorter of 120 days or either, if the person is isolated, the

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period of time which the health authority expects the person will be infectious with the communicable disease or, if the person is quarantined, the period of time which the health authority determines is necessary to determine whether the person has been infected with the communicable disease. For each renewal, the petition must set forth to the court specific reasons why further isolation or quarantine is appropriate and that the person likely poses an ongoing immediate threat to the health of the public. If the court finds in considering a petition for renewal that the person is noncompliant with a court-ordered measure to control or resolve the risk of transmitting the communicable disease, it may order the continued isolation and treatment of the person for any period of time the court deems necessary to resolve the immediate and ongoing risk of the person transmitting the disease.

3. Before issuing an order for involuntary isolation or quarantine or a renewal thereof, the court shall explore other alternative courses of isolation, quarantine and treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of communicable diseases, which the court believes may be in the best interests of the person.

Sec. 25. *The order for involuntary court isolation or quarantine of any person to a medical facility, public or private, must be accompanied by a clinical abstract, including a history of illness, diagnosis and treatment, and the names of relatives or correspondents.*

Sec. 26. *When any involuntary court isolation or quarantine is ordered under the provisions of sections 6 to 26, inclusive, of this act, the involuntarily isolated or quarantined person, together with the court orders, any certificates of the health authorities, physicians, licensed physician assistants or registered nurses, the written summary of the 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 appropriate county who must be ordered to:*

1. Transport the person; or

2. Arrange for the person to be transported by:

(a) A system for the nonemergency medical transportation of persons whose operation is authorized by the Transportation Services Authority; or

(b) 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 medical facility, residence or other safe location.

Sec. 27. *1. The Board shall develop a system which provides for syndromic reporting and active surveillance to monitor public health in this state during major events or when determined appropriate and necessary by a health authority.*

2. The Board shall adopt regulations concerning the system it develops pursuant to this section, including, without limitation:

(a) The manner in which and situations during which the system actively gathers information;

(b) The persons who are required to report information to the system; and

(c) The procedures for reporting required information to the system.

Sec. 28. **NRS 441A.010** is hereby amended to read as follows:

441A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 441A.020 to 441A.110, inclusive, ***and sections 4 and 5 of this act*** have the meanings ascribed to them in those sections.

Sec. 29. **NRS 441A.120** is hereby amended to read as follows:

441A.120 The Board shall adopt regulations governing the control of communicable diseases in this state, including regulations specifically relating to the control of such diseases in educational, medical and correctional institutions. The regulations must specify:

1. The diseases which are known to be communicable.
2. The communicable diseases which are known to be sexually transmitted.
3. The procedures for investigating and reporting cases or suspected cases of communicable diseases, including the time within which these actions must be taken.
4. For each communicable disease, the procedures for testing, treating, isolating and quarantining a person ***or group of persons*** who ~~[has or is]~~ ***have been exposed to or have or are*** suspected of having the disease.

5. A method for ensuring that any testing, treatment, isolation or quarantine of a person or a group of persons pursuant to this chapter is carried out in the least restrictive manner or environment that is appropriate and acceptable under current medical and public health practices.

Sec. 30. **NRS 441A.160** is hereby amended to read as follows:

441A.160 1. A health authority who knows, suspects or is informed of the existence within his jurisdiction of any communicable disease shall immediately investigate the matter and all circumstances connected with it, and shall take such measures for the prevention, suppression and control of the disease as are required by the regulations of the Board or a local board of health.

2. A health authority may:

(a) Enter private property at reasonable hours to investigate any case or suspected case of a communicable disease.

(b) Order any person whom he reasonably suspects has a communicable disease in an infectious state to submit to any medical examination or test which he believes is necessary to verify the presence of the disease. The order must be in writing and specify the name of the person to be examined and the time and place of the examination and testing, and may include such terms and conditions as the health authority believes are necessary to protect the public health.

(c) Except as otherwise provided in ***subsection 4 and*** NRS 441A.210, issue an order requiring the isolation, quarantine or treatment of any person ***or group of persons*** if he believes that such action is necessary to protect the public health. The order must be in writing and specify the person ***or group of persons*** to be isolated ~~[,]~~ ***or quarantined,*** the time during which the order is effective, the place of isolation or quarantine and other terms and conditions which the health authority believes are necessary to protect the public health, except that no isolation or quarantine may take place if the health authority determines that such action may endanger the life of ~~[the person .]~~ ***a person who is isolated or quarantined.***

(d) Each order issued pursuant to this section must be served upon each person named in the order by delivering a copy to him.

3. If a health authority issues an order to isolate or quarantine a person with a communicable or infectious disease in a medical facility, the health authority must isolate or quarantine the person in the manner set forth in sections 6 to 26, inclusive, of this act.

4. Except as otherwise provided in NRS 441A.310 and 441A.380, a health authority may not issue an order requiring the involuntary treatment of a person without a court order requiring the person to submit to treatment.

Sec. 31. **NRS 3.223** is hereby amended to read as follows:

3.223 1. Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act of 1978 ***,*** ~~[(]~~ 25 U.S.C. §§ 1901 et seq. ***,*** ~~[),]~~ in each judicial district in which it is established, the family court has original, exclusive jurisdiction in any proceeding:

(a) Brought pursuant to chapter 31A, 62, 123, 125, 125A, 125B, 125C, 126, 127, 128, 129, 130, 159, 425 or 432B of NRS, except to the extent that a specific statute authorizes the use of any other judicial or administrative procedure to facilitate the collection of an obligation for support.

(b) Brought pursuant to NRS 442.255 and 442.2555 to request the court to issue an order authorizing an abortion.

(c) For judicial approval of the marriage of a minor.

(d) Otherwise within the jurisdiction of the juvenile court.

(e) To establish the date of birth, place of birth or parentage of a minor.

(f) To change the name of a minor.

(g) For a judicial declaration of the sanity of a minor.

(h) To approve the withholding or withdrawal of life-sustaining procedures from a person as authorized by law.

(i) Brought pursuant to NRS 433A.200 to 433A.330, inclusive, for an involuntary court-ordered admission to a mental health facility.

(j) Brought pursuant to sections 6 to 26, inclusive, of this act for an involuntary court-ordered isolation or quarantine.

2. The family court, where established, and the justices' court have concurrent jurisdiction over actions for the issuance of a temporary or extended order for protection against domestic violence.

3. The family court, where established, and the district court, have concurrent jurisdiction over any action for damages brought pursuant to NRS 41.134 by a person who suffered injury as the proximate result of an act that constitutes domestic violence.

Sec. 32. This act becomes effective on July 1, 2003.

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