IN THE SUPREME COURT OF THE STATE OF NEVADA

WYNN RESORTS LIMITED, Petitioners, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE ELIZABETH GONZALEZ, DISTRICT JUDGE, DEPT. XI, Respondent, and KAZUO OKADA, UNIVERSAL ENTERTAINMENT CORP. AND ARUZE USA, INC., Real Parties in Interest.	Case No. Electronically Filed Aug 07 2017 01:30 p.m. Elizabeth A. Brown Clerk of Supreme Court **APPENDIX TO PETITION FOR WRIT OF PROHIBITION OR ALTERNATIVELY MANDAMUS** **VOLUME I OF II**

DATED this 7th day of August, 2017.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 7th day of August, 2017, I electronically filed and served by electronic mail and United States Mail a true and correct copy of the above and foregoing **APPENDIX IN SUPPORT OF PETITIONER WYNN RESORTS LIMITED'S PETITION FOR WRIT OF PROHIBITION OR ALTERNATIVELY, MANDAMUS VOLUME I OF II** properly addressed to the following:

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Senate History, Fifty-sixth Session

S. B. 12—Close, Young, and Swobe, Jan. 19.

Summary—Codifies law of evidence. Fiscal Note: No. (BDR 4-5)
Jan. 19—Read first time. Referred to Committee on Judiciary. To printer.
Jan. 21—From printer. To committee. 2/10 jt; 2/11 jt; 2/23 am; 3/9 pm; 3/12
Mar. 16—From committee: Amend, and do pass as amended. Read second time. Amended. To printer.
Mar. 18—From printer. To engrossment. Engrossed.
Mar. 19—Read third time. Passed, as amended. Title approved. To Assembly.
Mar. 22—In Assembly. Read first time. Referred to Committee on Judiciary. To committee. 2/10 jt; 2/11 jt; 4/8
Apr. 9—From committee: Amend, and do pass as amended.
Apr. 12—Read second time. Amended. To printer.
Apr. 13—From printer. To re-engrossment. Re-engrossed.
Apr. 14—Read third time. Passed, as amended. Title approved. To Senate.
Apr. 15—In Senate. Assembly amendments concurred in. To enrollment.
Apr. 22—Enrolled and delivered to Governor. Approved by the Governor. Chapter 402.
Effective at 12:01 a.m., July 1, 1971.

holder of a credit card or identification card or by representing that he is the holder of a credit card or identification card and such credit card or identification card has not in fact been issued, is guilty of a gross misdemeanor.

2. If the value of all the items so obtained under subsection 1 exceeds $100, such person is guilty of a felony.

SEC. 17. *1. Any person who possesses an incomplete credit card or identification card with intent to complete it without the consent of the issuer is guilty of a felony.*

2. Any person who, with intent to defraud, possess, with knowledge of its character, machinery, plates or any other contrivance designed for, and made use of in, the reproduction of instruments purporting or appearing to be the credit cards or identification cards or an issuer who has not consented to the preparation of such credit cards or identification cards, is guilty of a felony.

SEC. 18. *Any merchant who, with intent to defraud:*

1. Furnishes money, goods, services or anything else of value including the cancellation of a debt or the payment of a check, upon presentation of a credit card or identification card obtained or retained in violation of section 14 of this act or a credit card or identification card which he knows or has reasonable grounds to believe is forged, altered, expired or revoked, and who receives any payment therefor is guilty of a gross misdemeanor. If the payment so obtained exceeds $100, then such merchant is guilty of a felony.

2. Has failed to furnish money, goods, services or anything else of value which he represents to an issuer or a participating party that he has furnished, and who receives any payment therefor, is guilty of a gross misdemeanor. If the payment so obtained exceeds $100, then such merchant is guilty of a felony.

SEC. 19. *A person who obtains at a discount price a ticket issued by an airline, railroad, steamship or other transportation company which was acquired in violation of section 16 of this act without reasonable inquiry to ascertain that the person from whom it was obtained had a legal right to possess it is presumed to know that such ticket was acquired under circumstances constituting a violation of section 16 of this act.*

SEC. 20. NRS 205.500 is hereby repealed. The repeal of NRS 205.500 shall not release or extinguish any penalty, forfeiture or liability incurred under such provisions, and it shall be deemed still to be in effect for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

S. B. 12

SENATE BILL NO. 12—SENATORS CLOSE, YOUNG AND SWOBE

JANUARY 19, 1971

Referred to Committee on Judiciary

SUMMARY—Codifies law of evidence. Fiscal Note: No. (BDR 4-5)

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to evidence; to harmonize and codify the applicable law; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 47 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this act.

SEC. 2. *1. This Title governs proceedings in the courts of the State of Nevada and before magistrates, except:*

(a) To the extent to which its provisions are relaxed by a statute or procedural rule applicable to the specific situation; and

(b) As otherwise provided in subsection 3.

2. The provisions of chapter 49 of NRS with respect to privileges apply at all stages of all proceedings.

3. The other provisions of this Title do not apply to:

(a) Issuance of warrants for arrest, criminal summonses and search warrants.

(b) Proceedings with respect to release on bail.

(c) Sentencing, granting or revoking probation.

(d) Proceedings for extradition.

SEC. 3. *The purposes of this Title are to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.*

SEC. 4. *1. Except as otherwise provided in subsection 2, error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and:*

(a) In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection.

(b) In case the ruling is one excluding evidence, the substance of the evidence was made known to the judge by offer or was apparent from the context within which questions were asked.

2. This section does not preclude taking notice of plain errors affecting substantial rights although they were not brought to the attention of the judge.

SEC. 5. The judge may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made and the ruling thereon. He may direct the making of an offer in question and answer form, and on request shall do so in actions tried without a jury, unless it clearly appears that the evidence is not admissible on any ground or is privileged.

SEC. 6. 1. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege or the admissibility of evidence shall be determined by the judge, subject to the provisions of section 7 of this act.

2. In making his determination he is not bound by the provisions of this Title except the provisions of chapter 49 of NRS with respect to privileges.

SEC. 7. 1. When the relevancy of evidence depends upon the fulfillment of a condition of fact, the judge shall admit it upon the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

2. If under all the evidence upon the issue the jury might reasonably find that the fulfillment of the condition is not established, the judge shall instruct the jury to consider the issue and to disregard the evidence unless they find the condition was fulfilled.

3. If under all the evidence upon the issue the jury could not reasonably find that the condition was fulfilled, the judge shall instruct the jury to disregard the evidence.

SEC. 8. In jury cases, hearings on preliminary questions of admissibility, offers of proof in narrative or question and answer form, and statements of the judge showing the character of the evidence shall to the extent practicable, unless further restricted by section 9 of this act, be conducted out of the hearing of the jury, to prevent the suggestion of inadmissible evidence.

SEC. 9. Preliminary hearings on the admissibility of confessions or statements by the accused or evidence allegedly unlawfully obtained shall be conducted outside the hearing of the jury. The accused does not by testifying at the hearing subject himself to cross-examination as to other issues in the case. Testimony given by him at the hearing is not admissible against him on the issue of guilt at the trial.

SEC. 10. Sections 6 to 9, inclusive, of this act do not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

SEC. 11. When evidence which is admissible as to one party or for one purpose but inadmissible as to another party or for another purpose is admitted, the judge, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

SEC. 12. 1. When any part of a writing or recorded statement is introduced by a party, he may be required at that time to introduce any other part of it which is relevant to the part introduced, and any party may introduce any other parts.

2. This section does not limit cross-examination.

SEC. 13. 1. The facts subject to judicial notice are facts in issue or facts from which they may be inferred.

2. A judicially noticed fact must be:

(a) Generally known within the territorial jurisdiction of the trial court; or

(b) Capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned,

so that the fact is not subject to reasonable dispute.

SEC. 14. The laws subject to judicial notice are:

1. The Constitution and statutes of the United States, and the contents of the Federal Register.

2. The constitution of this state and Nevada Revised Statutes.

3. Any other statute of this state if brought to the attention of the court by its title and the day of its passage.

4. A county, city or town code which has been filed as required by NRS 244.118, 266.160, 269.168 or the city charter and any city ordinance which has been filed or recorded as required by the applicable law.

5. A regulation of an agency of this state which has been adopted pursuant to NRS 233B.060 and filed pursuant to NRS 233B.070.

6. The class and organization of a city incorporated under general law.

7. The constitution, statutes or other written law of any other state or territory of the United States, or of any foreign jurisdiction, as contained in a book or pamphlet published by its authority or proved to be commonly recognized in its courts.

SEC. 15. 1. A judge or court may take judicial notice, whether requested or not.

2. A judge or court shall take judicial notice if requested by a party and supplied with the necessary information.

SEC. 16. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter to be noticed.

SEC. 17. Judicial notice may be taken at any stage of the proceeding.

SEC. 18. 1. A presumption, other than a presumption against the accused in a criminal action, imposes on the party against whom it is directed the burden of proving that the nonexistence of the presumed fact is more probable than its existence.

2. As applied to presumptions, "direct evidence" means evidence which tends to establish the existence or nonexistence of the presumed fact independently of the basic facts.

SEC. 19. When a presumption is made conclusive by statute or no direct evidence is introduced contrary to the existence of the presumed fact, the question of the existence of the presumed fact depends upon the existence of the basic facts and is determined as follows:

1. If reasonable minds would necessarily agree that the evidence renders the existence of the basic facts more probable than not, the judge shall direct the jury to find in favor of the existence of the presumed fact.

2. If reasonable minds would necessarily agree that the evidence does not render the existence of the basic facts more probable than not, the judge shall direct the jury to find against the existence of the presumed fact.

3. If reasonable minds would not necessarily agree as to whether the evidence renders the existence of the basic facts more probable than not, the judge shall submit the matter to the jury with an instruction to find in favor of the existence of the presumed fact if they find from the evidence that the existence of the basic facts is more probable than not, but otherwise to find against the existence of the presumed fact.

SEC. 20. *When reasonable minds would necessarily agree that the evidence renders the existence of the basic facts more probable than not, but direct evidence is introduced contrary to the existence of the presumed fact, the question of the existence of the presumed fact is determined as follows:*

1. If reasonable minds would necessarily agree that the direct evidence renders the nonexistence of the presumed fact more probable than not, the judge shall direct the jury to find against the existence of the presumed fact.

2. If reasonable minds would necessarily agree that the direct evidence does not render the nonexistence of the presumed fact more probable than not, the judge shall direct the jury to find in favor of the presumed fact.

3. If reasonable minds would not necessarily agree as to whether the direct evidence renders the nonexistence of the presumed fact more probable than not, the judge shall submit the matter to the jury with an instruction to find in favor of the existence of the presumed fact unless they find from the direct evidence that its nonexistence is more probable than its existence, in which event they should find against its existence.

SEC. 21. *When reasonable minds would necessarily agree that the evidence does not render the existence of the basic facts more probable than not, but direct evidence is introduced concerning the existence of the presumed fact, the judge shall submit the matter to the jury with an instruction to determine the existence of the presumed fact from the direct evidence without reference to the presumption.*

SEC. 22. *When reasonable minds would not necessarily agree as to whether the evidence renders the existence of the basic facts more probable than not, and direct evidence is introduced concerning the existence of the presumed fact, the question of the existence of the presumed fact is determined as follows.*

1. If reasonable minds would necessarily agree that the direct evidence renders the existence of the presumed fact more probable than not, the judge shall direct the jury to find in favor of the existence of the presumed fact.

2. If reasonable minds would necessarily agree that the direct evidence renders the nonexistence of the presumed fact more probable than not, the judge shall direct the jury to find against the existence of the presumed fact.

3. If reasonable minds would not necessarily agree that the direct evidence renders the nonexistence of the presumed fact more probable than not, the judge shall submit the matter to the jury with an instruction to find in favor of the existence of the presumed fact if they find from the evidence that the existence of the basic facts is more probable than not and unless they find the nonexistence of the presumed fact more probable than not, otherwise to find against the existence of the presumed fact.

SEC. 23. *1. In criminal actions, presumptions against an accused recognized at common law or created by statute, including statutory provisions that certain facts are prima facie evidence of other facts or of guilt, are governed by this section.*

2. The judge shall not direct the jury to find a presumed fact against the accused. When the presumed fact establishes guilt or is an element of the offense or negatives a defense, the judge may submit the question of guilt or of the existence of the presumed fact to the jury, if, but only if, a reasonable juror on the evidence as a whole, including the evidence of the basic facts, could find guilt or the presumed fact beyond a reasonable doubt. Under other presumptions, the existence of the presumed fact may be submitted to the jury if the basic facts are supported by substantial evidence, or are otherwise established, unless the evidence as a whole negatives the existence of the presumed fact.

3. Whenever the existence of a presumed fact against the accused is submitted to the jury, the judge shall give an instruction that the law declares that the jury may regard the basic facts as sufficient evidence of the presumed fact but does not require it to do so. In addition, if the presumed fact establishes guilt or is an element of the offense or negatives a defense, the judge shall instruct the jury that its existence must, on all the evidence, be proved beyond a reasonable doubt.

SEC. 24. *The following presumptions, and no others, are conclusive:*

1. A malicious and guilty intent, from the deliberate commission of an unlawful act, for the purpose of injuring another.

2. The truth of the fact recited, from the recital in a written instrument between the parties thereto, or their successors in interest by a subsequent title, but this rule does not apply to the recital of a consideration.

3. Whenever a party has, by his own declaration, act or omission, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it.

4. A tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation.

5. The issue of a wife cohabiting with her husband, who is not impotent, is indisputably presumed to be legitimate.

6. The judgment or order of a court, when declared by Titles 2, 3 and 6 of NRS to be conclusive; but such judgment or order must be alleged in the pleadings if there is an opportunity to do so; if there is no such opportunity, the judgment or order may be used as evidence.

7. Any other presumption which, by statute, is expressly made conclusive.

SEC. 25. *All other presumptions are disputable. The following are of that kind:*

1. That an unlawful act was done with an unlawful intent.

2. That a person intends the ordinary consequences of his voluntary act.

3. That evidence willfully suppressed would be adverse if produced.

4. That higher evidence would be adverse from inferior being produced.

5. That money paid by one to another was due to the latter.

6. That a thing delivered by one to another belonged to the latter.

7. That things which a person possesses are owned by him.

8. That a person is the owner of property from exercising acts of ownership over it, or from common reputation of his ownership.

9. That official duty has been regularly performed.

10. That a court or judge, acting as such, whether in this state or any other state or country, was acting in the lawful exercise of his jurisdiction.

11. That a judicial record, when not conclusive, does still correctly determine or set forth the rights of the parties.

12. That a writing is truly dated.

13. That a letter duly directed and mailed was received in the regular course of the mail.

14. That a person not heard from in 7 years is dead.

15. That a child born in lawful wedlock is legitimate.

16. That the law has been obeyed.

17. That a trustee or other person, whose duty it was to convey real property to a particular person, has actually conveyed to him, when such presumption is necessary to perfect the title of such person or his successor in interest.

18. In situations not governed by the Uniform Commercial Code:

(a) That an obligation delivered up to the debtor has been paid.

(b) That private transactions have been fair and regular.

(c) That the ordinary course of business has been followed.

(d) That there was good and sufficient consideration for a written contract.

SEC. 26. Chapter 48 of NRS is hereby amended by adding thereto the provisions set forth as sections 27 to 37, inclusive, of this act.

SEC. 27. *As used in this chapter, "relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.*

SEC. 28. *1. All relevant evidence is admissible, except:*

(a) As otherwise provided by this Title;

(b) As limited by the Constitution of the United States or of the State of Nevada; or

(c) Where a statute limits the review of an administrative determination to the record made or evidence offered before that tribunal.

2. Evidence which is not relevant is not admissible.

SEC. 29. *1. Although relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury.*

2. Although relevant, evidence may be excluded if its probative value is substantially outweighed by:

(a) Considerations of undue delay, waste of time or needless presentation of cumulative evidence, or

(b) The risk that its admission will unfairly and harmfully surprise a party who has not had reasonable opportunity to anticipate that such evidence would be offered.

SEC. 30 *1. Evidence of a person's character or a trait of his character is not admissible for the purpose of proving that he acted in conformity therewith on a particular occasion, except:*

(a) Evidence of his charatcer or a trait of his character offered by an accused, and similar evidence offered by the prosecution to rebut such evidence;

(b) Evidence of the character or a trait of character of the victim of the crime offered by an accused, and similar evidence offered by the prosecution to rebut such evidence; and

(c) Evidence of the character of a witness, offered to attack or support his credibility, within the limits provided by section 78 of this act.

2. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

SEC. 31. *1. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or in the form of an opinion.*

2. In cases in which character or a trait of character of a person is an essential element of a charge, claim or defense, proof may also be made of specific instances of his conduct.

SEC. 32. *1. Evidence of the habit of a person of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.*

2. Habit or routine practice may be proved by testimony in the form of an opinion or by specific instances of conduct sufficient in number to warrant a finding that the habit existed or that the practice was routine.

SEC. 33. *1. When, after an event, measures are taken which, if taken previously, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event.*

2. This section does not require the exclusion of evidence of subsequent remedial measures when offered for another purpose, such as proving ownership, control, feasibility of precautionary measures, or impeachment.

SEC. 34. *1. Evidence of:*

(a) Furnishing or offering or promising to furnish; or

(b) Accepting or offering or promising to accept,

a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible.

2. This section does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negativing a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

SEC. 35. *Evidence of furnishing or offering or promising to pay medical, hospital or similar expenses occasioned by an injury is not admissible to prove liability for the injury.*

SEC. 36. *1. Evidence of a plea of guilty, later withdrawn, or of an offer to plead guilty to the crime charged or any other crime is not admissible in a criminal proceeding involving the person who made the plea or offer.*

2. Evidence of a plea of nolo contendere or of an offer to plead nolo contendere to the crime charged or any other crime is not admissible in a civil or criminal proceeding involving the person who made the plea or offer.

SEC. 37. *1. Evidence that a person was or was not insured against liability is not admissible upon the issue whether he acted negligently or otherwise wrongfully.*

2. This section does not require the exclusion of evidence of insurance against liability when it is relevant for another purpose, such as proof of agency, ownership or control, or bias or prejudice of a witness.

SEC. 38. Chapter 49 of NRS is hereby amended by adding thereto the provisions set forth as sections 39 to 69, inclusive, of this act.

SEC. 39. *1. Except as otherwise required by the Constitution of the United States or of the State of Nevada, and except as provided in this Title or Title 14 of NRS, no person has a privilege to:*

(a) Refuse to be a witness;

(b) Refuse to disclose any matter;

(c) Refuse to produce any object or writing; or

(d) Prevent another from being a witness or disclosing any matter or producing any object or writing.

2. This section does not:

(a) Impair any privilege created by Title 14 of NRS or by the Nevada Rules of Civil Procedure which is limited to a particular stage of the proceeding; or

(b) Extend any such privilege to any other stage of a proceeding.

SEC. 40. *1. A person making a return or report required by law to be made has a privilege to refuse to disclose and to prevent any other person from disclosing the return or report, if the law requiring it to be made so provides.*

2. A public officer or agency to whom a return or report is required by law to be made has a privilege to refuse to disclose the return or report if the law requiring it to be made so provides.

3. No privilege exists under this section in actions involving false statements or fraud in the return or report.

SEC. 41. *As used in sections 41 to 49, inclusive, of this act, the words and phrases defined in sections 42 to 46, inclusive, of this act have the meanings ascribed to them in sections 42 to 46, inclusive, of this act.*

SEC. 42. *"Client" means a person, including a public officer, corporation, association or other organization or entity, either public or private, who is rendered professional legal services by a lawyer, or who consults a lawyer with a view to obtaining professional legal services from him.*

SEC. 43. *A communication is "confidential" if it is not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.*

SEC. 44. *"Lawyer" means a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation.*

SEC. 45. *"Representative of the client" means a person having authority to obtain professional legal services, or to act on advice rendered pursuant thereto, on behalf of the client.*

SEC. 46. *"Representative of the lawyer" means a person employed by the lawyer to assist in the rendition of professional legal services.*

SEC. 47. *A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications:*

1. Between himself or his representative and his lawyer or his lawyer's representative.

2. Between his lawyer and the lawyer's representative.

3. Made for the purpose of facilitating the rendition of professional legal services to the client, by him or his lawyer to a lawyer representing another in a matter of common interest.

SEC. 48. *1. The privilege may be claimed by the client, his guardian or conservator, the personal representative of a deceased client, or the successor, trustee or similar representative of a corporation, association or other organization, whether or not in existence.*

2. The person who was the lawyer at the time of the communication may claim the privilege but only on behalf of the client. His authority to do so is presumed in the absence of evidence to the contrary.

SEC. 49. *There is no privilege under section 47 or 48 of this act:*

1. If the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud.

2. As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction.

3. As to a communication relevant to an issue of breach of duty by the lawyer to his client or by the client to his lawyer.

4. As to a communication relevant to an issue concerning an attested document to which the lawyer is an attesting witness.

5. As to a communication relevant to a matter of common interest between two or more clients if the communication was made by any of them to a lawyer retained or consulted in common, when offered in an action between any of the clients.

SEC. 50. As used in sections 50 to 53, inclusive, of this act:

1. A communication is "confidential" if it is not intended to be disclosed to third persons other than:

(a) Those present to further the interest of the patient in the consultation, examination or interview;

(b) Persons reasonably necessary for the transmission of the communication; or

(c) Persons who are participating in the diagnosis and treatment under the direction of the doctor, including members of the patient's family.

2. "Doctor" means a person licensed to practice medicine, dentistry, osteopathy or psychology in any state or nation, or a person who is reasonably believed by the patient to be so licensed.

3. "Patient" means a person who consults or is examined or interviewed by a doctor for purposes of diagnosis or treatment.

SEC. 51. A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications among himself, his doctor or persons who are participating in the diagnosis or treatment under the direction of the doctor, including members of the patient's family.

SEC. 52. 1. The privilege may be claimed by the patient, by his guardian or conservator, or by the personal representative of a deceased patient.

2. The person who was the doctor may claim the privilege but only on behalf of the patient. His authority so to do is presumed in the absence of evidence to the contrary.

SEC. 53. 1. There is no privilege under section 51 or 52 of this act for communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the doctor in the course of diagnosis or treatment has determined that the patient is in need of hospitalization.

2. If the judge orders an examination of the condition of the patient, communications made in the course thereof are not privileged under section 51 or 52 of this act with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise.

3. There is no privilege under section 51 or 52 of this act as to communications relevant to an issue of the condition of the patient in any proceeding in which the condition is an element of a claim or defense.

4. There is no privilege under section 51 or 52 of this act:

(a) In a prosecution or mandamus proceeding under chapter 441 of NRS.

(b) As to any information communicated to a physician in an effort unlawfully to procure a narcotic, dangerous or hallucinogenic drug, or unlawfully to procure the administration of any such drug.

SEC. 54. A clergyman or priest shall not, without the consent of the person making the confession, be examined as a witness as to any confession made to him in his professional character.

SEC. 55. 1. Except as provided in subsection 2:

(a) The proceedings and records of organized committees of hospital medical staffs having the responsibility of evaluation and improvement of the quality of care rendered in such hospital and medical review committees of medical societies are not subject to discovery proceedings.

(b) No person who attends a meeting of any such committee may be required to testify concerning the proceedings at such meetings.

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

(a) Any statement made by a person in attendance at such meeting who is a party to an action or proceeding the subject of which is reviewed at such meeting.

(b) Any statement made by a person who is requesting hospital staff privileges.

(c) The proceedings of any meeting considering an action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

SEC. 56. No reporter or editorial employee of any newspaper, periodical, press association or radio or television station may be required to disclose the source of any information procured or obtained by such person, in any legal proceedings, trial or investigation:

1. Before any court, grand jury, coroner's inquest, jury or any officer thereof.

2. Before the legislature or any committee thereof.

3. Before any department, agency or commission of the state.

4. Before any local governing body or committee thereof, or any officer of a local government.

SEC. 57. A public officer shall not be examined as a witness as to communications made to him in official confidence, when the public interests would suffer by the disclosure.

SEC. 58. A husband cannot be examined as a witness for or against his wife without her consent, nor a wife for or against her husband without his consent. Neither a husband nor a wife can be examined, during the marriage or afterwards, without the consent of the other, as to any communication made by one to the other during marriage, except in a:

1. Civil proceeding brought by or on behalf of one spouse against the other spouse;

2. Proceeding to commit or otherwise place his spouse, the property of his spouse or both the spouse and the property of the spouse under the control of another because of the alleged mental or physical condition of the spouse;

3. Proceeding brought by or on behalf of a spouse to establish his competence;

4. Proceeding in the juvenile court pursuant to chapter 62 of NRS; or

5. Criminal proceeding in which one spouse is charged with:

(a) A crime against the person or the property of the other spouse or of a child of either, whether such crime was committed before or during marriage.

(b) Bigamy or adultery.

(c) A crime related to abandonment of a child or nonsupport of a wife or child.

SEC. 59. *When a husband or wife is insane, and has been so declared by a court of competent jurisdiction, the other shall be a competent witness to testify as to any fact which transpired before or during such insanity, but the privilege of so testifying shall cease when the party declared insane has been found by a court of competent jurisdiction to be of sound mind, and the husband and wife shall then have the testimonial limitations and privileges provided in section 58 of this act.*

SEC. 60. *Every person has a privilege to refuse to disclose the tenor of his vote at a political election conducted by secret ballot unless the vote was cast illegally.*

SEC. 61. *1. A person has a privilege, which may be claimed by him or his agent or employee, to refuse to disclose and to prevent other persons from disclosing a trade secret owned by him, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice.*

2. When disclosure is directed, the judge shall take such protective measure as the interests of the holder of the privilege and of the parties and the furtherance of justice may require.

SEC. 62. *The state or a political subdivision thereof has a privilege to refuse to disclose the identity of a person who has furnished to a law enforcement officer information purporting to reveal the commission of a crime.*

SEC. 63. *The privilege may be claimed by an appropriate representative of the state, regardless of whether the information was furnished to an officer of the state or a subdivision thereof. The privilege may be claimed by an appropriate representative of a political subdivision if the information was furnished to an officer thereof.*

SEC. 64. *No privilege exists under section 62 or 63 of this act if the identity of the informer or his interest in the subject matter of his communication has been disclosed by a holder of the privilege or by the informer's own action, or if the informer appears as a witness.*

SEC. 65. *If the state or a political subdivision elects not to disclose the identity of an informer and the circumstances indicate a reasonable probability that the informer can give testimony necessary to a fair determination of the issue of guilt or innocence, the judge shall on motion of the accused dismiss the proceedings, and he may do so on his own motion.*

SEC. 66. *1. If information from an informer is relied upon to establish the legality of the means by which evidence was obtained and the judge is not satisfied that the information was received from an informer reasonably believed to be reliable, he may require the identity of the informer to be disclosed.*

2. The judge may permit the disclosure to be made in chambers or make any other order which justice requires. All counsel shall be permitted to be present at every stage at which any counsel is permitted to be present.

3. If disclosure of the identity of the informer is made in chambers, the record thereof shall be sealed and preserved to be made available to the appellate court in the event of an appeal.

SEC. 67. *1. A person upon whom these rules confer a privilege against disclosure of a confidential matter waives the privilege if he or*

his predecessor while holder of the privilege voluntarily discloses or consents to disclosure of any significant part of the matter.

2. This section does not apply if the disclosure is itself a privileged communication.

SEC. 68. *Evidence of a statement or other disclosure of privileged matter is inadmissible against the holder of the privilege if the disclosure was:*

1. Compelled erroneously; or

2. Made without opportunity to claim the privilege.

SEC. 69. *1. The claim of a privilege, whether in the present proceeding or upon a prior occasion, is not a proper subject of comment by judge or counsel. No inference may be drawn therefrom.*

2. In jury cases, proceedings shall be conducted, to the extent practicable, so as to facilitate the making of claims of privilege outside the presence of the jury.

3. Upon request, any party against whom the jury might draw an adverse inference from a claim of privilege is entitled to an instruction that no inference may be drawn therefrom.

SEC. 70 Chapter 50 of NRS is hereby amended by adding thereto the provisions set forth as sections 71 to 100, inclusive, of this act.

SEC. 71. *Every person is competent to be a witness except as otherwise provided in this Title.*

SEC. 72. *1. A witness may not testify to a matter unless:*

(a) Evidence is introduced sufficient to support a finding that he has personal knowledge of the matter; or

(b) He states his opinion or inference as an expert.

2. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness himself.

SEC. 73. *1. Before testifying, every witness shall be required to declare that he will testify truthfully, by oath or affirmation administered in a form calculated to awaken his conscience and impress his mind with his duty to do so.*

2. An affirmation is sufficient if the witness is addressed in the following terms: "You do solemnly affirm that the evidence you shall give in this issue (or matter), pending between ..... and ....., shall be the truth, the whole truth, and nothing but the truth." Assent to this affirmation shall be made by the answer, "I do."

SEC. 74. *Interpreters are subject to the provisions of this chapter relating to qualification as an expert and the administration of an oath or affirmation in appropriate form.*

SEC. 75 *1. The judge presiding at the trial shall not testify in that trial as a witness.*

2 If he is called to testify, no objection need be made in order to preserve the point.

SEC. 76 *1. A member of the jury shall not testify as a witness in the trial of the case in which he is sitting as a juror. If he is called to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.*

2. Upon an inquiry into the validity of a verdict or indictment:

(a) A juror shall not testify concerning the effect of anything upon his or any other juror's mind or emotions as influencing him to assent to or dissent from the verdict or indictment or concerning his mental processes in connection therewith.

(b) The affidavit or evidence of any statement by a juror indicating an effect of this kind is inadmissible for any purpose.

SEC. 77. The credibility of a witness may be attacked by any party, including the party calling him.

SEC. 78. 1. Opinion evidence as to the character of a witness is admissible to attack or support his credibility but subject to these limitations:

(a) Opinions are limited to truthfulness or untruthfulness; and

(b) Opinions of truthful character are admissible only after the introduction of opinion evidence of untruthfulness or other evidence impugning his character for truthfulness.

2. Evidence of the reputation of a witness for truthfulness or untruthfulness is inadmissible.

3. Specific instances of the conduct of a witness, for the purpose of attacking or supporting his credibility, other than conviction of crime, may not be proved by extrinsic evidence. They may, however, if relevant to truthfulness, be inquired into on cross-examination of the witness himself or on cross-examination of a witness who testifies to an opinion of his character for truthfulness or untruthfulness, subject to the general limitations upon relevant evidence and the limitations upon interrogation.

SEC. 79. 1. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible but only if the crime was punishable by death or imprisonment in excess of 1 year under the law under which he was convicted.

2. Evidence of a conviction is inadmissible under this section if a period of more than 10 years has elapsed since:

(a) The date of the release of the witness from confinement; or

(b) The expiration of the period of his parole, probation or sentence, whichever is the later date.

3. Evidence of a conviction is inadmissible under this section if:

(a) The conviction has been the subject of a pardon, honorable discharge from probation, certificate of rehabilitation, or other equivalent procedure; and

(b) The procedure under which the pardon, discharge or certificate was granted or issued required a substantial showing of rehabilitation or was based on innocence.

4. Evidence of juvenile adjudications is inadmissible under this section.

5. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

SEC. 80. Evidence of the beliefs or opinions of a witness on matters of religion is inadmissible for the purpose of showing that by reason of their nature his credibility is impaired or enhanced.

SEC. 81. 1. The judge shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence:

(a) To make the interrogation and presentation effective for the ascertainment of the truth;

(b) To avoid needless consumption of time; and

(c) To protect witnesses from undue harassment or embarrassment.

2. Cross-examination is limited to the subject matter of the direct examination and matters affecting the credibility of the witness, unless the judge in the exercise of discretion permits inquiry into additional matters as if on direct examination.

3. Except as provided in subsection 4:

(a) Leading questions shall not be used on the direct examination of a witness without the permission of the court.

(b) Leading questions are permitted on cross-examination.

4. In civil cases, a party is entitled to call:

(a) An adverse party; or

(b) A witness identified with an adverse party,

and interrogate by leading questions. The attorney for such adverse party may employ leading questions in cross-examining the party or witness so called only to the extent permissible if he had called such person on direct examination.

SEC. 82. 1. If a witness uses a writing to refresh his memory, either before or while testifying, an adverse party is entitled:

(a) To have it produced at the hearing;

(b) To inspect it;

(c) To cross-examine the witness thereon; and

(d) To introduce in evidence those portions which relate to the testimony of the witness for the purpose of affecting his credibility.

2. If it is claimed that the writing contains matters not related to the subject matter of the testimony, the judge shall examine the writing in chambers, excise any portions not so related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal.

3. If a writing is not produced or delivered pursuant to order under this section, the judge shall make any order which justice requires, except that in criminal cases when the state elects not to comply, the order shall be one:

(a) Striking the testimony; or

(b) If the judge in his discretion determines that the interests of justice so require, declaring a mistrial.

SEC. 83. 1. In examining a witness concerning a prior statement made by him, whether written or not, the statement need not be shown or its contents disclosed to him, but on request the statement shall be shown or disclosed to opposing counsel.

2. Extrinsic evidence of a prior contradictory statement by a witness is inadmissible unless:

(a) The statement fulfills all the conditions required by subsection 3 of section 104 of this act; or

(b) The witness is afforded an opportunity to explain or deny the statement and the opposite party is afforded an opportunity to interrogate him thereon.

SEC. 84. 1. The judge may, on his own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

2. The judge may interrogate witnesses, whether called by himself or by a party. The parties may object to questions so asked and to evidence thus adduced at any time prior to the submission of the cause.

SEC. 85. 1. Except as otherwise provided in subsection 2, at the request of a party the judge shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and he may make the order of his own motion.

2. This section does not authorize exclusion of:

(a) A party who is a natural person;

(b) An officer or employee of a party which is not a natural person designated as its representative by its attorney; or

(c) A person whose presence is shown by a party to be essential to the presentation of his cause.

SEC. 86. 1. A witness, duly served with a subpena, shall attend at the time appointed, with any papers under his control required by the subpena, to answer all pertinent and legal questions, and, unless sooner discharged, to remain till the testimony is closed.

2. A person present in court or before a judicial officer may be required to testify in the same manner as if he were in attendance upon a subpena issued by such court or officer.

SEC. 87. Every person who has been, in good faith, served with a subpena to attend as a witness before a court, judge, commissioner, master or other person, in a case where the disobedience of the witness may be punished as a contempt, is exonerated from arrest in a civil action while going to the place of attendance, necessarily remaining there, and returning therefrom.

SEC. 88. 1. The arrest of a witness contrary to section 87 of this act is void.

2. An officer is not liable to the party for making the arrest in ignorance of the facts creating the exoneration, but is liable for any subsequent detention of the party, if such party claims the exemption and makes an affidavit, stating:

(a) That he has been served with a subpena to attend as a witness before a court, officer or other person, specifying the same, the place of attendance and the action or proceeding in which the subpena was issued; and

(b) That he has not been thus served by his own procurement, with the intention of avoiding an arrest.

SEC. 89. 1. Refusal to be sworn or to answer as a witness may be punished as a contempt by the court. In a civil action, if the person so refusing is a party, the court may strike any pleading on his behalf, and may enter judgment against him.

2. A witness disobeying a subpena in a civil action shall also forfeit to the party aggrieved the sum of $100 and all damages which he may sustain by the failure of the witness to attend, which forfeiture and damages may be recovered in a civil action.

3. A witness disobeying a subpena issued on the part of a defendant in a criminal action shall also forfeit to the defendant the sum of $100, which may be recovered in a civil action, unless good cause can be shown for his nonattendance.

SEC. 90. In case of failure of a witness to attend, the court or officer issuing the subpena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the county to arrest the witness and bring him before the court or officer where his attendance was required.

SEC. 91. 1. A person imprisoned in the state prison or in a county jail may be examined as a witness in the district court pursuant to this section. Such examination can only be made on motion of a party upon affidavit showing the nature of the action or proceeding, the testimony expected from the witness, and its materiality.

2. In a civil action, if the witness is imprisoned in the county where the action or proceeding is pending, his production may, in the discretion of the court or judge, be required; in all other cases his examination, when allowed, shall be taken upon deposition.

3. In a criminal action, an order for that purpose may be made by the district court or district judge, at chambers, and executed by the sheriff of the county where the action is pending. The judge may order the sheriff to bring the prisoner before the court at the expense of the state or, in his discretion, at the expense of the defendant.

SEC. 92. Witnesses required to attend in the courts of this state shall receive the following compensation:

1. For attending in any criminal case, or civil suit or proceeding before a court of record, master, commissioner, justice of the peace, or before the grand jury, in obedience to a subpena, $10 for each day's attendance, which shall include Sundays and holidays.

2. Mileage shall be allowed and paid at the rate of 15 cents a mile, one way only, for each mile necessarily and actually traveled from the place of residence by the shortest and most practical route, provided:

(a) That no person shall be obliged to testify in a civil action or proceeding unless his mileage and at least 1 day's fees have been paid him if he demanded the same.

(b) That any person being in attendance at the trial and sworn as a witness shall be entitled to witness fees irrespective of service of subpena.

3. Witness fees in civil cases shall be taxed as disbursement costs against the defeated party upon proof by affidavit that they have been actually incurred. Costs shall not be allowed for more than two witnesses to the same fact or series of facts, nor shall a party plaintiff or defendant be allowed any fees or mileage for attendance as a witness in his own behalf.

SEC. 93. 1. The county clerk in cases in the district court shall keep a payroll, enrolling thereon all names of witnesses in criminal cases, the number of days in attendance and the actual number of miles traveled by

the shortest and most practical route in going to and returning from the place where the court is held, and at the conclusion of the trial shall forthwith give a statement of the amounts due to such witnesses, to the county auditor, who shall draw warrants upon the county treasurer for the payment thereof.

2. In criminal cases, where witnesses are subpenaed from without the county, or who, being residents of another state, voluntarily appear as witnesses, at the request of the district attorney and the board of county commissioners of the county in which the court is held, they shall be allowed their actual and necessary traveling expenses incurred by them in going to and returning from the place where the court is held, and such sum per diem, not exceeding $3, as may be fixed by the district judge, who shall certify the same to the county clerk for entry upon the payroll hereinbefore required.

SEC. 94. Where criminal or quasi-criminal cases originating in the municipal court of an incorporated town or city are brought before the district court, the county clerk shall give a statement of the amounts due to witnesses, in the manner and form provided in NRS 48.300, to the district judge, who shall, upon approval thereof, by an order subscribed by him, direct the treasurer of the town or city to pay the same. Upon the production of the order, or a certified copy thereof, the treasurer of the town or city shall pay the sum specified therein out of any fund in the town or city treasury not otherwise specially appropriated or set apart. It shall not be necessary for such order to be otherwise audited or approved.

SEC. 95. No attorney or counselor at law, in any case, shall be allowed any fees for attending as a witness in such case.

SEC. 96. If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are:

1. Rationally based on the perception of the witness; and

2. Helpful to a clear understanding of his testimony or the determination of a fact in issue.

SEC. 97. If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by special knowledge, skill, experience, training or education may testify to matters within the scope of such knowledge.

SEC. 98. 1. The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing.

2. If of a type reasonably relied upon by experts in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

SEC. 99. Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

SEC. 100. The expert may testify in terms of opinion or inference and give his reasons therefor without prior disclosure of the underlying facts

or data, unless the judge requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

SEC. 101. Chapter 51 of NRS is hereby amended by adding thereto the provisions set forth as sections 102 to 138, inclusive, of this act.

SEC. 102. As used in this chapter, unless the context otherwise requires, the words and phrases defined in sections 103 to 106, inclusive, of this act have the meanings ascribed to them in such sections.

SEC. 103. "Declarant" means a person who makes a statement.

SEC. 104. "Hearsay" means a statement offered in evidence to prove the truth of the matter asserted unless:

1. The statement is one made by a witness while testifying at the trial or hearing;

2. The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is:

(a) Inconsistent with his testimony;

(b) Consistent with his testimony and offered to rebut an express or implied charge against him of recent fabrication or improper influence or motive;

(c) One of identification of a person made soon after perceiving him; or

(d) A transcript of testimony given under oath at a trial or hearing or before a grand jury; or

3. The statement is offered against a party and is:

(a) His own statement, in either his individual or a representative capacity;

(b) A statement of which he has manifested his adoption or belief in its truth;

(c) A statement by a person authorized by him to make a statement concerning the subject;

(d) A statement by his agent or servant concerning a matter within the scope of his agency or employment, made before the termination of the relationship; or

(e) A statement by a coconspirator of a party during the course and in furtherance of the conspiracy.

SEC. 105. "Statement" means:

1. An oral or written assertion; or

2. Nonverbal conduct of a person, if it is intended by him as an assertion.

SEC. 106. 1. A declarant is "unavailable as a witness" if he is:

(a) Exempted by ruling of the judge on the ground of privilege from testifying concerning the subject matter of his statement;

(b) Persistent in refusing to testify despite an order of the judge to do so;

(c) Unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(d) Absent from the hearing and beyond the jurisdiction of the court to compel appearance and the proponent of his statement has exercised reasonable diligence but has been unable to procure his attendance or to take his deposition.

2. A declarant is not "unavailable as a witness" if his exemption, refusal, inability or absence is due to the procurement or wrongdoing of

the proponent of his statement for the purpose of preventing the witness from attending or testifying.

SEC. 107. *1. Hearsay is inadmissible except as provided in this chapter, Title 14 of NRS and the Nevada Rules of Civil Procedure.*

2. This section constitutes the hearsay rule.

SEC. 108. *1. A statement is not excluded by the hearsay rule if its nature and the special circumstances under which it was made offer assurances of accuracy not likely to be enhanced by calling the declarant as a witness, even though he is available.*

2. The provisions of sections 109 to 131, inclusive, of this act are illustrative and not restrictive of the exception provided by this section.

SEC. 109. *A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter, is not inadmissible under the hearsay rule.*

SEC. 110. *A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition is not inadmissible under the hearsay rule.*

SEC. 111. *1. A statement of the declarant's then existing state of mind, emotion, sensation or physical condition, such as intent, plan, motive, design, mental feeling, pain and bodily health, is not inadmissible under the hearsay rule.*

2. A statement of memory or belief to prove the fact remembered or believed is inadmissible under the hearsay rule unless it relates to the execution, revocation, identification or terms of declarant's will.

SEC. 112. *Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain or sensations, or the inception or general character of the cause or external source thereof are not inadmissible under the hearsay rule insofar as they were reasonably pertinent to diagnosis or treatment.*

SEC. 113. *1. A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable him to testify fully and accurately is not inadmissible under the hearsay rule if it is shown to have been made when the matter was fresh in his memory and to reflect that knowledge correctly.*

2. The memorandum or record may be read into evidence but may not itself be received unless offered by an adverse party.

SEC. 114. *A memorandum, report, record or data compilation, in any form, of acts, events, conditions, opinions or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, all in the course of a regularly conducted activity, as shown by the testimony of the custodian or other qualified witness, is not inadmissible under the hearsay rule unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.*

SEC. 115 *Evidence that a matter is not included in the memoranda, reports, records or data compilations, in any form, of a regularly conducted activity is not inadmissible under the hearsay rule to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record or data compilation was regularly made and preserved.*

SEC. 116. *Records, reports, statements or data compilations, in any form, of public officials or agencies are not inadmissible under the hearsay rule if they set forth;*

1. The activities of the official or agency;

2. Matters observed pursuant to duty imposed by law; or

3. In civil cases and against the state in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law,

unless the sources of information or the method or circumstances of the investigation indicate lack of trustworthiness.

SEC. 117. *Records or data compilations, in any form, of births, fetal deaths, deaths or marriages are not inadmissible under the hearsay rule if the report thereof was made to a public office pursuant to requirements of law.*

SEC. 118. *To prove;*

1. The absence of a record, report, statement or data compilation, in any form; or

2. The nonoccurrence or nonexistence of a matter of which a record, report, statement or data compilation, in any form, was regularly made and preserved by a public officer, agency or official,

evidence in the form of a certificate of the custodian or other person authorized to make the certification, or testimony, that diligent search failed to disclose the record, report, statement, data compilation or entry is not inadmissible under the hearsay rule.

SEC. 119. *Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization, are not inadmissible under the hearsay rule.*

SEC. 120. *Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter, are not inadmissible under the hearsay rule.*

SEC. 121. *Statements of fact contained in family bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts or tombstones, or the like, are not inadmissible under the hearsay rule.*

SEC. 122. *The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, is not inadmissible under the hearsay rule if the record is a record of a public office and an applicable statute authorized the recording of documents of that kind in that office.*

SEC. 123. *A statement contained in a document purporting to establish or affect an interest in property is not inadmissible under the hearsay rule if the matter stated was relevant to the purpose of the document,*

unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

SEC. 124. *Statements in a document more than 20 years old whose authenticity is established are not inadmissible under the hearsay rule.*

SEC. 125. *Market quotations, tabulations, lists, directories or other published compilations, generally used and relied upon by the public or by persons in particular occupations, are not inadmissible under the hearsay rule.*

SEC. 126. *To the extent called to the attention of an expert witness upon cross-examination or relied upon by him in direct examination, a statement contained in a published treatise, periodical or pamphlet on a subject of history, medicine or other science or art, is not inadmissible under the hearsay rule if such book is established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.*

SEC. 127. *Reputation among members of a person's family by blood or marriage, or among his associates, or in the community, is not inadmissible under the hearsay rule if it concerns his birth, marriage, divorce, death, legitimacy, relationship by blood or marriage, ancestry or other similar fact of his personal or family history.*

SEC. 128. *Reputation in a community, arising before the controversy, as to:*

1. Boundaries of or customs affecting lands in the community; and

2. Events of general history important to the community or to the state or nation in which the community is located,

are not inadmissible under the hearsay rule.

SEC. 129. *Reputation of a person's character among his associates or in the community is not inadmissible under the hearsay rule.*

SEC. 130. *1. Evidence of a final judgment, entered after trial or upon a plea of guilty, but not upon a plea of nolo contendere, adjudging a person guilty of a crime punishable by death or imprisonment in excess of 1 year, is not inadmissible under the hearsay rule to prove any fact essential to sustain the judgment.*

2. This section does not make admissible, when offered by the state in a criminal prosecution for purposes other than impeachment, a judgment against a person other than the accused.

3. The pendency of an appeal may be shown but does not affect admissibility.

SEC. 131. *A judgment is not inadmissible under the hearsay rule as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the matters would be provable by evidence of reputation.*

SEC. 132. *1. A statement is not excluded by the hearsay rule if:*

(a) Its nature and the special circumstances under which it was made offer strong assurances of accuracy; and

(b) The declarant is unavailable as a witness.

2. The provisions of sections 133 to 136, inclusive, of this act are illustrative and not restrictive of the exception provided by this section.

SEC. 133. *Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of another proceeding, is not inadmissible under the hearsay rule if:*

1. The declarant is unavailable as a witness; and

2. If the proceeding was different, the party against whom the former testimony is offered was a party or is in privity with one of the former parties and the issues are substantially the same.

SEC. 134. *A statement made by a declarant while believing that his death was imminent is not inadmissible under the hearsay rule if the declarant is unavailable as a witness.*

SEC. 135. *1. A statement which at the time of its making:*

(a) Was so far contrary to the declarant's pecuniary or proprietary interest;

(b) So far tended to subject him to civil or criminal liability;

(c) So far tended to render invalid a claim by him against another; or

(d) So far tended to make him an object of hatred, ridicule or social disapproval,

that a reasonable man in his position would not have made the statement unless he believed it to be true is not inadmissible under the hearsay rule if the declarant is unavailable as a witness.

2. This section does not make admissible a statement or confession offered against the accused in a criminal case, made by a codefendant or other person implicating both himself and the accused.

SEC. 136. *1. A statement, concerning the declarant's own birth, marriage, divorce, legitimacy, relationship by blood or marriage, ancestry or other similar fact of personal or family history is not inadmissible under the hearsay rule if the declarant is unavailable as a witness, even though declarant had no means of acquiring personal knowledge of the matter stated.*

2. A statement concerning the matters enumerated in subsection 1, and death also, of another person is not inadmissible under the hearsay rule if the declarant:

(a) Was related to the other by blood or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared; and

(b) Is unavailable as a witness.

SEC. 137. *Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms to an exception to the hearsay rule provided in this chapter.*

SEC. 138. *1. When a hearsay statement has been admitted in evidence, the credibility of the declarant may be attacked or supported by any evidence which would be admissible for those purposes if declarant had testified as a witness.*

2. Evidence of a statement or conduct by the declarant at any time, inconsistent with his hearsay statement, is not subject to any requirement that he have been afforded an opportunity to deny or explain.

SEC. 139. Chapter 52 of NRS is hereby amended by adding thereto the provisions set forth as sections 140 to 170, inclusive, of this act.

SEC. 140. *1. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence or other showing sufficient to support a finding that the matter in question is what its proponent claims.*

2. The provisions of sections 141 to 149, inclusive, of this act are illustrative and not restrictive examples of authentication or identification which conform to the requirements of this section.

3. Every authentication or identification is rebuttable by evidence or other showing sufficient to support a contrary finding.

SEC. 141. *The testimony of a witness is sufficient for authentication or identification if he has personal knowledge that a matter is what it is claimed to be.*

SEC. 142. *Nonexpert opinion as to the genuineness of handwriting is sufficient for authentication or identification if it is based upon familiarity not acquired for purposes of the litigation.*

SEC. 143. *Comparison by the trier of fact or by expert witnesses with specimens which have been authenticated is sufficient for authentication.*

SEC. 144. *Appearance, contents, substance, internal patterns or other distinctive characteristics are sufficient for authentication when taken in conjunction with circumstances.*

SEC. 145. *A voice, whether heard firsthand or through mechanical or electronic transmission or recording, is sufficiently identified by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.*

SEC. 146. *A telephone conversation is sufficiently authenticated by evidence that a call was made to the number supplied by the telephone company for the person in question if:*

1. The call was to a place of business and the conversation related to business reasonably transacted over the telephone; or

2. Circumstances, including self-identification, show the person answering to be the one called.

SEC. 147. *Evidence that:*

1. A writing authorized by law to be recorded or filed and in fact recorded or filed in a public office; or

2. A purported public record, report, statement or data compilation, in any form,

is from the public office where items of this nature are kept is sufficient to authenticate the writing, record, report, statement or compilation.

SEC. 148. *Evidence that a document or data compilation, in any form:*

1. Is in such condition as to create no suspicion concerning its authenticity;

2. Was in a place where it, if authentic, would likely be; and

3. Is at least 20 years old at the time it is offered,

is sufficient to authenticate the document or compilation.

SEC. 149. *Evidence describing a process or system used to produce a result and showing that the result is accurate is sufficient to authenticate the result.*

SEC. 150. *1. A document purporting to be executed or attested in his official capacity by a person authorized by the laws of a foreign country to make the execution or attestation is presumed to be authentic if it is accompanied by a final certification as to the genuineness of the signature and official position:*

(a) Of the executing or attesting person; or

(b) Of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation.

2. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States.

3. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of an official document the court may, for good cause shown, order that it be treated as presumptively authentic without final certification or permit it to be evidenced by an attested summary with or without final certification.

SEC. 151. *A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, is presumed to be authentic if it is certified as correct by the custodian or other person authorized to make the certification.*

SEC. 152. *Books, pamphlets or other publications purporting to be issued by public authority are presumed to be authentic.*

SEC. 153. *Printed materials purporting to be newspapers or periodicals are presumed to be authentic.*

SEC. 154. *Inscriptions, signs, tags or labels purporting to have been affixed in the course of business and indicating ownership, control or origin are presumed to be authentic.*

SEC. 155. *Documents accompanied by a certificate of acknowledgment of a notary public or other officer authorized by law to take acknowledgments are presumed to be authentic.*

SEC. 156. *The testimony of a subscribing witness is not necessary to authenticate a writing unless required by the laws of the jurisdiction whose laws govern the validity of the writing.*

SEC. 157. *As used in sections 157 to 168, inclusive, of this act, unless the context otherwise requires, the words defined in sections 158 to 161, inclusive, of this act have the meanings ascribed to them in sections 158 to 161, inclusive, of this act.*

SEC 158. *"Duplicate" means a counterpart produced:*

1. By the same impression as the original;

2. From the same matrix;

3. By means of photography, including enlargements and miniatures;

4. By mechanical or electronic rerecording;

5. By chemical reproduction; or

6. By other equivalent technique designed to insure an accurate reproduction of the original.

SEC. 159. *1. An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it.*

2. An "original" of a photograph includes the negative or any print therefrom.

3. If data are stored in a computer or similar device, any printout or other output readable by sight, shown accurately to reflect the data, is an "original."

SEC. 160. *"Photographs" include still photographs, X-rays and motion pictures.*

SEC. 161. *"Writings" and "recordings" consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.*

SEC. 162. *To prove the content of a writing, recording or photograph, the original writing, recording or photograph is required, except as otherwise provided in this Title.*

SEC. 163. *1. In addition to the situations governed by subsection 2, a duplicate is admissible to the same extent as an original unless:*

(a) A genuine question is raised as to the authenticity of the original; or

(b) In the circumstances it would be unfair to admit the duplicate in lieu of the original.

2. A duplicate is admissible to the same extent as an original if the person or office having custody of the original was authorized to destroy the original after preparing a duplicate, and in fact did so.

SEC. 164. *The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible, if:*

1. All originals are lost or have been destroyed, unless the loss or destruction resulted from the fraudulent act of the proponent.

2. No original can be obtained by any available judicial process or procedure.

3. At a time when an original was under the control of the party against whom offered, he was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the hearing, and he does not produce the original at the hearing.

4. The writing, recording or photograph is not closely related to a controlling issue.

SEC. 165. *1. The contents of an official record, or of a document authorized to be recorded or filed and actually recorded or filed, including data compilations in any form, if otherwise admissible, may be proved by copy, certified as correct by the custodian or other person authorized to make the certification or testified to be correct by a witness who has compared it with the original.*

2. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, then other evidence of the contents may be given.

SEC. 166. *1. The contents of voluminous writings, recordings or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary or calculation.*

2. The originals shall be made available for examination or copying, or both, by other parties at a reasonable time and place. The judge may order that the originals be produced in court.

SEC. 167. *Contents may be proved by the testimony or deposition of the party against whom offered or by his written admission, without accounting for the nonproduction of the original.*

SEC. 168. *1. Except as otherwise provided in subsection 2, when the admissibility of other evidence of contents under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is for the judge to determine.*

2. When an issue is raised:

(a) Whether the asserted writing ever existed;

(b) Whether another writing, recording or photograph produced at the trial is the original; or

(c) Whether other evidence of contents correctly reflects the contents, the issue is for the trier of fact to determine as in the case of other issues of fact.

SEC. 169. *1. The signature of a party, when required to a written instrument, is equally valid if the party cannot write, if:*

(a) The person makes his mark;

(b) The name of the person making the mark is written near it; and

(c) The mark is witnessed by a person who writes his own name as a witness.

2. In order that a signature by mark may be acknowledged or may serve as the signature to any sworn statement, it must be witnessed by two persons who must subscribe their own names as witnesses thereto.

SEC. 170. *The word "seal," and the initial letters "L. S.," and other words, letters or characters of like import, opposite the name of the signer of any instrument in writing, are unnecessary to give such instrument legal effect, and any omission to use them by the signer of any instrument does not impair the validity of such instrument.*

SEC. 171. Chapter 53 of NRS is hereby amended by adding thereto the provisions set forth as sections 172 to 174, inclusive, of this act.

SEC. 172. *Sections 172 to 174, inclusive, of this act may be cited as the Uniform Foreign Depositions Act.*

SEC. 173. *Whenever any mandate, writ or commission is issued out of any court of record in any other state, territory, district or foreign jurisdiction, or whenever upon notice or agreement it is required to take the testimony of a witness or witnesses in this state, witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in this state.*

SEC. 174. *Sections 172 to 174, inclusive, of this act shall be so interpreted and construed as to effectuate their general purposes to make uniform the law of those states which enact them.*

SEC. 175. NRS 18.010 is hereby amended to read as follows:

18.010 1. The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law. From the commencement of an action, or the service of an answer containing a counterclaim, the attorney who appears for a

party has a lien upon his client's cause of action or counterclaim which attaches to a verdict, report, decision or judgment in his client's favor and the proceeds thereof in whosesoever hands they may come, and cannot be affected by any settlement between the parties before or after judgment. There shall be allowed to the prevailing party in any action, or special proceeding in the nature of an action, in the supreme court and district courts, his costs and necessary disbursements in the action or special proceeding, including:

(a) Clerk's fees.

(b) Costs of depositions obtained by the prevailing party and used by him at the trial.

(c) Jury fees as provided in NRS 6.150.

(d) Witness fees [of witnesses] as provided in [NRS 48.290.] *section 92 of this act.*

2. The court may allow to the prevailing party the fees of expert witnesses in an amount not to exceed $250.

3. The court may make an allowance of attorney's fees to:

(a) The plaintiff as prevailing party when the plaintiff has not recovered more than $10,000; or

(b) The counterclaimant as prevailing party when he has not recovered more than $10,000; or

(c) The defendant as prevailing party when the plaintiff has not sought recovery in excess of $10,000.

SEC. 176. Chapter 111 of NRS is hereby amended by adding thereto the provisions set forth as sections 177 and 178 of this act.

SEC. 177. *Any instrument affecting the title to real property, 3 years after the instrument has been copied into the proper book of record kept in the office of any county recorder, imparts notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission or informality in the execution of the instrument, or in the certificate of acknowledgment thereof, or the absence of any such certificate; but nothing herein affects the rights of purchasers or encumbrancers previous to March 27, 1935. When such copying in the proper book of record occurred within 5 years prior to the trial of an action, the instrument is not admissible in evidence unless it is first shown that the original instrument was genuine.*

SEC. 178. *In the case of real property owned by two or more persons as joint tenants, it is presumed that all title or interest in and to such real property of each of one or more deceased joint tenants has terminated, and vested solely in the surviving joint tenant or vested jointly in the surviving joint tenants, if there has been recorded in the office of the recorder of the county or counties in which such real property is situate an affidavit, subscribed and sworn to by a person who has knowledge of the hereinafter required facts, which sets forth the following:*

1. The family relationship, if any, of affiant to each of such one or more deceased joint tenants;

2. A description of the instrument or conveyance by which the joint tenancy was created;

3. A description of the real property subject to such joint tenancy; and

4. The date and place of death of each of such one or more deceased joint tenants.

SEC. 179. NRS 126.180 is hereby amended to read as follows:

126.180 [1.] The trial shall be by jury, if either party demands a jury, otherwise by the court, and shall be conducted as in other civil cases.

[2. Both the mother and the alleged father shall be competent but not compellable to give evidence, and if either gives evidence he or she shall be subject to cross-examination.]

SEC. 180. NRS 126.200 is hereby amended to read as follows:

126.200 If after the complaint the mother dies or becomes insane or cannot be found within the jurisdiction, the proceeding does not abate, but the child shall be substituted as complainant. [The testimony of the mother taken at the preliminary hearing, and her deposition taken as in other civil cases, may in any such case be read in evidence and in all cases shall be read in evidence, if demanded by the defendant.]

SEC. 181. NRS 175.221 is hereby amended to read as follows:

175.221 1. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by statute.

2. The admissibility of evidence and the competency and privileges of witnesses shall be governed [, except when otherwise provided by statute, by] *by:*

(a) The general provisions of Title 4 of NRS;

(b) The specific provisions of any other applicable statute; and

(c) Where no statute applies, the principles of the common law as they may be interpreted by the courts of the State of Nevada in the light of reason and experience.

SEC. 182. NRS 200.506 is hereby amended to read as follows:

200.506 In any proceeding resulting from a report made or action taken pursuant to the provisions of NRS 200.502, 200.503 and 200.504 or in any proceeding where such report or the contents thereof is sought to be introduced in evidence, such report or contents or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter [is or may be the subject of confidentiality or similar privilege or rule against disclosure, notwithstanding the provisions of NRS 48.080 or any other law or rule of evidence concerning confidential communications.] *would otherwise be privileged against disclosure under chapter 49 of NRS.*

SEC. 183. NRS 233B.040 is hereby amended to read as follows:

233B.040 Unless otherwise provided by law, each agency may adopt reasonable regulations to aid it in carrying out the functions assigned to it by law and shall adopt such regulations as are necessary to the proper execution of those functions. If adopted and filed in accordance with the provisions of this chapter, such regulations shall have the force of law and be enforced by all peace officers. In every instance, the power to adopt regulations to carry out a particular function is limited by the terms of the grant of authority under which the function was assigned. [The courts shall take judicial notice of every regulation duly adopted and filed under the provisions of NRS 233B.060 and 233B.070 from the effective date of such regulation.]

SEC. 184. NRS 244.118 is hereby amended to read as follows:

244.118 Two copies of the county code shall be filed with the librarian of the Nevada state library after such code becomes effective. [, and thereafter in all civil actions and in all prosecutions for the violation of any of the provisions of such county code, whether in a court of original jurisdiction or in any appellate court, it shall not be necessary to plead or prove the contents of the code, but the court shall take judicial notice of the contents of such code.]

SEC. 185. NRS 247.120 is hereby amended to read as follows:

247.120 1. Each county recorder must, upon the payment of the statutory fees for the same, record separately, in a fair hand, or typewriting, or by filing or inserting a microfilm picture or photostatic copy thereof, the following specified instruments in large, well-bound separate books, either sewed or of insertable leaves which when placed in the book cannot be removed:

(a) Deeds, grants, *patents issued by the State of Nevada or by the United States,* transfers and mortgages of real estate, releases of mortgages of real estate, powers of attorney to convey real estate, and leases of real estate which have been acknowledged or proved.

(b) Certificates of marriage and marriage contracts.

(c) Wills admitted to probate.

(d) Official bonds.

(e) Notice of mechanics' liens.

(f) Transcripts of judgments, which by law are made liens upon real estate in this state.

(g) Notices of attachment upon real estate.

(h) Notices of the pendency of an action affecting real estate, the title thereto, or the possession thereof.

(i) Instruments describing or relating to the separate property of married women.

(j) Notice of preemption claims.

(k) Births and deaths

(l) Notices and certificates of location of mining claims.

(m) Affidavits or proof of annual labor on mining claims.

(n) Certificates of sale.

(o) Judgments or decrees.

(p) Declarations of homesteads.

(q) Such other writings as are required or permitted by law to be recorded.

2. Each of the instruments named in paragraph (a) of subsection 1 may be recorded in separate books in the discretion of the county recorder.

3. Before accepting for recording any instrument enumerated in subsection 1, the county recorder may require a copy suitable for recording by photographic or photostatic methods. Where any rights might be adversely affected because of delay in recording caused by such a requirement, the county recorder shall accept the instrument conditionally subject to submission of a suitable copy at a later date. The provisions of this subsection do not apply where it is impossible or impracticable to submit a more suitable copy.

SEC. 186. NRS 266.115 is hereby amended to read as follows:

266.115 1. The style of ordinances shall be as follows: "The City Council of the City of .... do ordain." All proposed ordinances, when first proposed, shall be read by title to the city council and may be referred to a committee of any number of the members of the council for consideration, after which at least one copy of the ordinance shall be filed with the city clerk for public examination. Notice of such filing shall be published once in a newspaper published in the city, if any there be, otherwise in some newspaper published in the county and having a general circulation in the city, at least 1 week prior to the adoption of the ordinance. The city council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days from the date of such publication, except that in cases of emergency, by unanimous consent of the whole council, final action may be taken immediately or at a special meeting called for that purpose.

2. At the next regular or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, the committee shall report the ordinance back to the council, and thereafter it shall be read in full as first introduced, or if amended, as amended, and thereupon the proposed ordinance shall be finally voted upon or action thereon postponed.

3. After final adoption the ordinance shall be signed by the mayor, and, together with the votes cast thereon, shall be published once in a newspaper published in the city, if any there be, otherwise in some newspaper published in the county and having a general circulation in the city. Twenty days after such publication the same shall go into effect, except emergency ordinances which may be effective immediately.

[4. In all prosecutions for the violation of any of the provisions of any city ordinance, rule, resolution, or other regulation of the city council, whether in a court of original jurisdiction or in any appellate court, it shall not be necessary to plead the contents of the same, but the court before which the proceedings may be pending shall take judicial notice of such ordinance, rule, resolution, or other regulation, and of the contents thereof. In all civil actions it shall not be necessary to plead the contents of any ordinance, rule, resolution, or other regulation of the city council, but the same may be pleaded by title, and may be proved prima facie by the introduction of the original entry thereof on the records of the city council, or a copy thereof certified by the city clerk to be a full, true and correct copy of the original entry, or by the introduction of a printed copy published or purported to have been published by authority of the city council.]

SEC. 187. NRS 266.160 is hereby amended to read as follows:

266.160 1. The city council shall have the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the council, have incorporated therein a copy of this chapter and such additional data as the council may prescribe. When such a publication is published, two copies shall be filed with the librarian of the Nevada state library. [, and thereafter the same shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of ....."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 188. NRS 269.168 is hereby amended to read as follows:

269.168 Two copies of the town code shall be filed with the librarian of the Nevada state library after such code becomes effective. [, and thereafter in all civil actions and in all prosecutions for the violation of any of the provisions of such town code, whether in a court of original jurisdiction or in any appellate court, it shall not be necessary to plead or prove the contents of the code, but the court shall take judicial notice of the contents of such code.]

SEC. 189. NRS 321.060 is hereby amended to read as follows:

321.060 1. The state land register is authorized to provide and use a seal for the state land office.

2. The impression of the seal of the state land office upon the original or copy of any paper, plat, map or document emanating from the state land office shall impart verity to the [same, and such paper, plat, map or document bearing the impression of such seal shall be admitted as evidence in any court in this state.] *document so impressed.*

SEC. 190. NRS 340.150 is hereby amended to read as follows:

340.150 Upon the rendition of the final judgment vesting title in the petitioner, the clerk of the court shall make and certify, under the seal of the court, a copy or copies of such judgment, which shall be filed or recorded in the proper county office or offices for the recording of documents pertaining to the real property described therein, and such filing or recording shall constitute notice to all persons of the contents thereof. [A copy of the judgment certified by the clerk of the court as aforesaid shall be competent and admissible evidence in any proceedings at law or in equity.]

SEC. 191. NRS 412.052 is hereby amended to read as follows:

412.052 The adjutant general shall:

1. Supervise the preparation and submission of all such returns and reports pertaining to the militia of the state as may be required by the United States.

2. Be the channel of official military correspondence with the governor, and shall, on or before November 1 of each even-numbered year, make a report to the governor of the transactions, expenditures and condition of the Nevada National Guard. The report shall include the report of the United States Property and Fiscal Officer.

3. Be the custodian of records of officers and enlisted men and all other records and papers required by law or regulations to be filed in his office. He may deposit with the division of archives in the office of the

secretary of state for safekeeping in the secretary of state's official custody records of his office that are used for historical purposes rather than the administrative purposes assigned to his office by law.

4. Attest all military commissions issued and keep a roll of all commissioned officers, with dates of commission and all changes occurring in the commissioned forces.

5. Record, authenticate and communicate to troops and individuals of the militia all orders, instructions and regulations.

6. Cause to be procured, printed and circulated to those concerned all books, blank forms, laws, regulations or other publications governing the militia needful to the proper administration, operation and training thereof or to carry into effect the provisions of this chapter.

7. Have an appropriate seal of office and affix its impression to all certificates of record issued from his office. [, which shall be received in evidence in all cases.]

8. Render such professional aid and assistance and perform such military duties, not otherwise assigned, as may be ordered by the governor.

9. In time of peace, perform the duties of quartermaster general and chief of ordnance.

SEC. 192. NRS 412.154 is hereby amended to read as follows:

412.154 1. Members of the Nevada National Guard ordered into active service of the state pursuant to this chapter are not liable civilly or criminally for any act or acts done by them in the performance of their duty. When an action or proceeding of any nature is commenced in any court by any person against any officer of the militia for any act done by him in his official capacity in the discharge of any duty under this chapter, or an alleged omission by him to do an act which it was his duty to perform, or against any person acting under the authority or order of such officer, or by virtue of any warrant issued by him pursuant to law, the defendant:

(a) May have counsel of his own selection; or

(b) Shall be defended by the attorney general in civil actions and by the state judge advocate in criminal actions; and

(c) May require the person instituting or prosecuting the action or proceeding to file security for the payment of costs that may be awarded to the defendant therein [; and

(d) In all cases may make a general denial and give the special matter in evidence.]

2. A defendant in whose favor a final judgment is rendered in an action or a final order is made in a special proceeding shall recover his costs.

3. No member of the Nevada National Guard shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

SEC. 193. Chapter 426 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The failure of a totally or partially blind person to carry a white or metallic colored cane or to use a guide dog does not constitute contributory negligence per se, but may be admissible as evidence of contributory

negligence in a personal injury action by such a blind person against a common carrier or any other means of public conveyance or transportation or a place of public accommodation as defined by NRS 651.050 when the injury arises from such blind person's making use of the facilities or services offered by such carrier or place of public accommodation.

SEC. 194. NRS 439.200 is hereby amended to read as follows:

439.200 1. The state board of health shall have the power by affirmative vote of a majority of its members to adopt, promulgate, amend and enforce reasonable rules and regulations consistent with law:

(a) To define and control dangerous communicable diseases.

(b) To prevent and control nuisances.

(c) To regulate sanitation and sanitary practices in the interests of the public health.

(d) To provide for the sanitary protection of water and food supplies and the control of sewage disposal.

(e) To govern and define the powers and duties of local boards of health and health officers.

(f) To protect and promote the public health generally.

(g) To carry out all other purposes of this chapter.

2. Such rules and regulations shall have the force and effect of law and shall supersede all local ordinances and regulations heretofore or hereafter enacted inconsistent therewith.

3. A copy of every rule and regulation adopted by the state board of health and every rule and regulation approved by such board pursuant to NRS 439.350 and 439.460, showing the date that any such rules and regulations take effect, shall be filed with the secretary of state, and copies of such rules and regulations shall be published immediately after adoption and issued in pamphlet form for distribution to local health officers and the citizens of the state.

[4. A certified copy of any rules or regulations specified in subsection 3 shall be received by all courts and administrative hearing bodies in this state as prima facie evidence of such rules and regulations.]

SEC. 195. NRS 440.165 is hereby amended to read as follows:

440.165 To preserve original documents, the state registrar is authorized to prepare typewritten, photographic or other reproductions of original records and files in his office. [Such reproductions when certified by him shall be accepted as the original record.]

SEC. 196. Chapter 452 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The uninterrupted use by the public of land for a burial ground for 5 years, with the consent of the owner and without a reservation of his rights, is presumptive evidence of his intention to dedicate it to the public for that purpose.

SEC. 197. NRS 453.180 is hereby amended to read as follows:

453.180 1. No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug:

(a) By fraud, deceit, misrepresentation, or subterfuge; or

(b) By the forgery or alteration of a prescription or of any written order; or

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

2. [Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

3.] No person shall willfully make a false statement in any prescription, order, report, or record, required by NRS 453.010 to 453.240, inclusive.

[4.] *3.* No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

[5.] *4.* No person shall make or utter any false or forged prescription or false or forged written order.

[6.] *5.* No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

[7.] *6.* The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of NRS 453.090, in the same way as they apply to transactions under all other sections.

SEC. 198. NRS 454.532 is hereby amended to read as follows:

454.532 1. It is unlawful for any person to obtain or attempt to obtain a dangerous or hallucinogenic drug, or procure or attempt to procure the administration of a dangerous or hallucinogenic drug:

(a) By fraud, deceit, misrepresentation or subterfuge;

(b) By the forgery or alteration of a prescription or of any written order;

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

2. [Information communicated to a physician in an effort unlawfully to procure a dangerous or hallucinogenic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

3.] It is unlawful for any person to make a false statement in any prescription, order, report or record required by NRS 454.180 to 454.460, inclusive.

[4.] *3.* It is unlawful, for the purpose of obtaining a dangerous or hallucinogenic drug, for any person falsely to assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian or other authorized person.

[5.] *4.* It is unlawful to affix any false or forged label to a package or receptacle containing dangerous or hallucinogenic drugs.

SEC. 199. NRS 485.300 is hereby amended to read as follows:

485.300 [Neither the] *The* report required by NRS 485.150 to 485.180, inclusive, the action taken by the division pursuant to NRS 485.150 to 485.300, inclusive, the findings, if any, of the division upon which such action is based, [nor] *and* the security filed as provided in NRS 485.150 to 485.300, inclusive, [shall be referred to in any way,

nor be any evidence of the negligence or due care of either party,] *are privileged against disclosure* at the trial of any action at law to recover damages.

SEC. 200. NRS 517.320 is hereby amended to read as follows:

517.320 1. In every mining district in this state in which the seat of government of any county is situated, the county recorder of that county shall be ex officio mining district recorder, subject, in the discharge of his duties, to such rules, regulations and compensation as may be prescribed by the mining laws of the mining districts to which this section is applicable. He shall, as such ex officio mining district recorder, be responsible on his official bond for the faithful performance of the duties of his office and the correct and safekeeping of all the records thereof, and the correct and safekeeping of the copies of all the records mentioned and referred to in subsection 2.

2. Each mining district recorder of the several mining districts in the state shall, on or before the 1st Monday in January, April, July and October in each year, transcribe into a suitable book or books, to be provided for that purpose, and shall deposit and file with the county recorders of the respective counties in which such mining districts are located a full, true and correct copy of the mining records of the respective mining districts for the 3 months next preceding the 1st Monday in January, April, July and October, duly certified under oath. This section shall not apply to the mining district recorder created by subsection 1.

3. There shall be provided by the boards of county commissioners of the several counties and furnished to each mining district recorder, on his application, suitable books, into which the mining records mentioned in subsection 2 shall be transcribed.

4. The several mining district recorders shall receive, for services required by subsection 2, $1 for the transcript of each claim, including the oath, which shall be paid at the time of recording by the persons making the locations.

5. [The certified copies of the mining records certified to be deposited and filed as provided in this section shall be received in evidence and shall have the same force and effect in all courts as the originals.

6.] Any person neglecting or refusing to comply with the provisions of subsection 2 shall be guilty of a misdemeanor.

SEC. 201. NRS 517.330 is hereby amended to read as follows:

517.330 1. Each mining district recorder of the several mining districts shall require all persons locating and recording a mining claim to make a duplicate copy of each mining notice, which copy the mining district recorder shall carefully compare with the original and mark "duplicate" on its face or margin. He shall immediately deposit with or transmit the same to the county recorders of the respective counties in which the mining district may be located.

2. At the time of comparing the duplicate notices with the original, the mining district recorders shall collect from the locators of the mining claims the sum of $1 for each notice compared, which sum he shall transmit, together with the duplicate notices, to the county recorders of the respective counties in which the mining claims shall be located.

3. Whenever, owing to the distance of the mining district from the county seat, it becomes inconvenient for the mining district recorder personally to deposit the duplicate copy with the county recorder, he may forward the same by mail or express or such other manner as will insure safe transit and delivery to the county recorder.

4. The county recorders of the several counties shall receive for their services in recording each of the duplicate notices mentioned in subsection 2 the sum of $1. If the location is made outside of an organized mining district, or in the absence of a mining district recorder in any organized mining district, the person or persons making such location shall, within 90 days after making the location, transmit a duplicate copy of such notice to the county recorder of the county in which the location is made and the county recorder shall record the same for a fee of $1.

5. [The record of any original or duplicate notice of the location of a mining claim in the office of the county recorder as provided in this section shall be received in evidence and have the same force and effect in the courts of this state as the original mining district records.

6.] Any person neglecting or refusing to comply with the provisions of this section shall be guilty of a misdemeanor.

SEC. 202. NRS 517.350 is hereby amended to read as follows:

517.350 [1.] All instruments of writing relating to mining claims copied into books of mining records or other records in the office of the county recorders of the several counties prior to February 20, 1873, shall, after February 20, 1873, be deemed to impart to subsequent purchasers and encumbrancers and all other persons whomsoever notice of the contents thereof. Nothing contained in this subsection shall be construed to affect any rights acquired or vested prior to February 20, 1873.

[2. Copies of the records of all such instruments mentioned in subsection 1, duly certified by the county recorder in whose custody such records are, may be read in evidence under the same circumstances and rules as are provided by law for using copies of instruments relating to mining claims or real property, duly executed or acknowledged, or proved and recorded.]

SEC. 203. NRS 616.170 is hereby amended to read as follows:

616.170 1. The commission shall have a seal upon which shall be inscribed the words "Nevada Industrial Commission—State of Nevada."

2. The seal shall be fixed to all orders, proceedings, and copies thereof, and to such other instruments as the commission may direct.

[3. All courts shall take judicial notice of the seal, and any copy of any record or proceeding of the commission certified under the seal shall be received in all courts as evidence of the original thereof.]

SEC. 204. NRS 618.160 is hereby amended to read as follows:

618.160 [1.] The department of industrial safety shall have a seal upon which will be the words "Department of Industrial Safety," by which seal it shall authenticate its proceedings and orders.

[2. All papers made under such seal shall be admitted in evidence without further authentication or proof.]

SEC. 205. NRS 642.060 is hereby amended to read as follows:

642.060 1. The members of the board shall have power to adopt

such regulations for the transaction of business of the board and management of its affairs as they may deem expedient.

2. The board is authorized to adopt and use a common seal. [Any description of any matter of evidence in the office of the board with the certificate of the secretary thereon attached, under the seal of the board, shall be competent evidence of such matter of record in any court in this state.]

SEC. 206. NRS 673.039 is hereby amended to read as follows:

673.039 1. The savings and loan division may adopt and amend, from time to time, regulations for the orderly conduct of its affairs.

2. The savings and loan division shall:

(a) Have a seal. [which shall be judicially noticed.]

(b) Keep, in the office of the commissioner, records of its proceedings. [In any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of such records certified as correct under the seal of the division shall be admissible in evidence as tending to prove the contents of such records.]

SEC. 207. NRS 680.150 is hereby amended to read as follows:

680.150 1. The commissioner shall have the rights, powers and duties appertaining to the enforcement and execution of all the insurance laws of this state.

2. In addition to the other duties imposed upon him by law, the powers and duties of the commissioner shall be:

(a) To make reasonable rules and regulations as may be necessary for making effective such insurance laws; but nothing in this Title shall be deemed to empower the commissioner, by any rule or regulation, or by an administrative act, to differentiate between persons entitled to act as insurance agents in the State of Nevada on the basis that such persons are engaged in other businesses to which their insurance agency is incidental or supplemental.

(b) To conduct such investigations as may be necessary to determine whether any person or company has violated any provision of the insurance laws.

(c) To conduct such examinations, investigations and hearings, in addition to those specifically provided for by law, as may be necessary and proper for the efficient administration of the insurance laws of this state.

(d) To classify as confidential certain records and information obtained by the insurance division [when the same] *which* are confidential communications as defined in chapter [48] *49* of NRS, or obtained from a governmental agency upon the express condition that [the same] *they* shall remain confidential.

SEC. 208. NRS 688.405 is hereby amended to read as follows:

688.405 1. Every society authorized to do business in this state shall appoint in writing the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on such attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. [Copies of such appointment, certified by the commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.]

2. Service shall be made only upon the commissioner, or if absent, upon the person in charge of his office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, he shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer.

3. No such service shall require a society to file its answer, pleading or defense in less than 30 days from the date of mailing the copy of the service to a society.

4. Legal process shall not be served upon a society except in the manner herein provided.

5. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner a fee of $2.

SEC. 209. NRS 15.020, 41.490, 47.010, 48.010 to 48.320, inclusive, 49.010 to 49.100, inclusive, 50.010 to 50.040, inclusive, 51.010 to 51.070, inclusive, 52.010 to 52.080, inclusive, 111.335, 174.355, 175.231, 175.281, 239.060, 239.115, 240.090, 266.065, 266.485, 433.731, 441.270, 441.310, 454.445 and 639.237 are hereby repealed.

SEC. 210. Section 27.5 of the charter of the City of Caliente, being chapter 289, Statutes of Nevada 1957, at page 422, is hereby amended to read as follows:

Section 27.5 Ordinances, How Enacted. The style of ordinances shall be as follows: "The city council of the City of Caliente do ordain," and all proposed ordinances when first proposed, shall be read by title to the city council and may be referred to a committee of any number of the members of the council for consideration, after which at least one copy of the ordinance shall be filed with the city clerk for public examination, and notice of such filing shall be published once in a newspaper published in the city, if any there be, otherwise in some newspaper published in the county and having a general circulation in such city, at least 1 week prior to the adoption of the ordinance, and the council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days from the date of such publication, except that in cases of emergency, by unanimous consent of the whole council, such final action may be taken immediately or at a special meeting called for that purpose. At the next regular or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, such committee shall report such ordinance back to the council, and thereafter it shall be read in full as first introduced, or if amended, as amended, and thereupon the proposed ordinance shall be finally voted or action thereon postponed. After final adoption the ordinance shall be signed by the mayor, and, together with the votes cast thereon, be published once in a newspaper published in the city, if any there be, otherwise in some newspaper published in the county and having a general circulation in such city, 20 days after such publication the same shall go into effect except emergency

ordinances which may be effective immediately. [In all prosecutions for the violation of any of the provisions of any city ordinance, rule, resolution, or other regulation of the city council, whether in the court of original jurisdiction or in any appellate court, it shall not be necessary to plead the contents of the same, but the court before which the proceedings may be pending shall take judicial notice of such ordinance, rule, resolution or other regulation, and of the contents thereof, and in all civil actions it shall not be necessary to plead the contents of any ordinance, rule, resolution, or other regulation of the city council, but the same may be pleaded by title, and may be proved prima facie by the introduction of the original entry thereon on the records of the city council, or a copy thereof certified by the city clerk to be a full, true, and correct copy of such original entry, or by the introduction of a printed copy published or purported to have been published by authority of the city council.]

SEC. 211. Section 29 of the charter of the City of Caliente, being chapter 289, Statutes of Nevada 1957, at page 423, is hereby amended to read as follows:

Section 29. Ordinances, Municipal Code. The city council shall have the power to codify and publish a code of its municipal ordinances in the form of a municipal code which code may, at the election of the council, have incorporated therein a copy of this act and such additional data as the council may prescribe. When such a publication is published, two copies shall be filed with the librarian of the law library of the State of Nevada. [, and thereafter the same shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.] The ordinances in such code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signatures of mayor, attestations and other formal parts. Such codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances and the only title necessary for such ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Caliente." Such codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 212. Section 2.110 of the charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 296, is hereby amended to read as follows:

Section 2.110 Ordinances: Enactment procedure; emergency ordinances.

1. All proposed ordinances when first proposed shall be read to the board by title and referred to a committee for consideration, after which an adequate number of copies of the proposed ordinance shall be filed with the clerk for public distribution. Except as otherwise provided in subsection 3, notice of such filing shall be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in Carson City at least 1 week prior to the adoption of the ordinance. The board shall adopt or reject the ordinance or an amendment thereto, within 30 days from the date of such publication.

2. At the next regular meeting or adjourned meeting of the board following the proposal of an ordinance and its reference to committee, such committee shall report such ordinance back to the board. Thereafter, it shall be read as first introduced, or as amended, and thereupon the proposed ordinance shall be finally voted upon or action thereon postponed.

3. In cases of emergency or where the ordinance is of a kind specified in section 7.030, by unanimous consent of the board, final action may be taken immediately or at a special meeting called for that purpose, and no notice of the filing of copies of the proposed ordinance with the clerk need be published.

4. All ordinances shall be signed by the mayor, attested by the clerk, and shall be published by title, together with the names of the supervisors voting for or against passage, in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in Carson City for at least one publication, before the ordinance shall become effective. The board may, by majority vote, order the publication of the ordinance in full in lieu of publication by title only.

5. The clerk shall record all ordinances in a book kept for that purpose together with the affidavits of publication by the publisher. [; and the book or a certified copy of the ordinances therein recorded, under the seal of the city, shall be received as prima facie evidence in all courts and places without further proof or, if published in book or pamphlet form by authority of the board, they shall be so received.]

SEC. 213 Section 2.120 of the charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 297, is hereby amended to read as follows:

Section 2.120 Codification of ordinances; publication of code.

1. The board may codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the board, have incorporated therein a copy of this charter and such additional data as the board may prescribe. When such a code is published, two copies shall be filed with the librarian of the Nevada state library. [, and thereafter the code shall be received in all courts of this state as an authorized compilation of the municipal ordinances of Carson City.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance, which shall not contain any substantive changes, modifications or alterations of existing ordinances; and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of Carson City."

4. The codification may be amended or extended by ordinance.

SEC. 214. Section 29 of chapter II of the charter of the City of Elko, being chapter 417, Statutes of Nevada 1965, as amended by chapter 186, Statutes of Nevada 1967, at page 384, is hereby amended to read as follows:

Section 29. Ordinances when first proposed shall be read aloud in full to the board of supervisors, and final action thereon shall be deferred until the next regular meeting of the board, of which action notice shall be given by publication in a newspaper at least once and at least one week prior to the meeting at which such final action is to be taken, which notice shall state briefly, by reference to the title of the proposed ordinance or by reference to the purpose or content thereof, the nature of such proposed ordinance; provided, however, that in cases of emergency, by unanimous consent of the whole board, such special action may be taken immediately or at a special meeting called for that purpose. No ordinance shall be passed as an emergency measure unless reasons for passing it as such are expressed in its preamble.

No ordinance passed by the board, unless it be an emergency measure, shall go into effect until thirty days, after its passage.

All ordinances shall be signed by the mayor and attested by the city clerk and be published once in full, together with the names of the supervisors voting for or against their passage, in a newspaper published in such city, if any there be; otherwise some newspaper published in the county and having a general circulation in such city, for the period of at least one week before the same shall go into effect. The city clerk shall record all ordinances in a book kept for that purpose, together with the affidavits of publication by the publisher. [, and said book or certified copy of the ordinances therein recorded, in the name of the city, shall be received as prima facie evidence in all courts and places without further proof, or if published in book or pamphlet forms by the authority of the said board of supervisors, they shall be so received.] All ordinances heretofore adopted or amended, unless previously repealed, are hereby declared valid and in full force and effect.

SEC. 215. Section 29.5 of chapter II of the charter of the City of Elko, being chapter 417, Statutes of Nevada 1965, at page 1110, is hereby amended to read as follows:

Section 29.5. 1. The board of supervisors shall have the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the board of supervisors, have incorporated therein a copy of this charter and such additional data as the board of supervisors may prescribe. When such a publication is published, two copies shall be filed with the librarian of the Nevada state library. [, and thereafter the same shall be received in all courts of the state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances, and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Elko."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 216. Section 33 of the charter of the City of Gabbs, being chapter 381, Statutes of Nevada 1955, as amended by chapter 186, Statutes of Nevada 1967, at page 385, is hereby amended to read as follows:

Section 33. Ordinances—Procedure—Emergency Measures—Notices. Ordinances when first proposed shall be read aloud in full to the board of councilmen and final action thereon shall be deferred until the next regular meeting of the board, of which action notice shall be given by publication in a newspaper published in the county and having a general circulation in the city, at least once and at least 1 week prior to the meeting at which such final action is to be taken, which notice shall state briefly, by reference to the title of the proposed ordinance or by reference to the purpose or content thereof, the nature of such proposed ordinance; provided, however, that in cases of emergency, by unanimous consent of the whole board, such special action may be taken immediately or at a special meeting called for that purpose. No ordinance shall be passed as an emergency measure unless reasons for passing it as such are expressed in its preamble.

No ordinance passed by the board, unless it be an emergency measure, shall go into effect until 30 days after its passage.

All ordinances shall be signed by the mayor and attested by the city clerk and be published in full, together with the names of the councilmen voting for or against their passage, in a newspaper published in the county and having a general circulation in such city, at least once before the same shall go into effect; provided, that whenever a revision is made and the revised ordinances are published in book or pamphlet forms by the authority of the board, no further publication shall be deemed necessary. The city clerk shall record all ordinances in a book kept for that purpose, together with the affidavits of publication by the publisher, [, and the book or certified copy thereof of the ordinances therein contained, in the name of the city, shall be received as prima facie evidence in all courts and places without further proof, or if published in book or pamphlet forms by the authority of the board of councilmen, they shall be so received.]

SEC. 217. Section 23 of Article VI of the charter of the City of Henderson, being chapter 240, Statutes of Nevada 1965, at page 446, is hereby amended to read as follows:

Section 23. Ordinances: Enactment procedure; emergency ordinances.

1. All proposed ordinances when first proposed shall be read to the council by title and referred to a committee for consideration, after which an adequate number of copies of the proposed ordinance shall be filed with the city clerk for public distribution. Except as otherwise provided in subsection 3, notice of such filing shall be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the city, if any there be, otherwise in some qualified newspaper published in Clark County and having a general circulation in the city, at least 1 week prior to the adoption of the ordinance. The council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days from the date of such publication.

2. At the next regular meeting or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, such committee shall report such ordinance back to the council. Thereafter, except as provided in section 24, it shall be read in full as first introduced, or if amended, as amended, and thereupon the proposed ordinance shall be finally voted upon or action thereon postponed

3. In cases of emergency, by unanimous consent of the whole council, final action may be taken immediately or at a special meeting called for that purpose, and no notice of the filing of copies of the proposed ordinance with the city clerk need be published.

4. All ordinances shall be signed by the mayor, attested by the city clerk, and shall be published in full, together with the names of the mayor and councilmen voting for or against passage, in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the city, if any there be, otherwise in some qualified newspaper published in Clark County and having a general circulation in the city, for at least one publication before the same shall become effective.

5. The city clerk shall record all ordinances in a book kept for that purpose together with the affidavits of publication by the publisher. [and the book or a certified copy of the ordinances therein recorded, under the seal of the city, shall be received as prima facie evidence in all courts and places without further proof, or if published in book or pamphlet form, by authority of the council, they shall be so received.]

SEC. 218. Section 25 of Article VI of the charter of the City of Henderson, being chapter 240, Statutes of Nevada 1965, at page 447, is hereby amended to read as follows:

Section 25. Codification of ordinances; publication of code.

1. The city council has the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the council, have incorporated therein a copy of this charter and such additional data as the council may prescribe. When such a publication is published, two copies shall be filed with the librarian of the Nevada state library. [, and thereafter the same shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the city of Henderson."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 219. Section 30 of chapter II of the charter of the City of Las Vegas, being chapter 132, Statutes of Nevada 1911, as last amended by chapter 272, Statutes of Nevada 1959, at page 343, is hereby amended to read as follows:

Section 30. Ordinances—Procedure for Adoption. All proposed ordinances shall first be read by title to the board of commissioners, at a regular meeting, or special meeting called for that purpose, and then referred to a committee for consideration. The committee shall report said ordinances back to the board of commissioners at the next regular meeting, or at a special meeting called for that purpose, when said ordinances shall be read by title as first introduced, or if amended by the committee, as so amended, and shall be adopted or disapproved as so finally read. All ordinances, when adopted, shall be signed by the mayor and attested by the city clerk and be published in full, together with the names of the commissioners voting for or against such adoption, once a week for two successive weeks immediately following such adoption, in a newspaper published in said city, and shall become effective immediately following the second publication thereof; provided, that in cases of emergency, all proposed ordinances shall be read by title when first introduced at a regular meeting, or special meeting called for that purpose and shall be adopted or disapproved as so read, or if amended, adopted as amended, and such ordinances shall be designated as "emergency ordinances." All emergency ordinances shall be signed by the mayor and attested by the city clerk, and be published in full, together with the names of the commissioners voting for or against their adoption, once a week for two successive weeks immediately following said adoption, in a newspaper published in said city, and shall become effective immediately following the second publication thereof.

The board may at any time make an order for the revision or codification of the ordinances of said city. Such revision or codification may, upon its adoption, include amendments, changes, and additions to existing ordinances, and new matters unrelated thereto. The proposed revision or codification of ordinances shall be filed with the city clerk for use and examination of the public for at least one week prior to the adoption of the ordinance adopting such revision or codification, and shall thereafter be adopted by the board after the same has been read by title at a regular meeting or at a special meeting called for that purpose, and shall be signed by the mayor and attested by the city clerk. When such a revision or codification of ordinances shall be so adopted, signed, and attested, and at least fifty copies thereof shall have been printed or typewritten in book, pamphlet or looseleaf form and not less than three copies thereof are filed in the office of the clerk of said city, and a notice referring to such revision or codification, adoption, and filing shall have been published once a week for two successive weeks in a newspaper published in said city, the ordinances as contained in such a revision, or codification shall become effective immediately after the second publication of such notice. It shall not be necessary to publish such revision or codification, or the ordinance adopting the same, as required in the first paragraph of this section with respect to ordinances generally.

The city clerk shall record all ordinances except the revision or code of ordinances, in a book kept for that purpose, together with the affidavits of publication by the publisher. [, and said book or certified copy of the ordinance therein recorded in the name of the city, and the book or

pamphlet containing the revision or codification of ordinances or certified copy of all or any part thereof in the name of the city, shall be prima facie evidence in all courts and places without further proof.]

An ordinance may adopt any specialized or uniform building or plumbing or electrical code, or codes, printed in book or pamphlet form, or any other specialized or uniform code or codes of any nature whatsoever so printed, or any portion thereof, with such changes as may be necessary to make the same applicable to conditions in the city of Las Vegas, and with such other changes as may be desirable, by reference thereto. Such ordinance or the code adopted thereby need not be read or published as required in the first paragraph of this same section, if three (3) copies of such code, either typewritten or printed with such changes, if any, shall have been filed for use and examination by the public in the office of the city clerk at least one week prior to the adoption of the ordinance adopting said code. Notice of such filing shall be given daily in a newspaper in the city of Las Vegas at least one week prior to the adoption of the ordinance adopting said code.

SEC. 220. Section 32 of chapter II of the charter of the city of North Las Vegas, being chapter 283, Statutes of Nevada 1953, as last amended by chapter 186, Statutes of Nevada 1967, at page 399, is hereby amended to read as follows:

Section 32. Enactment of Ordinances.

1. An ordinance may be introduced by any member of the city council at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk shall distribute a copy to each councilman, the mayor and the city manager, and shall file a reasonable number of copies in the office of the city clerk and in such other public places as the council may order. Final action thereon shall be deferred until the next regular meeting of the board, of which action notice shall be given by publication in a newspaper at least once and at least one week prior to the meeting at which such final action is to be taken, which notice shall state briefly, by reference to the title of the proposed ordinance or by reference to the purpose of content thereof, the nature of such proposed ordinance; provided, however, that in cases of emergency, by unanimous consent of the whole council, such special action may be taken immediately or at a special meeting called for that purpose. No ordinance shall be passed as an emergency measure unless reasons for passing it as such are expressed in its preamble.

2. No ordinance passed by the board, unless it be an emergency measure, shall go into effect until fifteen days after its passage.

3. All ordinances shall be signed by the mayor and attested by the city clerk and shall be published in full together with the names of the councilmen voting for or against their passage, in a newspaper published in such city if there be one; otherwise, some newspaper published in the county and having a general circulation in such city, for a period of at least two weeks, and at least once a week during such time, before the same shall go into effect; provided, that whenever a revision is made and the revised ordinances are published in a book or pamphlet forms by the authority of the board, no further publication shall be deemed necessary. The city clerk shall record all ordinances in a book kept for that purpose,

together with the affidavits of publication by the publishers. [, and the book or certified copy of the ordinances therein recorded, in the name of the city, shall be received as prima-facie evidence in all courts and places without further proof, or if published in book or pamphlet forms by the authority of the city council, they shall be so received.] All ordinances heretofore adopted or amended unless previously repealed, are hereby declared valid and in full force and effect.

SEC. 221. Section 32.5 of chapter II of the charter of the city of North Las Vegas, being chapter 283, Statutes of Nevada 1953, as added by chapter 320, Statutes of Nevada 1963, and amended by chapter 440, Statutes of Nevada 1965, at page 1215, is hereby amended to read as follows:

Section 32.5. Codification of Ordinances; Publication of Municipal Code.

1. The city council shall have the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the city council, have incorporated therein a copy of this charter and such additional data as the city council may prescribe. When such a publication is published, two copies shall be filed with the librarian of the Nevada state library and two copies shall be filed with the Clark County law library. [, and thereafter the same shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of North Las Vegas."

4. The codification may, by ordinance regularly passed, adopted and published be amended or extended.

SEC. 222. Section 7 of Article XII of the charter of the City of Reno, being chapter 102, Statutes of Nevada 1903, as added by chapter 71, Statutes of Nevada 1905, and last amended by chapter 148, Statutes of Nevada 1949, at page 309, is hereby amended to read as follows:

Section 7. The style of ordinances shall be as follows: "The city council of the city of Reno do ordain," and all proposed ordinances, when first proposed, shall be read by title to the city council and referred to a committee for consideration, after which an adequate number of copies of the ordinance shall be filed with the city clerk for public distribution, and notice of such filing shall be published once in a newspaper published in the city of Reno at least one week prior to the adoption of the ordinance, and the council shall adopt or reject the ordinance, or the ordinance as amended, within thirty days from the date of such publication. At the next regular or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, such committee shall report such ordinance back to the council, and thereafter it shall be read in full as first introduced, or if amended, as amended, and

thereupon said proposed ordinance shall be finally voted upon or action thereon postponed. After final adoption the ordinance shall be signed by the mayor, and, together with the votes cast thereon, be published once in a newspaper published in the city of Reno before the same shall go into effect, except as provided in section 9a, article XII of this act. [In all prosecutions for the violation of any of the provisions of this charter or for the violation of any city ordinance, rule, resolution, or other regulation of the city council, whether in the court of original jurisdiction or in any appellate court, it shall not be necessary to plead the contents of the same, but the court before which the proceedings may be pending shall take judicial notice of this charter and of such ordinance, rule, resolution, or other regulation, and of the contents thereof, and in all civil actions it shall not be necessary to plead the contents of any ordinance, rule, resolution, or other regulation of the city council, but the same may be pleaded by title and may be proved prima facie by the introduction of the original entry thereof on the records of the city council, or a copy thereof certified by the city clerk to be a full, true, and correct copy of such original entry, or by the introduction of a printed copy published or purported to have been published by authority of the city council.]

SEC. 223. Section 9b of Article XII of the charter of the city of Reno, being chapter 102, Statutes of Nevada 1903, as added by chapter 223, Statutes of Nevada 1945, and amended by chapter 83, Statutes of Nevada 1951, at page 96, is hereby amended to read as follows:

Section 9b. The council shall have the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the council, have incorporated therein the charter of the city and such additional data as the council may prescribe. When such a publication is published, two copies shall be filed with the librarian of the law library of the State of Nevada. [, and thereafter the same shall be received in all courts of this state as an authorized compilation of the municipal ordinances and charter of the city of Reno.] The ordinances in such code shall be arranged in appropriate chapters, articles, and sections, excluding the titles, enacting clauses, signatures of mayor, attestations and other formal parts. Such codification shall be adopted by an ordinance and the only title necessary for such ordinance shall be "An ordinance for codifying and compiling the general ordinances of the city of Reno." Such codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 224. Section 7 of Article XIX of the charter of the City of Reno, being chapter 102, Statutes of Nevada 1903, as added by chapter 71, Statutes of Nevada 1905, at page 140, is hereby amended to read as follows:

Section 7. This Act [shall be deemed a public Act and may be read in evidence without further proof, and judicial notice shall be taken thereof in all courts and places, and] shall be in full force and effect immediately upon its approval.

SEC. 225. Section 3.06 of Article III of the charter of the City of Sparks, being chapter 180, Statutes of Nevada 1949, as last amended by

chapter 107, Statutes of Nevada 1960, at page 124, is hereby amended to read as follows:

Section 3.06. The style of all ordinances shall be as follows: "The City Council of the City of Sparks do ordain," and all proposed ordinances when first proposed shall be read by title to the city council and referred to a committee for consideration, after which an adequate number of copies of the ordinance shall be filed with the city clerk for public distribution, and notice of such filing shall be published once in a newspaper published in the city of Sparks, if any there be, otherwise in some newspaper published in the county and having a general circulation in the city, at least 1 week prior to the adoption of the ordinance, or the ordinance as amended, within 30 days from the date of such publication. In cases of emergency, by unanimous consent of the whole council, final action may be taken immediately or at a special meeting called for that purpose, and no notice of the filing of copies of the ordinance with the city clerk need be published. At the next regular meeting or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, such committee shall report such ordinance back to the council, and thereafter it shall be read in full as first introduced, or if amended, as amended, and thereupon the proposed ordinance shall be finally voted upon or action thereon postponed. All ordinances shall be signed by the mayor, attested by the city clerk, and be published in full, together with the names of the councilmen voting for or against their passage, in a newspaper published in the city of Sparks, if any there be, otherwise in some newspaper published in the county and having a general circulation in the city, for at least one publication in such newspaper, before the same shall go into effect; provided, that whenever a revision is made and the revised ordinances are published in book or pamphlet form by authority of the city council, no further publication shall be deemed necessary. The city clerk shall record all ordinances in a book kept for that purpose, together with the affidavits of publication by the publisher. [and the book or a certified copy of the ordinances therein recorded, under the seal of the city, shall be received as prima facie evidence in all courts and places without further proof, or if published in book or pamphlet form, by authority of the city council, they shall be so received.]

The council shall have the power to revise, codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the council, have incorporated therein the charter of the city and such additional data as the council may prescribe. When such a publication is published, two copies shall be filed with the state librarian of the state library. [, and thereafter the same shall be received in all courts of this state as an authorized revision and codification of the municipal ordinances and a compilation of the charter of the city of Sparks.] The ordinances in such code shall be arranged in appropriate chapters, articles, and sections, excluding the titles, enacting clauses, signatures of the mayor, attestations and other formal parts. Such revision and codification shall be adopted by an ordinance and the only title

necessary for such ordinance shall be "An ordinance for revising, codifying and compiling the general ordinances of the city of Sparks." Such municipal code may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 226. Section 39 of chapter II of the charter of the City of Wells, being chapter 159, Statutes of Nevada 1967, at page 297, is hereby amended to read as follows:

Section 39. Ordinances: Procedure; emergency measures; notices.

1. Ordinances when first proposed shall be read aloud in full to the board of councilmen and final action thereon shall be deferred until the next regular meeting of the board, of which action notice shall be given by publication in a newspaper at least once and at least 1 week prior to the meeting at which such final action is to be taken. The notice shall state briefly, by reference to the title of the proposed ordinance or by reference to the purpose or content thereof, the nature of such proposed ordinance. However, in cases of emergency, by unanimous consent of the whole board, special action may be taken immediately or at a special meeting called for that purpose. No ordinance shall be passed as an emergency measure unless reasons for passing it as such are expressed in its preamble.

2. No ordinance passed by the board, unless it is an emergency measure, shall go into effect until 30 days, after its passage. If at any time during the 30 days a petition signed by qualified electors numbering not less than 20 percent of those who voted at the last preceding general municipal election, requesting the repeal of the ordinance or its submission to a referendum, is presented to the board, such ordinance shall thereupon be suspended from going into operation, and it shall be the duty of the board to reconsider such ordinance. If upon reconsideration such ordinance is not repealed, the board shall, after the sufficiency of the referendum petition has been certified to by the city clerk, submit the ordinance to a vote of the electors of the municipality at a special election, unless a regular municipal election is to be held within 90 days, in which event it shall be submitted at such regular municipal election. No ordinance submitted to a vote of the electors shall become operative unless approved by a majority of those voting thereon.

Emergency measures shall be subject to referendum like other ordinances passed by the board, except that they shall go into effect at the time indicated in them. If, when submitted to a vote of the electors, an emergency measure is not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder.

3. Any proposed ordinance may be submitted to the board by petition signed by qualified electors numbering not less than 20 percent of those who voted at the last preceding general city election. The form, sufficiency and regularity of such petitions shall be determined in the manner herein provided. The petition presenting the proposed ordinance shall contain a statement in not more than 200 words giving the petitioners' reason why such ordinance should be adopted; and if such petition contains a request that the ordinance be submitted to a vote of the people, the board shall either (a) pass such ordinance without alteration at its next regular meeting, after the sufficiency of the petition has been determined and certified to by the clerk, or (b) immediately after its refusal to pass such ordinance at such meeting, and after certification by the clerk as to the sufficiency of the petition, call a special election, unless a general city election is to be held within 90 days thereafter, and at such special or general election submit such proposed ordinance without alteration to a vote of the electors of the city. The ballot used when voting upon any such ordinance shall contain a brief statement of the nature of the ordinance, and the two propositions in the order here set forth:

For the ordinance
Against the ordinance

and shall be printed as provided herein or in the general election laws. Immediately to the right of each of the propositions shall be placed a square in which the elector, by making a cross (X) mark, may vote for or against the adoption of the ordinance. If a majority of the qualified electors voting on the proposed ordinance vote, in favor thereof, it shall thereupon become a valid and binding ordinance of the municipality. Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section, but there shall not be more than one special election for such purpose in any period of 6 months. Ordinances adopted under the provisions of this section shall not be repealed or amended except by direct vote of the people as herein provided.

4. All ordinances shall be signed by the mayor and attested by the city clerk and shall be published in full, together with the names of the councilmen voting for or against their passage, in a newspaper published in the city, if any there be, and otherwise, in some newspaper published in the county and having a general circulation in the city, for a period of at least 1 week before the same goes into effect, except that whenever a revision is made and the revised ordinances are published in book or pamphlet forms by the authority of the board, no further publication is necessary. The city clerk shall record all ordinances in a book kept for that purpose, together with the affidavits of publication by the publisher. [, and such book or certified copy thereof of the ordinances therein contained, in the name of the city, shall be received as prima facie evidence in all courts and places without further proof, or if published in book or pamphlet forms by the authority of the board of councilmen, they shall be so received.]

SEC. 227. Section 41 of chapter II of the charter of the City of Wells, being chapter 159, Statutes of Nevada 1967, at page 299, is hereby amended to read as follows:

Section 41. Codification of general ordinances.

1. The board of councilmen have the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the board of councilmen, have incorporated therein a copy of this charter and such additional data as the board of councilmen may prescribe. When such a publication is published, two copies shall be filed with the librarian of the Nevada state library. [, and thereafter such code shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances, and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Wells."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 228. Section 16 of the charter of the City of Yerington, being chapter 72, Statutes of Nevada 1907, as amended by chapter 190, Statutes of Nevada 1957, at page 277, is hereby amended to read as follows:

Section 16. 1. The style of all ordinances shall be as follows: "The City Council of the City of Yerington do ordain." All proposed ordinances when first proposed shall be read by title to the city council and may be referred to a committee of any number of the members of the council for consideration, after which at least one copy of the ordinance shall be filed with the city clerk for public examination. Notice of such filing shall be published once in a newspaper published in the city, if any there be, and otherwise in some newspaper published in the county and having a general circulation in the city, at least 1 week prior to the adoption of the ordinance. The city council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days from the date of such publication, except that in cases of emergency, by unanimous consent of the whole council, final action may be taken immediately or at a special meeting called for that purpose.

2. At the next regular or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, the committee shall report the ordinance back to the council, and thereafter it shall be read in full as first introduced, or if amended, as amended, and thereupon the proposed ordinance shall be finally voted upon or action thereon postponed.

3. After final adoption the ordinance shall be signed by the mayor, and, together with the votes cast thereon, shall be published once in a newspaper published in the city, if any there be, otherwise in some newspaper published in the county and having a general circulation in the city. Twenty days after such publication the same shall go into effect, except emergency ordinances which may be effective immediately.

[4. In all prosecutions for the violation of any of the provisions of any city ordinance, rule, resolution, or other regulation of the city council, whether in a court of original jurisdiction or in any appellate court, it shall not be necessary to plead the contents of the same, but the court before which the proceedings may be pending shall take judicial notice of such ordinance, rule, resolution, or other regulation, and of the contents thereof. In all civil actions it shall not be necessary to plead the contents of any ordinance, rule, resolution, or other regulation of the city council, but the same may be pleaded by title, and may be proved prima facie by the introduction of the original entry thereof on the records

of the city council, or a copy thereof certified by the city clerk to be a full, true and correct copy of the original entry, or by the introduction of a printed copy published or purported to have been published by authority of the city council.]

SEC. 229. Section 49 of the charter of the City of Yerington, being chapter 72, Statutes of Nevada 1907, at page 172, is hereby repealed.

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SENATE JUDICIARY COMMITTEE

MINUTES

February 10, 1971

Chairman Monroe called the meeting to order at 9:20 A.M.

Committee members present: Chairman Monroe
Senator Close
Senator Dodge
Senator Foley
Senator Swobe
Senator Wilson
Senator Young

Others present: William O'Mara
Judge Mowbrey
Carlos Brown
Leroy Bergstrom
Neil Galatz
Frank Daykin
Press

SB-12 Codifies law of evidence.

Senator Close: With myself as chairman, Cliff Young, Coe Swobe, Mack Fry and Harry Reid were the members of the subcommittee. What we have done is attempted to codify the evidence law of Nevada as far as we can from case law, and we followed, insofar as possible, the federal code. There is a federal evidence code that is proposed; it is amended in some respects and this draft follows as closely as possible that code.

There have been changes since this code came out and there will continue to be changes until its finally adopted. But our work here is as close as can be to federal code. Now, there are two or three reasons why we chose the federal code to follow. First, when it is finally adopted, it will be adopted for the entire United States and because of that there will be many decisions coming out that Nevada can follow in an attempt to further amplify our own evidence code; and secondly, there was an extreme amount of work that went into adopting the federal code and we feel that that work can be used by Nevada. Certainly we could never have gone from scratch with the funds that we had available nor with the manpower we had available, and prepared our own evidence code. Therefore, primarily we have adopted the federal code. Where appropriate, we have adopted the Nevada case law and also some statutory law that

*Bulletin No. 90: A Proposed Evidence Code for the State of Nevada is included as Attachment 1.

is the Nevada Revised Statutes at the time. Frank Daykin, who was with the Legislative Counsel, was assigned to our staff during the study and did an excellent job. He will review the whole evidence code with you and answer any of your questions.

We had three different seminars on this bill; one in Las Vegas, one in Reno, and one in Elko. At the one held in Las Vegas, out of 250 attorneys we had about 10 there, and maybe 15 in Reno, and several in Elko. So it has not been well attended by attorneys. I anticipate that as soon as the code is passed, attorneys and other affected will claim they had no notice, but we gave them a chance to come in. We transcribed the objections and comments the attorneys present had and will give to the committee at the conclusion of this hearing a list of all the things they have suggested to us, which are not substantial (attachment 2). However, they do bear investigation by the committee to see if you want to amend the evidence code.

I think an evidence code is valuable for attorneys and judges; I think it will provide for fewer appeals in the future; I think it will provide for fewer errors by the trial judge, because you will have for the first time something he can actually look at and determine what decisions should be made. It is also an advantage to the attorney because he will be able to look at, for the first time, something in writing in one place and be able to determine what the evidence law of Nevada is. At the present time there is a trap for the unwary because you have to go through many, many cases, and if you are not an experienced trial practitioner, and you miss one of these cases, you can lose your case, damage your client, lose the matter on appeal, or any number of things that could happen. So I think this is going to reduce the number of appeals and provide for better justice.

At this time I will turn the hearing over to Mr. Daykin.

Senator Dodge: I would like to ask a question apropos to the comments by attorneys and others. Did you incorporate any suggestions from attorneys that you did consider substantial?

Senator Close: Yes, we did. The people whose names I gave you were not the only members of the committee. We had district attorneys who were with us; defense attorneys; Neil Galatz was with our committee and did a great job so far as the plaintiff's

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were concerned; Harry Reid's firm is a defense firm and he was there; district attorneys were there to take care of the criminal aspect of the matter. I think the committee was well balanced and made up.

Once the draft was proposed, and each of you should have received one of these blue bulletins (attachment 1), this is what we went to the Bar with. We have not changed it since we have gone to them, but do have their comments here, because obviously we couldn't change it for everybody who wanted to make a comment to it. Only the substantial changes were incorporated, after a lot of give and take in the committee hearings between those on various sides of the fence. The Bar was represented in almost every category of practitioner. Since the bill or bulletin has been put out, it has not been changed. We do have in writing for you the comments of the Bar. Gordon Rice has written a letter to most of the committee members on this committee today which I will give to you and we have had some other matters that have come in. Now, hopefully, there may be some more comment today from members of the Bar who will be testifying before the committee, and if their comments are justified, then I hope that we adopt them and put them into the code. We are not married to this proposal, so if there are changes to be made to it, lets make them.

Mr. Daykin: Senator Close has indicated principal guidelines for putting together this code. I know you have hearings set for this morning and tomorrow morning. I would like to put a question to the committee at this time. Do you wish me to review the code rapidly section by section, entertaining questions as they arise, or do you wish me to discuss it only very summarily and devote the time to answering the questions the committee might have on any particular points, and perhaps to commenting upon questions and suggestions that persons testifying may have?

Senator Close: When we went through this code in Las Vegas, Elko and Reno, we only asked for comments from the Bar. I found then, and I would presume now, that most people have not read this booklet. It is one thing to go through hearings as we did in Las Vegas, Elko, and Reno and merely ask for comments, but I think its something else for the legislature to be asked to adopt a particular bill of this size without going through it somewhat in detail. We have two days, and I feel that most of that time could be better spent in going through it section by section, although it is tedious and boring on some occasions. I think it is important that everybody

here have a chance to at least get a basic understanding of what we're doing. I don't think that will be accomplished if we merely ask for comments because I don't really think that you have had a great deal of time to study this proposal. Because of that I would suggest that we go through it section by section.

Chairman Monroe: Is that agreeable with the committee.

Committee: Yes

Chairman: Go ahead Frank.

Mr. Frank Daykin: This code will of course comprehensively revise Title 4 of present Nevada Revised Statutes which deals with witnesses and evidence. The subject matter of the different chapters has for the most part been completely revised in order to follow the arrangement of the federal proposed rules of evidence for reasons that the chairman of the subcommittee indicated to you. The first chapter, which will be Chapter 47 of NRS, deals with general provisions applicable to the law of evidence.

Senator Close: Does everybody have a copy of the blue evidence code book, called Bulletin No. 90. These blue books have comments at the bottom of every section explaining where it came from.

Chairman Monroe: Would anyone in the audience like to make their comments now rather than wait until the whole booklet has been reviewed?

Mr. Bill O'Mara: I'm Bill O'Mara and I represent the National Society for Certified Public Accountants. During the process of the evaluation or the development of this code, I was not retained by the Society, however, I have been present at the hearings that were scheduled in Reno and I have talked with Mr. Daykin.

You will notice that the privileges do not include the accountant-client privilege which is presently in the code. In the present law under 48.065 there is an accountant-client privilege. This was not included in the present draft that is before you.

During the hearings held in Reno, the question was asked why it was excluded in that the proposed evidence code was for the purpose of codifying the present existing law. At that time Frank Daykin indicated to us that they had written to the Board of Accountancy and had received no reply. I would represent to the legislative committee that I have checked with the Board of Accountancy and none of the officers have any knowledge of the

fact that they received a letter, and the only thing that we can say is that it apparently got lost. Both the Board of Accountancy and the Nevada Society for Certified Public Accountants do express their wish that they keep the privilege. They do feel it is an absolute necessity to have such a privilege.

The general rule of privilege is for the particular person to refuse to disclose any confidential information which is given to him by his client without his consent. This is the same privilege as we have in the attorney-client area. As you know, in present day practices the attorney and the accountant have become very close together. Everything that's done in tax planning is done between an attorney and accountant and the client. I think if you allow just the attorney-client privilege to go without continuing the accountant-client privilege, you are going to run into case decisions that will pervert the attorney-client privilege. The main purpose for the disclosure to the accountant is for the client to receive the best available advice without unnecessarily being given additional problems.

I would suggest, and I do have for you, a proposed accountant-client privilege amendment (attachment 4), which would modify the present privilege that is still existing in the law. This modification is due to the fact that there is no exception to the privilege for the attest function. The attest function is that function which gives the accountant the right to examine records, books of accounts, things of this sort, and make a public disclosure as to the correctness of these books of accounts and examinations. At the present time the present accountant-client law in the books, 48.065, is being questioned by the SEC.

There are two functions of the accountant. Those functions in which he has a confidential relationship with his client and those functions in which he does not have a confidential relationship with his client but purports to give information to the public, upon which the public can rely. It is a complete independent examination.

So I will at this time give to the Chairman a generalized redrafting of the accountant-client privilege and urge that the accountant-client privilege be maintained in the proposed evidence code.

Senator Young: Are there any other states that have this? What is the rule with regard to the IRS and federal prosecution.

Mr. Bill O'Mara: There are 16 states at the present time that have the accountant-client privilege. There are two states, Pennsylvania and Maryland, that provide for the attest function. The others have basically been drafted and adopted by the different legislatures since 1933. As most of you know by the studying of your corporations laws and different accountancy, there have been new laws developed as to the liabilities of accountants, and because of this the more recently adopted codes do provide for the attest function. This is in order to protect the accountants from possible claims from devulging confidential information.

In so far as the fraud cases are concerned, there is no privilege, and the federal district court will not allow the privilege to stand. However, in other cases the Ninth Circuit Court has come down with a decision saying that the state privilege will be recognized, however there are three decisions in two other circuit courts that are in contradiction to the Ninth Circuit. However, we are in the Ninth Circuit and we would follow the Ninth Circuit case. I would be very happy to furnish that case to the committee.

Mr. Frank Daykin: I note that your draft contains an exception for the attest function. Has the Society given any consideration to the propriety of other exceptions, such as we are now embodied in the attorney-client privilege in this draft. One of the thoughts of the Legislative Commission's subcommittee was that if an accountant-client privelege would be inserted, it should be carefully drawn somewhat along the lines of the revised attorney-client privelege, rather than being so simple and unqualified as it is in the present NRS.

Mr. Bill O'Mara: I would say that the accountants have not considered any exceptions but I would represent that the accountants would accept some exceptions.

Senator Dodge: What was the rationale of the subcommittee for not including this privelege? Is it because it was not in the proposed federal code?

Senator Close: This was considered at some length and we have tried to limit exceptions as far as we could. The by-word of our committee was "the search for truth" and we felt that a trial is a search for truth and as much evidence as can come out, should come out respecting the rights of the parties. Many times where the accounting function is involved, although certainly goes much deeper than this, it is the books of the corporation or something of this nature that are required. We felt that in many cases, these things should be available. If a member of a corporation wants to question the accountant, he should be entitled to. In a case where the corporation may have hired the accountant, a member of that corporation would be precluded because he is not a member of the officers or board of directors. As I recall, we did try to contact the accountants, but received no comment back from them. Because of this we felt there was no interest on their part to include a privelege in the code.

I do believe that in cases of fraud and things of that nature, there should be no privilege. In partnerships and corporations, there should not be a privilege. Mr. O'Mara has acquiesced to amending his proposal to include these exceptions and it certainly becomes more acceptable to the subcommittee; the broader we can make it the better.

Mr. Bill O'Mara: I will work with Frank Daykin to submit the exceptions as we see it.

Senator Dodge: Don't you think there is a large area involving individuals and that Americans feel that there is invasion of privacy in peoples' lives at every turn. It seems to me there should be some justification for protection of individuals in their own feelings and tax situations.

Chairman Monroe: Judge Mowbrey, do you have any comments you might have.

Judge Mowbrey: The only role I played in this program was that I was appointed by Chief Justice Collins to attend and work with the subcommittee. The gentlemen on the subcommittee, with the help of Frank Daykin, did all the work on this. But I reviewed all the material and I think its a fine work and would certainly hope you will pass it. You are always going to find wrinkles in these programs, but its a step forward.

Mr. Lee Bergstrom: I am a certified public accountant and Vice President of the Nevada National Society of Certified Public Accountants. I would like to touch on two points. Books and records of the corporation would be available through normal action of the law. Under what we're proposing, assuming no examination had been performed, only the accountants working papers and the accountants testimony would normally be excluded.

If I may I would like to emphasize the point made by Senator Dodge dealing with individuals. I suppose we could all put ourselves in the position of the individual who may have a marital disagreement and all of a sudden a wife or husband might decide in a proposed divorce settlement he wants to call the accountant to testify and lay all of their financial assets in front of the court in that manner. I would think those of you who are with the Bar would not like that situation to occur to your own client. I'm sure we would not like it to occur to our client. There are many confidential negotiations in todays commercial world where the account is intimately involved; such as mergers, proposed employment contracts, labor negotiations, where the accountant isn't functioning in his attest function, and he isn't functioning in the capacity of one who is expressing an opinion to the public at large.

He is functioning simply as a technical consultant to a business man, and it would seem certainly appropriate that those privileges in those circumstances that would apply to counsel, logically should apply to a professional accountant as well.

Senator Wilson: You said something in illustration, and I don't know if you were just illustrating or making a point, but do you think you could live under Section #5 as drawn for the attorney-client privilege. That is where you advise in common two clients, whether they're husband and wife or otherwise, a dispute arises between them and one sues the other.

The accountant-client provision here provides that that's an exception to it and it is not to be testimony admissable in evidence. I assume that would apply in the case of the accountant.

Mr. Lee Bergstrom: It could in certain cases. Where in a community property state, such as our own, one is dealing with both the husband and the wife although perhaps only talking to one of them, I would concur, there would be no privilege. But there are many people who have separate property, and I would think that the dealings there between the accountant and the client or the attorney and the client might still be privileged.

Mr. Frank Daykin: As I would off hand interpret the exception privilege, I think Mr. Bergstrom has discussed it pretty well. I would say that if the accountant were advising the husband concerning his own property, this would properly be privileged in a divorce action. Where it concerns the community, it would probably fall within the joint interest exception, which I think as to an accountant ought to be worded even more carefully to be sure that it brought in the partnership and corporation, situations as well as to direct individuals.

Chairman Monroe: Suppose there was a divorce in a community property state and the husband has taken money and invested it in things that he has held from his wife. They want a divorce and he goes into court and testifies as to his assets but does not include the money that he has accrued and put in other investments. The accountant testifies that the assets presented to the court are correct. Does the accountant become part of the fraud or should he testify that he knows that the husband has these assets?

Mr. Frank Daykin: The accountant, like the husband, is under oath. The husband has chosen to commit perjury, he has chose to lie under oath. I cannot believe that an ethical accountant would choose to compound that felony by also lieing under oath.

I think in the community property situation that this would be prper. This should not be the subject of any privilege to withhold the truth from the court. If on the other hand the accountant has advised the husband only in respect to the husbands separate property, I can see he has an old problem of conscience; on the one hand he has an ethical duty to his client, and on the other hand he has a duty to tell the truth. The effect of the privilege is to remove him from that dilemma by permitting him to refuse to testify.

Mr. Lee Bergstrom: Mr. Daykin, from the accountants point of view, he is not obviously going to contribute to the fraud. On the other hand, to the extent that in the example used, I would assume that it is after all the husband that is required to assert the privilege, not the accountant. The counsel for the husband would simply not permit the accountant to answer the questions.

Mr. Frank Daykin: Not to mislead the committee under this draft, the professional man is permitted to claim the privilege. His authority to claim it on behalf of the client is presumed.

Senator Close: The dilemma that our subcommittee wrestled with was should the court be precluded from inquiring into any of these matters. That's the decision for this committee to make. We attempted to restrict privilege as far as possible, and like I said, "search for truth" became a by-word of our committee because it was used so often. When you go to court you should attempt to find out all the facts, and put them on the table. Let the judge make the decision. If he doesn't have all the facts, he can't make it. I'm not saying I oppose your privilege, because I do not. We didn't put it in because of other reasons. But that is the type of a thing that this committee is going to have to make a value judgement on. Whether or not you should be able to keep this sort of information from the judge.

Mr. Frank Daykin: I will draft a proposed amendment. It won't resolve all the extremes of the conflict, but I think it could strike a good middle line.

Chairman Monroe: Is there further testimony?

Mr. Carlos Brown: I'm a certified public accountant and President of the Nevada Society of CPA. I think the subject of privilege was pretty well covered, and I don't have anything further to add. We do encourage the committee to amend this to cover the privilege excluding the attest function.

Senator Close: Do you feel the privilege should extend beyond CPA's down to public accountants and bookkeepers.

Mr. Carlos Brown: I haven't thought about that. The people who keep books are not licensed, the public accountants are licensed. They have their own society and I haven't consulted with them.

Senator Close: Would you feel, knowing their occupations and responsibilities, which are similar to yours, that they should have the same privilege.

Mr. Carlos Brown: Public accountants do perform audits and attest, so I feel it should extend to them also. In the case of the bookkeeper who is maintaining books for a client, I think that possibly he comes closer to being an employee or having an employee relationship with the client.

Senator Close: Do public accountans presently have the privilege?

Mr. Frank Daykin: I think they do. Our law simply says an accountant, and of course Nevada law recognizes them. It would not extend to the employee bookkeeper under present terminology.

Mr. Neil Galatz: I'm interested in the code because I had the pleasure to help work on it, and because my practice is primarily a trial practice and I live and die by the evidence code.

When the committee first started I asked to be on it because I was opposed to the code. I felt a good lawyer could dig out his own evidence rules and doesn't need some sort of manual, and if you put together some sort of manual you're going to freeze the law if evidence in a very unrealistic way. As we began to work on it and analyze the federal evidence code, I was truly amazed and delighted at the fantastic job the people did who put the federal code together. I found out you can find the federal rules without a manual, but its a lot easier to turn to a common starting point that codifies the rule in one simple starting source and from there go on if there is a question of interpretation. I did a complete about face in my opinion. As we worked on the federal code, I felt everybody has a different feeling, but the federal people did a find job trying to find the fairest compromise between all the conflicting potential views. Some people will be unhappy with certain parts. But in terms of a code, this probably represents about as reasonable a realistically fair compromise as anybody can hope to reach. What I hope to get across to you is that you have a pretty good code. If you change it piecemeal and deviate piecemeal from what is there, you may well destroy the continuity because sections are interrelated. If you try to reflect varying views, you are looking for impossible results. You have a view put together by a federal committee that is incredibly fair.

Another big advantage to staying close to the federal format is that Nevada is still comparatively small in terms of our supreme court case load. It could take us 10 or 15 years to have our court adequately interpret the code because no code will suffice without some interpretation. If we leave it with the federal, when there is no Nevada case, we can go to the decisions of the federal circuit courts. There we have a body of reference that will accumulate 150 times faster than what we can generate in our own state. I think some degree of certainty is an extremely important thing, and the federal code will give you a body of interpretation to look forward to.

The only practical thing I would suggest, this is something that never dawned on me when we were on the committee, is that in terms of numbering we could assign a NRS Chapter number and after that number try to number each section according to the federal code. So instead of NRS 48.1, it might be NRS 48.1-3, which would tie it to the federal. That has a number of practical advantages.

Chairman Monroe: Can we work the Nevada statutes sections into that numbering code?

Mr. Frank Daykin: Well, no. NRS is numbered according to a particular and set system in which the chapter number is the item preceding the decimal point and subsequent sections are numbered decimally to follow. It would not be possible to take the rules of evidence as they are in this draft and carry those numbers over directly because these are numbered from front to back in eleven groups. So a federal rule for example on hearsay is 8-03 where our hearsay treatment is Chapter 50.000. Also the federal rules are quite long, and NRS because of our constitutional requirements when a section is amended, is set forth in relatively short sections. Introductory material has to be brought in. However, the annotations to NRS will contain with respect to each of these section numbers, a reference to the federal rule from which it is taken or to which it corresponds. Consequently, you will have an immediate key in your annals, not only to your Nevada cases, but also to the federal rule under which you can look.

Mr. George Vargas: I'm a private attorney from Reno. I was wondering if it was called to the committee's attention that very probably this proposed code would repeal all the provisions with reference to the so called "dead man's rule", which prohbitis one party to a transaction from testifying in the event of the death of another party.

Mr. Frank Daykin: This was thoroughly discussed by the sub-committee. The dead man's rule does have the effect of excluding relevant evidence if it is applied. It is a limitation upon the witness, as a little later in Section 71 you have a general rule of competency and then a limitation as to personal knowledge, but again no limitation comparable to the dead man's rule.

Those two general provisions; the admissibility of all relevant evidence; and the competency of all witnesses as to any matter of knowledge or expert opinion, between them have the effect of wholly striking out the dead man's rule.

The dead man's rule existed because in common law, a party to an action was not a competent witness, he was not permitted to testify because it was supposed that being a party interested in the matter, he would lie. That has gone by the board almost entirely. The so called dead man's statute exists in many states and does not exist in many states, and is one vestige of it. We have set it aside in every other area, the draft federal rule and this rule would set it aside also.

Chairman Monroe: Do I understand, Mr. Vargas, that you object to leaving it out?

Mr. George Vargas: It is my position that it is sound law today and should be retained.

Chairman Monroe: We would like to hear your comments on this if you will be good enough to come back at a later date.

Hearing adjourned until 9:00 a.m. on Thursday, February 11th.

Respectfully submitted,

Eileen Wynkoop

Eileen Wynkoop, Secretary

Approved: _____

BULLETIN NO. 90 WAS SUBMITTED AS ATTACHMENT 1 AND CAN BE FOUND IN THE RESEARCH LIBRARY OR AT THE WEB ADDRESS BELOW

A PROPOSED EVIDENCE CODE FOR THE STATE OF NEVADA:
LCB BULLETIN NO. 90

HTTP://WWW.LEG.STATE.NV.US/LCB/RESEARCH/1971INTERIMREPORTS/BULLETIN090.PDF

Attachment 2

RUSSELL W. McDONALD
Director

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(ADMINISTRATION)

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December 3, 1970

TO MEMBERS OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE FOR STUDY OF AN EVIDENCE CODE, AND TO THE COMMITTEES ON JUDICIARY OF THE SENATE AND ASSEMBLY OF THE NEVADA LEGISLATURE, 56th SESSION:

The following observations upon the proposed Evidence Code (Bulletin No. 90 of the Legislative Counsel Bureau), made from the meetings at Las Vegas, Reno and Elko on November 18-20, 1970, are transmitted to you for your information:

1. Sec. 24 & 25: Some attorneys favor repeal of all conclusive statutory presumptions (sec. 24), all appear to favor elimination of subsection 5 from section 24, leaving subsection 15 of section 25 to cover the subject.

2. Sec. 29: Add a subsection, substantially thus:

   3. Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary witness cannot describe the act in controversy or the crime charged without referring to the other act or crime shall not be excluded, but a cautionary instruction shall be given explaining the reason for its admission.

3. Sec. 58, subsec. 5, par. (b): Adultery is not a crime. [Reporter's note: Should the reference be to incest?]

4. Sec. 62: Clark County public defender (only) objects to shielding all informants, would shield only government agents.

5. Sec. 79: (a) In subsection 1, add "and of the nature of that crime" before "is admissible."
   (b) In subsec. 2, add at the end of the subsection "unless the judge upon evidence of misdemeanor convictions within this period, which shall be taken outside the presence of the jury, concludes that the convicted person is not rehabilitated."

6. If the proposed code is enacted, the Annotations to NRS should contain not only the source notes now appearing as comments in Bulletin No. 90, but also references to the superseded statutes or decisions as noted in the material prepared for subcommittee consideration.

Very truly yours,

Russell W. McDonald

Russell W. McDonald
Legislative Counsel

RWM:ab

Attachment 3

1 - 95

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329-0103

December 3, 1970

Honorable Melvin D. Close, Jr.,
Honorable Richard H. Bryan,
Honorable Leslie Mack Fry,
Honorable Harry M. Reid,
Honorable C. Coe Swobe,
Honorable C. Clifton Young,
Honorable John C. Mowbray,
Honorable Howard W. Babcock,
Honorable John W. Barrett,
Honorable Herbert F. Ahlswede,
Honorable Frank J. Fahrenkopf, Jr.,
Honorable Neil G. Galatz

Gentlemen:

Re: Proposed Evidence Code for the State of Nevada

I address myself to each of you as a member of the Legislative Commission's Subcommittee - and to its acknowledged advisors - on this important subject.

The proposed Code is evidence in and of itself of momumental work and study by each of you individually, and by your learned group collectively. For this I am grateful as a practicing attorney; as I'm sure all the rest of the Nevada Bar and Bench is obliged and grateful to you too.

Some aspects of the "Judicial Notice" provisions of the code give me concern just the same. Particularly that provision requiring judicial notice of "The constitution, statutes or other written law of any other state or territory of the United States, or of any foreign jurisdiction, as contained in a book or pamphlet published by its authority or proved to be commonly recognized in its courts". Section 14. (7)

Section 15 permits a court or judge to "take judicial notice, whether requested or not"; and Section 17 permits

the taking of judicial notice "at any state of the proceedings."

Prior to advent of Choate v. Ransom, 74 Nev. 100, 323 P. 2d 700 (1958), Nevada followed the common law rule of nearly all states, to wit, that where there is no contravening statute foreign law and law of other states is a question of fact to be pleaded and proved. By the Choate decision Nevada joined New Hampshire and Arizona as the only states abrogating this common law rule without aid of statute. 29 Am. Jur. 2d 80, § 45, note 9.

In Choate Justice Merrill quoted approvingly as follows from Dean Wigmore on page 107 of the Nevada report: "***No one would demand that a court take judicial notice of foreign systems of law in foreign languages ***" Doesn't the proposed code make such a demand appropriate and proper?

A more basic and serious problem was presented in Choate - and should be contemplated in all such cases if judicial notice of other than forum law is to be the rule - namely, how and when should such law be brought to the court's attention? A couple of corollaries immediately come to mind: Who is to be charged with the duty of bringing such law to the attention of the court? And what are the consequences of not bringing same to the court's attention?

Defendant apparently did not formally suggest that the law of Idaho should be the rule in Choate until jury instructions were being settled by the trial judge. I submit that this suggestion was not timely, and that an invocation of foreign law should never be regarded as timely if it comes after the issues have been settled.

In Volume 35, No. 1 (Jan. 1970), Nevada State Bar Journal, pp. 4-9, in "The Garbled Status of the Imputed Negligence Doctrine", I endeavored to point up a couple of basic, fundamental mistakes made by the Supreme Court of Nevada in judicially noticing and applying Idaho law in Choate v. Ransom. Is this additional ammunition for asserting with respect to all cases in which foreign law is referred to for any purpose other than the typical one of finding the appropriate rule of decision, that there was widsom in the old rule that

foreign law must be pleaded and proved?

We are all aware of the presumption that when a cause is presented for trial, the court and jury are uninformed concerning the facts involved, and it is incumbent upon the parties to the proceedings to establish by evidence the facts upon which they rely. This presumption does not apply to judicially noticed facts as "***the courts repeatedly refuse to hear evidence concerning matters of which they take judicial notice***" 29 Am. Jur. 2d 58, § 20, note 18, citing Ex parte Kair, 28 Nev. 127, 80 P. 463. In Verner v. Redman, 77 Ariz. 310, 271 P. 2d 468, the Supreme Court of Arizona states this well-established rule even more succinctly by quoting as follows from an earlier decision: "***A fact to be judicially noticed must be certain and undisputable, requiring no proof, and no evidence may be received to dispute it***"

In conclusion I quote the late Professor Brainerd Currie" "Judicial notice is a convenient rhetorical device for rationalizing - as we seem to have a compulsion to rationalize - the phenomenon of a court's taking account of matters not formally introduced in evidence. It cannot perform magic, and it can easily get out of hand. Judicial notice cannot dispense with the necessity of work to find the rule of decision. It is unrealistic and probably unwise to expect judicial notice to change the relative roles of court and counsel by shifting the burden of that work to the court. It is positively dangerous to entertain the notice that judicial notice can dispense with the procedures that safeguard the fairness of the adversary process." 58 Columbia Law Review 964

Very truly yours,

Gordon W. Rice

GWR jk

ACCOUNTANT-CLIENT PRIVILEGE

DEFINITIONS.

Sec. 49.1. As used in sections 49.1 to 49.9, inclusive, of this act, the words and phrases defined in sections 49.2 to 49.6, inclusive, of this act have the meanings ascribed to them in sections 49.2 to 49.6, inclusive, of this act.

"ACCOUNTANT" DEFINED.

Sec. 49.2. "Accountant" means a person certified or registered as a public accountant under chapter 628 of NRS who holds a live permit.

"CLIENT" DEFINED.

Sec. 49.3. "Client" means a person, including a public officer, corporation, association or other organization or entity, either public or private, who is rendered professional accounting services by an accountant, or who consults an accountant with a view to obtaining professional accounting services from him.

"CONFIDENTIAL" DEFINED.

Sec. 49.4. A communication is "confidential" if it is not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional accounting services to the client or those reasonably necessary for the transmission of the communication.

"REPRESENTATIVE OF THE ACCOUNTANT" DEFINED.

Sec. 49.5. "Representative of the accountant" means a person employed by the accountant to assist in the rendition of professional accounting services.

"REPRESENTATIVE OF THE CLIENT" DEFINED.

Sec. 49.6. "Representative of the client" means a person having authority to obtain professional accounting services, or to act on advice rendered pursuant thereto, on behalf of the client.

GENERAL RULE OF PRIVILEGE.

Sec. 49.7. A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications:

1. Between himself or his representative and his accountant or his accountant's representative.

2. Between his accountant and the accountant's representative.

3. Made for the purpose of facilitating the rendition of professional accounting services to the client, by him or his accountant to an accountant representing another in a matter of common interest.

WHO MAY CLAIM THE PRIVILEGE.

Sec. 49.8. 1. The privilege may be claimed by the client, his guardian or conservator, the personal representative of a deceased client, or the successor, trustee or similar representative of a corporation, association or other organization, whether or not in existence.

2. The person who was the accountant may claim the privilege but only on behalf of the client. His authority to do so is presumed in the absence of evidence to the contrary.

EXCEPTIONS.

Sec. 49.9. There is no privilege under section 49.7 or 49.8 of this act:

1. If the services of the accountant were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud.

2. As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction.

3. As to a communication relevant to an issue of breach of duty by the accountant to his client or by the client to his accountant.

4. As to a communication relevant to an issue concerning the examination, audit or report of any financial statements, books, records or accounts which the accountant may be engaged to make or requested by a prospective client to discuss for the purpose of making a public report.

5. As to a communication relevant to a matter of common interest between two or more clients if the communication was made by any of them to an accountant retained or consulted in common, when offered in an action between any of the clients.

6. As to a communication between a corporation and its accountant:

(a) In an action by a shareholder against the corporation which is based upon a breach of fiduciary duty; or

(b) In a derivative action by a shareholder on behalf of the corporation.

Comment--Sections 49.1 to 49.9, inclusive, provide limitations upon the accountant-client privilege, as established by NRS 48.065, which conform to the limitations upon the lawyer-client privilege.

ASSEMBLY COMMITTEE ON JUDICIARY - 56TH SESSION, 1971

JOINT HEARING OF SENATE AND ASSEMBLY JUDICIARY COMMITTEES FEBRUARY 10, 1971 CONCERNING SB 12 - CODIFIES LAW OF EVIDENCE.

The hearing began at 9:15 a.m. Assembly Judiciary Committee members present: Miss Foote, Messrs. Fry, Olsen, Kean, Torvinen, McKissick, Dreyer,and May. Absent: Mr. Lowman.

Senator Close made introductory remarks giving a background on the sub-committee's work on codifying the law of evidence, and stating that this follows the Federal law as far as possible, with Nevada case law taken into consideration. Suggestions have been received from some attorneys, which are made a part of these minutes by reference, and a copy of which is attached.

The committee heard from WILLIAM O'MARA, representing the National Society of Certified Public Accountants, who stated that the society is mainly concerned that the code should contain an accountant-client privilege provision. He feels that the accountant-client relationship is much like that of an attorney - client relationship and should be privileged. There should be an attest function. He urged that the privilege be maintained.

Senator Young asked if there are other states that have this, and what is the rule with regard to the Internal Revenue Service.

Mr. O'Mara stated 16 states have the accountant-client privilege.

Senator Dodge asked what was the rationale of the sub-committee for not including this. Senator Close replied it was considered at length, and they tried to limit exceptions as far as possible because the search for truth was the subcommittee's priority.

Mr. Kean asked if the court could subpoena records of corporations despite the client-accountant relationship. Senator Close said it could. Senator Dodge asked if there is a feeling that the accountant-client privilege affords protection for the individual rights to privacy. Mr. O'Mara said there is.

SUPREME COURT JUSTICE JOHN MOWBRAY addressed the committee and stated he thought this is a fine work and hoped the group would pass favorably upon it.

MR. LES BERGSTROM, Vice-President, Nevada Society of Certified Public Accountants, stated that books and records of corporations would be open, but accountants' working papers would be excluded. The privileges should apply to the professional accountant.

Discussion was held on the case of an accountant advising both a husband and wife, and subsequently one sues the other for divorce. Does the accountant-client privilege exist if the wife wants the accountant to testify as to the husband's property?

MR. FRANK DAYKIN, formerly of the Legislative Counsel Bureau, stated it would make a difference if the accountant had advised regarding community property or one party's separate property. In community property, it would fall within the joint interests exception and it should be worded more carefully. In Court the accountant is under oath to tell the truth.

Senator Wilson noted he didn't think the exception would apply unless it is separate property.

MR. CARLOS BROWN, President of the Nevada Society of Certified Public Accountants, urged the committee to amend this to cover the privileged communication.

Senator Close asked if he feels the privilege should extend beyond Certified Public Accountants, to public accountants and bookkeepers. Mr. Brown stated that bookkeepers would fall within an employee-employer relationship and this wouldn't apply to them. He said he couldn't speak for the public accountants.

Senator Close said public accountants are professional people who have codes of ethics and are furthermore licensed, so he thinks they would be interested in the accountant-client relationship.

Mr. Daykin read through the sections of the proposed evidence code with comments as follows from committee members:

Re. SEC. 7: Mr. Torvinen asked if this doesn't interfere with the present criminal statutes about the requirement of motions to suppress evidence. Mr. Daykin replied it doesn't interfere.

Re. SEC. 17: Senator Foley: Judicial notice can be taken only at the trial? Mr. Daykin: No, at any stage. The court may take judicial notice upon a preliminary motion, during the trial, after the matter has been submitted the court may in writing its opinion or rendering its decision take judicial notice of an undisputed fact which was not in evidence.

Senator Foley: After a jury has returned the verdict, could the court take judicial notice of facts that were not brought to the attention of the jury? Mr. Daykin: You have restrictive rules with respect to any evidence that may be considered on motion for a new trial and that is not affected here. If newly-discovered evidence comes to light which is an obvious fact it would be taken into account.

Re. SEC. 24, No. 1: Senator Wilson: What about crimes of assault with intent to commit murder or do bodily harm? The prosecution has to prove intent. Is this conclusive? Mr. Daykin: No. If you can prove the act was deliberate and was done for the purpose of injuring, it is conclusive.

Mr. Torvinen: Is that in conflict with Sec. 23 where the judge can't make any determination of a presumption? Mr. Daykin: Even if a presumption is conclusive, it is not conclusive in criminal law. I think the presumptions are nonsense as a statute. Regarding the conclusive presumptions, you have to consider each of them separately. Keep them if there is a sound public policy behind them even if they are not logical.

Re. SUBSECTION 1 of SEC. 24: Mr. Torvinen: You are saying the criminal cases in the Supreme Court say the court cannot instruct under this presumption? Mr. Daykin: There are no cases on that in Nevada. You can instruct on how you can find intent from certain facts.

Senator Close: If any of this is considered not to be well founded, there can be a separate bill taking out any provision you don't go along with.

Senator Close advised that the controverted presumptions which were removed from NRS 175.191 and 175.201 were numbers 4, 9, 12, 16, 19, 22, 23, 24 and 26, because they were not valid as general propositions.

Mr. Torvinen: Why did you take out the presumption about partnership? Mr. Daykin: That is covered in the uniform partnership law and you don't need it here.

Re. SEC. 27: Mr. Kean: What about the privilege in that item? Mr. Daykin: That is otherwise provided in that title.

The hearing was in recess at 11:00 a.m.

Hearing in session at 1:20 p.m. The committee heard testimony from NEIL GALATZ, ESQ.: He stated that Nevada case law is small so there is an advantage to staying close to the Federal format. He suggests that in terms of numbering the committee should try to number the code to correspond with the Federal one to save time and confusion in looking up sections.

Mr. Daykin stated it would not be possible to take the rules of evidence in this draft and carry the numbers over directly to correspond with the Federal law because the NRS numbers are controlled by constitutional amendments. The annotations to NRS will contain reference to the Federal code.

Senator Monroe asked if the Federal references could be put in parentheses and Mr. Daykin said that could be done. Senator Dodge suggested checking with Russell McDonald to see if the numbers could be correlated for easier reference. The Supreme Court could adopt rules of evidence embodying this code but the last Legislature felt it was preferable to adopt these in statutory form.

GEORGE VARGAS, ESQ., asked the committee what would the prohibitions be of testimony under SEC. 6, page 10? This is the law as to the dead man's rule and should be retained.

Mr. Daykin stated this would have the effect of striking out the dead man rule. The subcommittee's reasoning was that under common law a party to an action was not a competent witness and was not allowed to testify as to the transaction.

The hearing recessed at 2:00 p.m.

sg

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December 3, 1970

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Very truly yours,

Gordon W. Rice

GWR jk

RUSSELL W. McDONALD
Director

ANN ROLLINS
Deputy Director
(ADMINISTRATION)

STATE OF NEVADA
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December 3, 1970

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TO MEMBERS OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE FOR STUDY OF AN EVIDENCE CODE, AND TO THE COMMITTEES ON JUDICIARY OF THE SENATE AND ASSEMBLY OF THE NEVADA LEGISLATURE, 56th SESSION:

The following observations upon the proposed Evidence Code (Bulletin No. 90 of the Legislative Counsel Bureau), made from the meetings at Las Vegas, Reno and Elko on November 18-20, 1970, are transmitted to you for your information:

1. Sec. 24 & 25: Some attorneys favor repeal of all conclusive statutory presumptions (sec. 24), all appear to favor elimination of subsection 5 from section 24, leaving subsection 15 of section 25 to cover the subject.

2. Sec. 29: Add a subsection, substantially thus:

   3. Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary witness cannot describe the act in controversy or the crime charged without referring to the other act or crime shall not be excluded, but a cautionary instruction shall be given explaining the reason for its admission.

3. Sec. 58, subsec. 5, par. (b): Adultery is not a crime. [Reporter's note: Should the reference be to incest?]

4. Sec. 62: Clark County public defender (only) objects to shielding all informants, would shield only government agents.

5. Sec. 79: (a) In subsection 1, add "and of the nature of that crime" before "is admissible."
   (b) In subsec. 2, add at the end of the subsection "unless the judge upon evidence of misdemeanor convictions within this period, which shall be taken outside the presence of the jury, concludes that the convicted person is not rehabilitated."

6. If the proposed code is enacted, the Annotations to NRS should contain not only the source notes now appearing as comments in Bulletin No. 90, but also references to the superseded statutes or decisions as noted in the material prepared for subcommittee consideration.

Very truly yours,

Russell W. McDonald

Russell W. McDonald
Legislative Counsel

RWM:ab

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A PROPOSED EVIDENCE CODE FOR THE STATE OF NEVADA:
LCB BULLETIN NO. 90

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ACCOUNTANT-CLIENT PRIVILEGE

DEFINITIONS.

Sec. 49.1. As used in sections 49.1 to 49.9, inclusive, of this act, the words and phrases defined in sections 49.2 to 49.6, inclusive, of this act have the meanings ascribed to them in sections 49.2 to 49.6, inclusive, of this act.

"ACCOUNTANT" DEFINED.

Sec. 49.2. "Accountant" means a person certified or registered as a public accountant under chapter 628 of NRS who holds a live permit.

"CLIENT" DEFINED.

Sec. 49.3. "Client" means a person, including a public officer, corporation, association or other organization or entity, either public or private, who is rendered professional accounting services by an accountant, or who consults an accountant with a view to obtaining professional accounting services from him.

"CONFIDENTIAL" DEFINED.

Sec. 49.4. A communication is "confidential" if it is not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional accounting services to the client or those reasonably necessary for the transmission of the communication.

"REPRESENTATIVE OF THE ACCOUNTANT" DEFINED.

Sec. 49.5. "Representative of the accountant" means a person employed by the accountant to assist in the rendition of professional accounting services.

"REPRESENTATIVE OF THE CLIENT" DEFINED.

Sec. 49.6. "Representative of the client" means a person having authority to obtain professional accounting services, or to act on advice rendered pursuant thereto, on behalf of the client.

GENERAL RULE OF PRIVILEGE.

Sec. 49.7. A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications:

1. Between himself or his representative and his accountant or his accountant's representative.

2. Between his accountant and the accountant's representative.

3. Made for the purpose of facilitating the rendition of professional accounting services to the client, by him or his accountant to an accountant representing another in a matter of common interest.

WHO MAY CLAIM THE PRIVILEGE.

Sec. 49.8. 1. The privilege may be claimed by the client, his guardian or conservator, the personal representative of a deceased client, or the successor, trustee or similar representative of a corporation, association or other organization, whether or not in existence.

2. The person who was the accountant may claim the privilege but only on behalf of the client. His authority to do so is presumed in the absence of evidence to the contrary.

EXCEPTIONS.

Sec. 49.9. There is no privilege under section 49.7 or 49.8 of this act:

1. If the services of the accountant were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud.

2. As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction.

3. As to a communication relevant to an issue of breach of duty by the accountant to his client or by the client to his accountant.

4. As to a communication relevant to an issue concerning the examination, audit or report of any financial statements, books, records or accounts which the accountant may be engaged to make or requested by a prospective client to discuss for the purpose of making a public report.

5. As to a communication relevant to a matter of common interest between two or more clients if the communication was made by any of them to an accountant retained or consulted in common, when offered in an action between any of the clients.

6. As to a communication between a corporation and its accountant:

(a) In an action by a shareholder against the corporation which is based upon a breach of fiduciary duty; or

(b) In a derivative action by a shareholder on behalf of the corporation.

Comment--Sections 49.1 to 49.9, inclusive, provide limitations upon the accountant-client privilege, as established by NRS 48.065, which conform to the limitations upon the lawyer-client privilege.

SENATE JUDICIARY COMMITTEE

MINUTES

February 11, 1971

Chairman Monroe called the meeting to order at 9:00 A.M.

Committee members present: Chairman Monroe
Senator Close
Senator Dodge
Senator Foley
Senator Swobe
Senator Wilson
Senator Young

Others present: Frank Daykin

SB-12 Codifies law of evidence.

Mr. Frank Daykin summarized the Evidence Code as presented in Bulletin No. 90 prepared by Legislative Commission of the Legislative Counsel Bureau, (attachment 1).

Senator Dodge: We will be having some further discussion with Mr. Vargas regarding the dead man's rule. Could you give us the rationale of the committee on omitting the Dead Man's Rule since you cannot be here for that discussion. First, what does the dead man's statute mean.

Mr. Frank Daykin: The Dead man's statute says that if one party to a transaction is dead, the other party shall not testify with respect to it. If the adverse party to the legal action is the representative of the deceased person, then the witness shall not be allowed to testify to his transactions with the deceased unless the deceased person was represented by an agent, is living and testifies, or persons other than the party to the transaction claiming to have been present testify. So what it amounts to is the exclusion of the evidence of a living and present witness because either the other party to the transaction about which the witness is testifying, or the other party to the lawsuit, is dead. It is a survival in limited form of the old disqualification of a party from testifying in his own lawsuit at all. That rule has been wittled away until today this is the only survival of it in Nevada law. In many states, it has no survival at all. The draftsman of the federal rules refer to the law as existing in several states, and categorize to it as archaic.

The real question is this, shall you exclude the testimony absolutely so the jury never hears it, or shall you allow the jury to hear it and make their own decision whether to believe it or not. To me it seems preferable to let the testimony in and then let the jury decide whether or not they believe it, rather than make it a legislative decision before the fact that in every such case the witness will lie.

The committee expressed their thanks to Frank Daykin for his presentation and the hearing adjourned.

Respectfully submitted,

Eileen Wynkoop

Eileen Wynkoop, Secretary

Approved: _____

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A PROPOSED EVIDENCE CODE

FOR THE

STATE OF NEVADA

LEGISLATIVE COMMISSION OF THE
LEGISLATIVE COUNSEL BUREAU

STATE OF NEVADA

September 11, 1970

BULLETIN NO. 90

ATTACHMENT #7

ASSEMBLY COMMITTEE ON JUDICIARY - 56TH SESSION, 1971

CONTINUATION OF JOINT HEARING OF SENATE AND ASSEMBLY JUDICIARY COMMITTEES, FEBRUARY 11, 1971, CONCERNING SB 12 - CODIFIES LAW OF EVIDENCE.

Hearing commenced at 8:30 a.m. Assembly Judiciary committee members present: Miss Foote, Messrs. Fry, Dreyer, Olsen and Kean.

The committee heard from MR. FRANK DAYKIN, further explaining the proposed code of evidence, with comments from the committee members as follows:

Re. SEC. 53: Senator Foley: Is there a similar exception if there is a breach of duty, for instance, in a malpractice case? Mr. Daykin: That is not set forth in the present statute or this expressly, but I think it would properly come under exception number 3.

Senator Foley: I think there is a statute that eliminates the privilege in a medical malpractice case. Mr. Daykin: In the next section which refers to proceedings in a hospital medical review committee. Senator Close: Doesn't the patient have the right to waive the privilege? Mr. Daykin: Yes, and the doctor has the right to waive the privilege only on behalf of the patient. There is no need for a specific reference to a breach of duty.

Re. SEC. 57: We have by separate statute in Nevada provisions for the confidentiality of what state officers, for instance, the Superintendent of Banks, find out in examinations conducted by them in the course of their official capacity. It would be harmful if the examined business's competition found out what had been discovered in the examination. The public official may not disclose findings in court if the public interest would suffer.

Senator Foley: That would be in the judgment of the public official? Mr. Daykin: If it were challenged the judge would examine whether or not the claim of privilege is valid. There are no cases on this in Nevada.

Re. SEC. 58, 5(b): Mr. Daykin pointed out there is no crime of adultery in Nevada. "Adultery" in that subsection was changed to "incest".

Mr. Daykin distributed copies of the draft he and Mr. O'Mara had prepared of the Accountant-Client privilege provision.

Re. SEC. 65: Senator Wilson: What is the reason for identifying the informer? A large part of the case put on by the district attorney is the result of information received by an informer. Will this compromise that privilege?

Mr. Daykin: The prosecutors that we heard didn't indicate they saw anything wrong with this. The only objection to it was by the public defender of Clark County, who didn't think there ought to be a privilege at all for the informer or that it should be limited to law enforcement personnel. It is logical to reduce this to a written rule since it is a subject likely to arise. It appears to be fair.

Senator Wilson: It would cause problems to the district attorneys to disclose the identity of an informer. That's the last time he'd be able to use that informer.

Re. SEC. 77: Senator Foley: You wouldn't vouch for your witness when you call him? Mr. Daykin: No. Senator Wilson: This puts plaintiff's lawyers in the driver's seat because you can call all the other side's witnesses and control their testimony and impeach them and destroy the opposition's case before starting your own.

Senator Foley: One of the things in vouching for your own witness is that you have ascertained that he is going to speak the truth or you don't put him on. It is one of the professional obligations for an attorney not to practice tricks.
Mr. Daykin: You can't always choose your witnesses, either.

Senator Dodge: What is the rationale of the Federal law? Could you have a situation where the witness might testify on things that might not have previously come to light? Mr. Daykin: Under present law you can. The rationale was stated simply in terms of search for truth.

Senator Close read from the Federal Advisor volume the rules against impeaching one's own witness, which the committee had followed in drawing this up. (Rule 431)

Re. SEC. 81: Senator Wilson: Does this limit the scope of the cross-examination? More than it is presently limited? Are you applying the redirect examination rule to the subject of cross-examination? Mr. Daykin: I think this is the classical limitation on cross-examination.

Re. SEC 81, 4(b): Senator Young: What does "identified with an adverse party" mean? Mr. Daykin: It uses a single word rather than attempting to enumerate. If you objected to the use of leading questions the judge would have to test "identified".

Senator Young: What about an employee of the adverse party? Mr. Daykin: I think he would be "identified" with the party. This is a broadening in that specific area.

Re. SEC. 83: Senator Wilson: Are you leaving out past recollections? Mr. Daykin: That subject is treated under the hearsay rule. Senator Foley: If you are going to impeach a witness, you had to show him the statement. Mr. Daykin: This has been the past practice but this rule is to that extent a departure from it.

Senator Foley: Would the listing here in these sections of the witness rule tend to exclude those not listed? Would you be repealing the legislative act regarding subpoenaing of legislators? Mr. Daykin: That is contained in another section.

Re. SEC. 124: Senator Foley: Isn't it 30 years on the documents now? Mr. Daykin: It was reduced to 20 years to conform with the presumption of authenticity and because in this state, particularly where we have short periods of limitations, to require an ancient document to be older seems inconsistent.

Re. SEC. 135: Senator Monroe: The statement against interest, does that rule out the possibility where a person turns state's evidence? Mr. Daykin: This only deals with a situation where a statement made out of court will be admitted in court.

Re. SEC. 136 (b): Senator Wilson: Why does it say, "is unavailable as a witness"? Mr. Daykin: To complete the sentence, because before this there were separate sections with subsections in which the wording was carried over. It's there for clarity.

Re. SEC. 145: Senator Dodge: Voices sound different over telephone or tape. Does this mean that if they have a tape they are trying to identify the voice on, you would have to have heard the person's voice on tape before? Mr. Daykin: If he had heard another taped voice that would probably be the best authentication but he might have heard the person speaking naturally or over the telephone. He could still testify but the fact that he heard the voice through a different mode would be admissible. Then it would be up to the jury or judge either to accept the testimony or not.

Re. SEC. 151: Senator Foley: That's in this state, not foreign documents? Mr. Daykin: Public records would be for this state or another state in the United States. Senator Foley: They now need an exemplified copy. Does this mean a certified copy is sufficient? Mr. Daykin: Yes.

Re. SEC. 153: Senator Foley: What about the contents of the newspaper articles? Are they presumed to be accurate and authentic? Mr. Daykin: This doesn't say a thing about their being true. This only says, this is a copy of the article that appeared. Senator Foley: Only the fact that it was printed that day is all this covers? Mr. Daykin: Yes. It doesn't certify the contents.

Re. SEC. 177: Senator Foley: Is this a change? Mr. Daykin: No, only a relocation.

Re. SEC. 210: Senator Monroe: Don't we have a charter revision in the works? Mr. Daykin: Yes, and we'll have to keep track of this in Russ's office. The new charter may possibly conform to this.

Senator Dodge: George Vargas will want to know about the dead man's statute. Could you give us the rationale of the committee about the omission of it?

Mr. Daykin: The statute says that if one party to a transaction is dead the other party to the transaction shall not testify with respect to it. If the adverse party in the proceeding is the representative of a deceased person then a witness shall not be allowed to testify to the transaction with the decedent unless the deceased person was represented by an agent who is living and testifies, or persons other than the parties to the transaction claiming to have been present testify.

So, it is the exclusion of the evidence of a live and present witness because either the other party to the transaction about which the witness is testifying, or the other party to the law suit, is dead. It is a survival in limited form of the whole disqualification of a party from testifying in his own lawsuit at all. The common law said you had to bring in a witness to testify for you but that rule is almost gone. In some states the law has some survival of this rule. What you would do if this is repealed is that if one person testifies as a witness to something that a deceased person did, you could allow it subject to a decision of the judge or jury to decide if that were true. There is a question of public policy. Under the existing statute you shall not permit the living to testify because of the strong presumption that he would lie about it.

Senator Dodge: Supposing only one person can testify about what a dead man did? In what position does it place the jury? They either take the man's word or have nothing to go on.

Mr. Fry: That is not necessarily true. Senator Foley: Is that admissible under the statute? Mr. Daykin: It would depend on the circumstances. If the action is being brought on behalf of the driver of the car under the second element of the rule and the adverse party called this passenger you could call it a dead man rule. The rule is complicated and it is hard to get two witnesses to agree what is the real story. Your question is, shall you exclude the testimony absolutely or shall you allow the jury to hear it and make their own decision to believe it or not?

Senator Wilson: If you bar the testimony, the subject is closed. Mr. Daykin: It seems preferable to let the testimony in and let the jury decide whether to believe it or not.

The members of the committees unanimously expressed appreciation to Mr. Daykin for his work.

Hearing adjourned at 10:55 a.m.

sg

SENATE JUDICIARY COMMITTEE

PUBLIC HEARING ON S.B.#12

February 23, 1971

Chairman Monroe called the hearing to order at 9:15 a.m.

Committee Members Present:	Chairman Monroe Senator Close Senator Dodge Senator Foley Senator Swobe Senator Wilson Senator Young
Others Present:	Fred Pinkerton - Chief Criminal Deputy District Attorney George Vargas - Private Attorney Press

S.B. 12 - Codifies law of evidence.

George Vargas: Because of certain language contained in the letter of submission by the committee which appears on the third page of the Evidence Code Booklet, and the Report of Legislative Commission's Study for an Evidence Code on the following page, it's a little bit difficult to determine whether the real intent of this code is to put things into the Nevada Law of Evidence which are not present at this time, or whether it is, as indicated at the outset of the report, a project of collecting, systematically arranging, and harmonizing existing law. On Page 8 near the bottom of General Statement of the Report in the paragraph next to the last, it would seem to be indicated there that there are things contained in this proposed code which are not presently contained in the statutes or the recorded decisions in our supreme court with reference to rules of evidence. Then if one turns to Exhibit A on Page 9, which defines the scope, in Section 2, it seems to me that the exception contained right there in essence defeats one of the announced purposes of this code; namely, to bring together and compile the existing law. Because if this code applies, excepting to the extent to which its provisions are relaxed by statute or procedural rule applicable to a specific situation, then it would seem to me that any trial lawyer doing his homework is still going to have to go back and research the law of Nevada and can not necessarily rely upon this code. So I think the way it is prepared, it does not really serve the purpose which it purports to serve.

On Page 12, Section 12, "Remainder of Writings or Recorded Statements", I would say that with the exception of the last statement, that is the present law of Nevada. I do have great difficulty when it comes to the phrase "and any party may introduce any other parts." If that is to be taken literally, that's changed from the Nevada Law in my opinion.

On Page 30 under Impeachment, Section 77, the phrase "including the party calling him" is a fact permissive of trial procedure. Generally, I think the court has discretion to permit a party who is calling a witness to impeach that witness if the party calling him is taken by surprise. In other words, you have a statement from a witness and you put him on the stand. Ostensibly in the course of law, you vouch for the person you put on the stand under oath. If he testifies opposed to that set forth in the statement, he may be released from testimony by surprise.

Senator Wilson: This would mean that the sponsor wouldn't vouch for his testimony. Do you think its a good idea or bad?

George Vargas: This is right, and its an innovation in our law of evidence in Nevada. I think its a bad idea as a matter of social judicial policy. The reason I think its a bad idea is because all of us lawyers talk to the witness to evaluate his testimony and I think we should have some responsibility to the court and the litigant to take some of the obligation for presenting this individual as a trustworthy witness. If something develops during the trial which indicates that he is not and the attorney is caught by surprise, the court today has ample jurisdiction to relieve the binding effect of that testimony and the party may proceed to contradict or impeach that witness.

The general conclusion of my comments in pointing out some of these things is just simply that this code apparently introduces considerable new matter into the law of evidence in Nevada in spite of the fact that a part of its pronouncements indicate that this is not the intention of the code. Therein lies the danger.

You will recall that when Mr. Daykin was testifying the other day, he got beyond the portion of the code which deals with Section 48, Title 4 of NRS, and I interrupted to ask Mr. Daykin if he felt that this code repealed the dead man's statute, which is found in Chapter 48.010 of NRS. That came to the question of whether or not as a policy, the legislature might feel that it was advisable to completely repeal the dead man's statute.

There have been direct efforts to repeal the dead man's statute. Up to this time those have not met with success. As I indicated the other day, I feel that whether it should be repealed or not is a matter of legislative policy. Mr. Daykin indicated that the dead man's statute found its root in the common law which I think is quite right. At one time, it prohibited any party to a transaction from testifying. Over the years, apparently that was refined up to the point that we have the current dead man's statute which prohibits a party to a transaction from testifying when the other party to that transaction is dead. This applies to both contract law and to court law, it does not exclude persons who are not parties to the action from testifying.

Apparently this has remained in our law based upon the proposition through historical knowledge that when there are two parties to a transaction and one is dead, there is a great temptation upon the other to at least color the transaction in his favor.

Today there are many cases that could be affected very directly by the repeal of this statute. Human nature being what it is, if you have a situation which could result in a large money judgement, there certainly is a tremendous incentive there to perhaps color one's testimony to an extent which would render it, if the circumstances could be fully displayed, as being perhaps untrustworthy. I am wondering whether simply as a matter of legislative policy in the interest of the state and to the public in general, if it is advisable to completely repeal the dead man's statute.

Senator Young: The repeal of this statute might work the other way too. There are many deserving injured parties who might be denied recovery because there is nobody there to testify except himself or herself and the law would preclude the testimony.

Senator Wilson: Do you think the danger would be averted if relaxation of the rule would require, for example, some evidence of corroboration to the surviving parties testimony without which the testimony might not be competent? Do you think it would cure the problem sufficiently to justify relaxation of the dead man's rule?

George Vargas: I would think it would. There's much to be said, as Senator Young pointed out, about the possibility of this excluding people who are fully entitled, if all the circumstances could be known,to recover

Senator Foley: I would like to get your reaction to this judicial notice in Section 17, Page 13. It says "may be taken at any stage of the proceedings." I asked Frank Daykin if this was the present law, and he says it is the law now. This runs contrary to my feeling that only while the evidence is being presented, you take judicial notice, unless there is some extreme situation.

George Vargas: I don't see how judicial notice could be taken after the case was tried and submitted to the judge. It's terribly unfair. I do think it would be advisable to limit that to during the course of the trial.

Senator Close: I think Frank Daykin's comment on Section 17 was that he felt there was a point where judicial notice would be taken by a judge just in his thought process, and he didn't feel there was any way to prevent that. The judge just in the course of making up his mind would take judicial notice. I don't have the federal rule before me to explain that particular change, but they usually have a very good reason for making a change.

Senator Young: I have the federal rules. It says the provision for taking notice at any stage of the proceedings is in accord with the usual view.

George Vargas: Just as a suggestion, if you wanted to in Section 17 amend it to read "judicial notice may be taken at any stage of the proceedings prior to submission to the court or the jury".

Chairman Monroe: Are there any objections to that?

Senator Close: I have no objection.

Senator Wilson: What was the committee's rationale for including the last phrase, "and any party may introduce any other parts," in Section 12.

Senator Young: The federal rule advisory committee's notes say: "If whole or part of a dispotion is offered in evidence by a party, an adverse party may require all else relevant to the part introduced and any other party may introduce any other parts. A somewhat greater measure of discretion in application is suggested by substituting in lieu of "relevant", the phrase "which ought in fairness to be considered with the part introduced." The rule is based on two considerations. The first is the misleading impression created by taking matters out of context, the second is the inadequacy if the affair were delayed to a point later in the trial.

Senator Close: I think in this case the proponent would be limited to the things that he could introduce because of other restrictions, such as the hearsay rule, which would still preclude this evidence from coming in.

Senator Foley: Mr. Vargas, do you regard this as being applicable to depositions?

George Vargas: No, but I did have some question about the language in the footnote referring to depositions. There is a very sharp difference between what you can bring in in a deposition and what you can bring in as evidence in the courtroom. In a deposition you are not tied down at all to relevant evidence, you may inquire to things which are not relevant, but which may be calculated to lead to discovery of relevant evidence.

We never had any trouble with someone putting in a writing and if there is another relevant portion which may cast a different light on the subject, I would request the court to ask the witness to read the remainder of the writing.

Senator Young: The federal rule, I think is better than what we have in Section 12. It says that "when a writing or recorded statement or part thereof is introduced by a party, he may be required at that time to introduce any other part or any other writing or recorded statement, which ought in fairness to be considered with it." How about if we put in "any other relevant parts."

Senator Close: That's superfluous. The judge is not going to permit irrelevant matters to come into the trial.

I would like to have a chance to investigate the rationale of our sub-committee and the federal rule drafters.

Chairman Monroe: Thank you for your testimony Mr. Vargas. Is there anyone else who would like to speak on this bill.

Fred Pinkerton: I'm with the District Attorney's Office in Washoe County, and I'm here to speak about a few provisions in the evidence code. My remarks should be considered in the context of criminal cases.

In Section 29 on Page 18, Subsection 2 b) provides that evidence is not admissible if it would unfairly and harmfully surprise a party. In my experience, surprise is more an objective type of thing. The court would make a determination whether counsel had a reasonable opportunity to expect such evidence. I would refer the committee to the comments of the federal drafters dealing with the deletion of surprise from the federal rules. Rather than calling for the out-right exclusion of evidence which the judge determines has or would unfairly and harmfully surprise the party, the court can grant the defense a continuance to look into the circumstances or into the evidence which has been offered. I think this is a fairer determination in the courtroom rather than calling for the outright exclusion.

Senator Wilson: What are the parameters of properly claimed surprise?

Fred Pinkerton: I think it's largely objective. There is a provision in the law now for discovery in criminal cases. That discovery is more limited than in civil cases. I think the court can look and see if there had been a motion for discovery which had been granted, the defense had followed all of their procedures in discovering all properly discoverable evidence, then I think the judge would have something upon which to base whether this party has been diligent in determining whether or not it would be surprised by other evidence. The discovery statutes exclude from discovery all police reports and memorandum of state agencies and I have experienced that there has been claimed surprise because of evidence contained in the police reports. I think for criminal cases, Section 29 ought to have at least the discretion in the trial judge to grant a continuance, because at the time of the trial this evidence is going to be unveiled which is not properly discoverable. This is a difficult thing for a judge to determine.

Senator Wilson: Don't you think that relief ought to be in a footnote. I question seriously whether in an evidence code we ought to get into a question of what the parameters of discretion should be.

Fred Pinkerton: I feel that footnotes become part of the section anyway. How its done is a matter of opinion. I would follow how the federal drafters did it and drop it completely. Then the court would use common law, which allows for a continuance.

Senator Close: I'm afraid putting it in a footnote wouldn't do much good because the courts don't pay attention to footnotes.

Fred Pinkerton: I have reservations about Section 79 on Page 31, Subsection 2 which provides that evidence of a conviction is inadmissible if a period of more than 10 years has elapsed since the date of release or the expiration date of his parole, probation or sentence. The principal as I understand it is that at the time of cross examination for impeachment purposes, a witness was asked whether or not he or she has ever been convicted of a felony. The law in Nevada now is if the defendant is on the stand and the prosecutor asks that question, he must have in his possession evidence that there has been in fact a previous felony conviction. There is no limitation presently on the time that prior felony conviction occured. There can be an objection by the defense counsel that the previous felony conviction is so remote from the present trial that it is of so little probative value that it can be excluded.

I would suggest and propose that rather than putting a specific time limit in there, that the section dealing with the 10-year provision be dropped. Subsection 1 is very commendable, but subsection 2, where a specific period of time is proposed, raises a problem. I think the best way is to leave it with the judge as it is now to exclude it, or admit it if the facts are so close and the credibility isn't a question.

Senator Wilson: Of course, it's only admissible in any event if the answer to the question "have you ever been convicted of a felony" is "no", if he says "yes", that's the end of it.

Fred Pinkerton: I'm afraid that this section would prevent that question from even being asked if the exemplified copy showed that 10 years had elapsed from the date of his release from confinement. And the prosecutor must have in his hand an exemplified copy of his conviction as evidence.

I think the idea expressed in Subsection 3 is very valid, but as to evidence of an honorable discharge in Subsection 3 a), I have some question about that. In this state we do not have a certificate of rehabilitation. We have a provision in the state law for honorable discharge from probation. I think rather than putting disqualification on whether the person can be asked the question has he been convicted of a felony previously, that should be dropped. I think that another way to approach it is if a person has been honorably discharged on probation and the prosecutor has asked the question on cross examination; on redirect the defense counsel should be permitted to ask "have you been discharged honorably from probation." I think that if the prior felony conviction is before the jury, the mitigating circumstance of an honorable discharge should also be before the jury.

Federal drafters did not include allowing the conviction and the fact of rehabilitation because of reasons of policy, economy of time, and difficulty of evaluation. I think the same argument is true for permitting both of them in. When we talk about economy of time, its difficult enough to get exemplified copies of prior convictions in time for trial without burdening the state with trying to determine the status of their probation and the result of that probation. I don't think we save time by applying or enacting this section. I think we are qualifying and limiting the matter of impeachment too much when we get into examining whether or not they were released from probation and what was the status of that discharge.

What I have proposed would be consistent with NRS 176.225 which is the discharge from probation statute.

There is another point I want to make regarding Sections 41 through 49, the Lawyer-Client privelege, on Page 22. The present law is contained in NRS 48.060. This section expresses the proper limitation upon the attorney-client relationship. Sections 41 through 49 expand the attorney-client relationship and I think it opens the door to abuse.

I particularly have an objection to expanding the attorney-client relationship to coverage for the representative of the lawyer and client in Sections 45 and 46. Who do we look to to determine whether or not that witness is a representative of the defendant? We look to the defendant himself.

Senator Wilson: This is a valid point because Section 45 could be used by a knowledgeable defendant in cloaking a witness with the privelege of representative. What does the committee say on that?

Fred Pinkerton: The comments of the drafters are: "Representative of the client is limited to one who may properly be said to speak for the client within the spirit and purpose of the privelege; that is, one having authority to obtain legal services or to act on the legal advice for a client." They speak to all cases practically except criminal cases. Enactment of this section as it appears now would lend itself to abuse, rather than encouraging a criminal defendant client to disclose everything to the attorney.

Senator Young: I think your point is unrealistic. Everybody in trouble doesn't have a chance to go to an attorney personally, he might have to send his sister or brother. This only excludes confidential communications to a representative made for the purpose of facilitating professional services to the client. I don't see any great problems of abuse. If you can establish by evidence that there is a relationship, the privelege can be claimed. You have to have the confidentiality for communication with your lawyer.

Fred Pinkerton: My last comment is to Section 66 on Page 28, Subsection 1 which provides for the disclosure of the identity of an informer. I think that it misses the boat. The question before the judge is whether or not the officers who made the search had reason to believe that the informer was reliable. How the name adds or detracts from that, I'm not certain. The judge is going to listen to the testimony of the officers and determine whether or not they had reason to believe the information was reliable. I don't see how disclosure of the informant's name adds anything to that determination.

Senate Judiciary Committee
Public Hearing on S.B. #12
February 23, 1971

Senator Wilson: Realistically the reliability of the informer and the reasonableness of the officers reliance on him, can't be disclosed unless the informant is produced, and cross-examined.

Fred Pinkerton: It's a policy consideration if informant's are disclosed, it drys up the source of information for law enforcement. If informants know that their names will be disclosed in a courtroom in front of the defendant and his attorney, he will not be so anxious to give information in the future. If the judge does not believe that the informant was reliable, the evidence does not come in. I don't know how the name of the informer, and how does the judge know who the informant is anyway, adds or detracts from the determination.

The hearing adjourned at 11:05 a.m.

Respectfully submitted,

Eileen Wynkoop

Eileen Wynkoop, Secretary

Approved: _____

SENATE JUDICIARY COMMITTEE

MINUTES

March 9, 1971

Chairman Monroe called the meeting to order at 7:40 p.m.

Committee Members Present:	Chairman Monroe Senator Close Senator Dodge Senator Foley Senator Swobe Senator Wilson Senator Young
Others Present:	Jean Ford - League of Women Voters Grant Davis - Legislative Counsel Bureau Jim Guinan - State Bar

S.B. 32 - Permits expunging records of juveniles in certain circumstances. Senator Hug

Chairman Monroe reviewed the amendments submitted by Grant Davis that were discussed previously. The committee also discussed and approved of having a definition of sealing in the bill. That definition would be: Removing those records to a separate depository not available to the public. The committee decided not to include the suggestion of the League of Women Voters of having a notice of the opportunity for expunging in the sentencing order.

Senator Swobe made a motion to amend and "do pass." Senator Foley second the motion. Motion carried.

S.B. 11 - Prohibits illegal use of credit and identification cards. Senators Fransway, Lamb and Hecht

Chairman Monroe announced that he received a letter from George Vargas in which he said that there are three bills before the legislature on this subject: S.B. 11, A.B. 27, and A.B. 194. All of his clients favor and support A.B. 194. Jim Guinan advised the committee that the Assembly Judiciary voted to kill A.B. 27 and put out A.B. 194. The committee decided to hold further action until they look at A.B. 194.

S.B. 12 - Codifies law of evidence.
Senators Close, Young, and Swobe

The committee reviewed all suggested amendments proposed by witnesses at the hearings on February 10, 11, and 23. Where any disagreements arose in committee on changes suggested by the witnesses, they were left as they were originally drafted because they felt that the federal rules were thoroughly researched and would be the fairest compromise available.

The committee will vote on the bill as soon as these amendments are finalized.

S.B. 121- Provides for court administrator and makes appropriation.
Senators Young, Brown, Swobe, Walker, Wilson, Foley and Close.

The committee discussed the amendment that would make this person a statistical gatherer and reduce his salary to $15,000 in Subsection 2 of Section 3. They also discussed removing Section 7, and amending Section 11 to $21,000. This bill was re-referred to the Finance Committee, so the amendment was sent there for inclusion in the bill.

Meeting adjourned at 9:45 p.m.

Respectfully submitted,

Eileen Wynkoop, Secretary

Approved:_____

SENATE JUDICIARY COMMITTEE

MINUTES

March 12, 1971

Chairman Monroe called the meeting to order at 8:30 A.M.

Committee Members Present: Chairman Monroe
Senator Close
Senator Foley
Senator Dodge
Senator Swobe
Senator Wilson
Senator Young

Others Present: Phil Hannafin - Director, Nevada Gaming Comm.
Russell Nash - Legal Aid Society

S.B. #171 - Creates Investigative Revolving Fund for use of Gaming Commission, Gaming Control Board. Senator Wilson

Phil Hannafin submitted an amendment to the committee which would provide that at the end of each fiscal year, all funds in excess of $2,000 would be returned to the general fund in the state treasury. This bill was proposed because in the course of these investigations, his employees have had to pay for their expenses out of their own pockets because the per diem laws were so restrictive regarding reimbursement. This way the expenses would be paid from the trust fund only upon receipt. Senator Dodge questioned Mr. Hannafin about fiscal control. Mr. Hannafin replied that they would be audited by the Legislative Fiscal Analyst.

Senator Wilson made a motion to amend and "do pass". Senator Dodge second the motion. Motion carried.

Mr. Hannafin asked for committee introduction on a bill that would provide that the commission would have to revoke a licensee on the second violation of Chapter 465, which is the chapter covering serious violations such as cheating. As the law is presently, they have had to turn their backs on some violations because they felt they weren't serious enough to pull the license. This would give them flexibility to use disciplinary action rather than revocation.

The committee voted in favor of sponsoring this bill.

2-

S.B. #176 - Limits garnishment and execution on earnings.
Committee on Judiciary

Russell Nash from the Legal Aid Society informed the committee that this bill was drafted incorrectly. Senator Dodge mentioned that Jim Guinan was redrafting it to correct the transposition of 25% and 75%. Russell Nash pointed out that Line 2 on Page 2 should read "whichever is more". On Page 1, Line 24 exempts everything up to $48.00 a week in disposable earnings. He suggested putting the words "for each week of" in Line 25.

No final action was taken pending Jim Guinan's amendment.

S.J.R. #22- Provides for appointment and election of district judges.
Senators Foley, Monroe, Wilson and Young.

The chairman suggested taking up this bill since there was a full committee present. Senator Dodge explained his opposition to this bill as a matter of timing since he felt it would endanger S.J.R. #23. Senator Young felt that there are certain advantages in district court judges running for election. He felt it is more palatable than straight out appointment.

Senator Foley made a motion to "do pass." Senator Young second the motion. The vote on the motion went as follows:
Yeas - Senators Foley, Wilson, Young and Chairman Monroe (4)
Nays - Senators Dodge, Swobe and Close (3)

Senator Dodge reserved the right to oppose the bill on the Senate Floor.

S.B. #12 - Codifies law of evidence.
Senators Close, Young and Swobe.

Senator Close submitted an amendment to cover the dead man's statute. "Transactions or conversations or actions of a deceased person are admissable if supported by corroborative evidence." The amendment was approved by the committee.

The committee will vote on the bill as a whole when all amendments are finalized.

S.J.R. #21 - Proposes to amend the Nevada Constitution by requiring that Governor and Lieutenant Governor be elected jointly as a team.
Senator Dodge

Senator Dodge informed the committee that this resolution, which was discussed on March 11, was re-referred to the Committee on Federal, State and Local Governments.

S.B. #249 - Allows discharge of joint defendant under certain conditions for purpose of serving as state witness.
Committee on Judiciary

Senator Wilson explained that this bill would allow you to call a joint

impound these moneys, and no work has been carried out on necessary pre-construction activities. Please inform Assemblymen Mello, Valentine, and Foote, and other interested legislators, that I have been doing everything I can to secure the release of these funds. I am keeping the pressure on the Interior Department and the Bureau of the Budget, and I remain hopeful that the funds will soon be released. Otherwise they are not programmed until the beginning of the next fiscal year.

I commend the Nevada Legislature for its interest in these important projects.

Cordially,

ALAN BIBLE

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, March 15, 1971

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 331, 348, 511.

MOURYNE B. LANDING
Assistant Chief Clerk of the Assembly

SECOND READING AND AMENDMENT

Senate Bill No. 12.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 3145. (*Last four amendments resolve conflict with S. B. 59.)

Amend sec. 12, page 3, line 4, by inserting "*relevant*" before "*parts.*"

Amend sec. 17, page 3, by deleting the period and inserting: "*prior to submission to the court or jury.*"

Amend sec. 24, page 5, by deleting lines 43 through 45, and inserting: "*5. The judgment or order of a court, when declared by Titles 2, 3 and*".

Amend sec. 24, page 5, line 49, by deleting "7." and inserting "*6.*"

Amend sec. 29, page 7, by deleting lines 5 through 10, and inserting: "*is substantially outweighed by considerations of undue delay, waste of time or needless presentation of cumulative evidence.*

3. Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary witness cannot describe the act in controversy or the crime charged without referring to the other act or crime shall not be excluded, but a cautionary instruction shall be given explaining the reason for its admission."

Amend the bill as a whole by adding 9 new sections, designated sections 49.1, 49.2, 49.3, 49.4, 49.5, 49.6, 49.7, 49.8 and 49.9, respectively, to follow section 49 and to read as follows:

"Sec. 49.1. *As used in sections 49.1 to 49.9, inclusive, of this act, the words and phrases defined in sections 49.2 to 49.6, inclusive, of this act have the meanings ascribed to them in sections 49.2 to 49.6, inclusive, of this act.*

Sec. 49.2. *"Accountant" means a person certified or registered as a public accountant under chapter 628 of NRS who holds a live permit.*

Sec. 49.3. *"Client" means a person, including a public officer, corporation, association or other organization or entity, either public or private, who is rendered professional accounting services by an accountant, or who consults an accountant with a view to obtaining professional accounting services from him.*

Sec. 49.4. *A communication is "confidential" if it is not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional accounting services to the client or those reasonably necessary for the transmission of the communication.*

Sec. 49.5. *"Representative of the accountant" means a person employed by the accountant to assist in the rendition of professional accounting services.*

Sec. 49.6. *"Representative of the client" means a person having authority to obtain professional accounting services, or to act on advice rendered pursuant thereto, on behalf of the client.*

Sec. 49.7. *A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications:*

1. Between himself or his representative and his accountant or his accountant's representative.

2. Between his accountant and the accountant's representative.

3. Made for the purpose of facilitating the rendition of professional accounting services to the client, by him or his accountant to an acountant representing another in a matter of common interest.

Sec. 49.8. *1. The privilege may be claimed by the client, his guardian or conservator, the personal representative of a deceased client, or the successor, trustee or similar representative of a corporation, association or other organization, whether or not in existence.*

2. The person who was the accountant may claim the privilege but only on behalf of the client. His authority to do so is presumed in the absence of evidence to the contrary.

Sec. 49.9. *There is no privilege under section 49.7 or 49.8 of this act:*

1. If the services of the accountant were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud.

2. As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction.

3. As to a communication relevant to an issue of breach of duty by the accountant to his client or by the client to his accountant.

4. As to a communication relevant to an issue concerning the examination, audit or report of any financial statements, books, records or accounts which the accountant may be engaged to make or requested by a prospective client to discuss for the purpose of making a public report.

5. As to a communication relevant to a matter of common interest between two or more clients if the communication was made by any of them to an accountant retained or consulted in common, when offered in an action between any of the clients.

6. As to a communication between a corporation and its accountant:

(a) In an action by a shareholder against the corporation which is based upon a breach of fiduciary duty; or

(b) In a derivative action by a shareholder on behalf of the corporation."

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT

S. B. 12

SENATE BILL NO. 12—SENATORS CLOSE, YOUNG AND SWOBE

JANUARY 19, 1971

Referred to Committee on Judiciary

SUMMARY—Codifies law of evidence. Fiscal Note: No. (BDR 4-5)

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to evidence; to harmonize and codify the applicable law: and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 47 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this act.

SEC. 2. *1. This Title governs proceedings in the courts of the State of Nevada and before magistrates, except:*

(a) To the extent to which its provisions are relaxed by a statute or procedural rule applicable to the specific situation; and

(b) As otherwise provided in subsection 3.

2. The provisions of chapter 49 of NRS with respect to privileges apply at all stages of all proceedings.

3. The other provisions of this Title do not apply to:

(a) Issuance of warrants for arrest, criminal summonses and search warrants.

(b) Proceedings with respect to release on bail.

(c) Sentencing, granting or revoking probation.

(d) Proceedings for extradition.

SEC. 3. *The purposes of this Title are to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.*

SEC. 4. *1. Except as otherwise provided in subsection 2, error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and:*

(a) In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection.

This bill is 53 pages long. Please contact the Research Library to view the bill in its entirety.

Amend sec. 58, page 11, line 48, by deleting "*adultery*." and inserting "*incest*."

Amend sec. 66, page 12, line 42, by deleting "*chambers*" and inserting "*camera*".

Amend sec. 79, page 14, by deleting lines 35 through 41 and inserting:

"*3. Evidence of a conviction is inadmissible under this section if the conviction has been the subject of a pardon.*"

Amend the bill as a whole by adding a new section on page 20, between lines 17 and 18, designated section 110.5, to read as follows:

"Sec. 110.5 *Transactions or conversations with or actions of a deceased person are admissible if supported by corroborative evidence.*"

*Amend sec. 210, page 39, by deleting lines 24 through 50, and inserting:

"Sec. 210. (Deleted by amendment.)"

*Amend sec. 210, page 40, by deleting lines 1 through 15.

*Amend sec. 211, page 40, by deleting lines 16 through 35 and inserting:

"Sec. 211. Section 2.110 of the charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, is hereby amended to read as follows:

Sec. 2.110 Codification of ordinances; publication of code.

1. The city council may codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the city council, have incorporated therein a copy of this charter and such additional data as the city council may prescribe. When such code is published, two copies shall be filed with the librarian at the Nevada state library. [, and thereafter the code shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance and shall not contain any substantive changes, modifications or alterations of existing ordinances; and the only title necessary for the ordinance shall be, "An ordinance for codifying and compiling the general ordinances of the City of Caliente."

4. The codification may be amended or extended by ordinance."

*Amend the bill as a whole by adding a new section on page 53, after line 6, designated section 230, to read as follows:

"Sec. 230. This act shall become effective at 12:01 a.m. on July 1, 1971."

Senator Monroe moved the adoption of the amendment.

Seconded by Senator Manning.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 178.

Bill read second time.

The following amendments were proposed by the Committee on Federal, State, and Local Governments:

Roll call on Assembly Bill No. 403:

YEAS—17.
NAYS—None.
Absent—Fransway, Lamb, Walker—3.

Assembly Bill No. 403 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 606.

Bill read third time.

Roll call on Assembly Bill No. 606:

YEAS—17.
NAYS—None.
Absent—Fransway, Lamb, Walker—3.

Assembly Bill No. 606 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 348.

Bill read third time.

The following amendment was proposed by the Committee on Federal, State, and Local Governments:

Amendment No. 3247.

Amend sec. 6, page 4, line 36, by deleting "8" and inserting "9".

Amend sec. 7, page 5, line 4, by deleting "8" and inserting "9".

Amend sec. 87, page 105, line 5, by deleting "8" and inserting "8½".

Senator Gibson moved the adoption of the amendment.

Seconded by Senator Manning.

Remarks by Senators Brown, Gibson, and Hug.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Senate Bill No. 12.

Bill read third time.

Roll call on Senate Bill No. 12:

YEAS—17.
NAYS—None.
Absent—Fransway, Lamb, Walker—3.

Senate Bill No. 12 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 176.

Bill read third time.

Roll call on Senate Bill No. 176:

YEAS—15.
NAYS—None.
Absent—Fransway, Lamb, Swobe, Walker, Young—5.

Senate Bill No. 176 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

ASSEMBLY COMMITTEE ON JUDICIARY - 56th SESSION, 1971

MEETING APRIL 8, 1971

The meeting was called to order at 12:05 p.m. All present.

SENATORS WARREN MONROE and CARL DODGE appeared before the committee to explain Senate Bills pending, as follows:

SB 7 - Prohibits possession or withholding of stolen goods.

Senator Dodge explained the District Attorneys have problems prosecuting under the present law, and this bill would clear up provisions.

SB 167 - Provides civil remedies and criminal penalties for unlawful burning.

Senator Dodge said the key to the bill is page 2, line 22, which provides for areas outside incorporated cities and towns, in the jurisdiction of the US Forest Service. It doesn't invade farmers' permits.

SB 182 - Grants immunity in licensing and disciplinary proceedings of professions and occupations.

Senator Dodge explained this would help ascertain truth in proceedings since witnesses would not have to fear legal proceedings for libel or slander.

SB 241 - Allows estates less than $3,000 to be distributed without administration to children of deceased who are not minors.

Senator Dodge explained the present law discriminates against persons who are not minors. Mr. Torvinen noted there is not a provision in NRS 146.070 for paying debts or allowances to widows or children. Senator Monroe stated that on line 5 just payments may be directed to be paid.

SB 248 - Re-forms definition of excusable homicide.

Senator Dodge said the bill does not mean much, and they didn't care if it was killed.

Committee in session at 5:14 p.m. Present: Miss Foote, Messrs. Fry, Kean, May, Dreyer, Olsen, McKissick, Lowman and Torvinen.

Mr. Dreyer presented a bill for which he requested introduction, making burglary a crime in the daytime as well as nighttime. The committee agreed to introduce the bill.

Mr. Olsen moved "Do Pass" AB 718 as amended. Seconded by Mr. Dreyer. Carried.

Mr. Kean moved "Do Pass" AB 809. Seconded by Mr. May. Carried.

Mr. Kean moved "Do Pass" SB 7. Seconded by Miss Foote. Carried.

Mr. Kean moved "Do Pass as amended" SB 12. Seconded by Mr. Fry. Carried.

Mr. Kean moved "Do Pass" SB 19. Seconded by Mr. Dreyer. Carried, with Mr. May voting "No."

Mr. Kean moved "Do Pass" SB 116. Seconded by Mr. May. Carried.

Mr. Kean moved that SB 139 be amended to provide for 30% and the committee recommend "Do Pass as Amended". Seconded by Mr. McKissick. Motion Lost.

Mr. Fry moved that SB 139 be indefinitely postponed. Seconded by Mr. May. Carried.

Mr. McKissick moved "Do Pass" SB 167. Seconded by Mr. Dreyer. Carried.

Mr. May moved that SB 182 be indefinitely postponed. Seconded by Mr. Dreyer. Carried.

Mr. Fry moved that SB 236 be indefinitely postponed. Seconded by Mr. Kean. Carried.

Mr. Fry moved "Do Pass" SB 242. Seconded by Mr. Dreyer. Carried.

Mr. Fry moved that SB 244 be indefinitely postponed. Seconded by Mr. Dreyer. Carried.

Mr. Dreyer moved that SB 245 be indefinitely postponed. Seconded by Mr. Lowman. The Motion lost.

Mr. Kean moved "Do Pass" SB 245. Seconded by Mr. May. Carried, with Messrs. Dreyer and Lowman voting "No."

Mr. Fry moved that SB 248 be indefinitely postponed. Seconded by Mr. Kean. Carried.

Mr. Valentine moved the adoption of the amendment.
Remarks by Mr. Valentine and Mrs. Frazzini.
Amendment adopted.
Bill ordered reprinted, re-engrossed, and to third reading.

Senate Bill No. 582.
Bill read second time, and ordered to third reading.

Senate Bill No. 636.
Bill read second time, and ordered to third reading.

Senate Bill No. 12.
Bill read second time.
The following amendments were proposed by the Committee on Judiciary:
Amendment No. 4008. (Resolves conflict with S. B. 8, S. B. 127.)
Amend sec. 175, page 29, by deleting lines 12 and 13 and inserting:
"2. The court may allow to the prevailing party the fees of not more than three expert witnesses in an amount not to exceed $250 for each witness."
Amend sec. 194, page 35, by deleting line 22 and inserting: "hereafter enacted inconsistent therewith, except those local ordinances and regulations which are more stringent than the state rules and regulations provided for in this section."
Amendment No. 4094. (Resolves conflict with S. B. 306.)
Amend sec. 186, page 32, by deleting lines 1 through 41 and inserting:
"Sec. 186. (Deleted by amendment.)"
Amend sec. 209, page 40, line 18, by deleting "266.485,".
Mr. Fry moved the adoption of the amendments.
Remarks by Mr. Fry.
Amendments adopted.
Bill ordered reprinted, re-engrossed, and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 628.
Bill read third time.
The following amendments were proposed by the Committee on Transportation:
Amendment No. 3469.
Amend section 1, page 1, line 4, by deleting "shall," and inserting "[shall,]".
Amend section 1, page 1, by deleting line 5 and inserting: "*motor-truck having an unladened weight of 5,000 or less pounds may*".
Amend sec. 2, page 1, by deleting line 16 and inserting:
"Sec. 2. NRS 482.280 is hereby amended to read as follows:
482.280 1. The registration of every vehicle referred to in subsection 1 of NRS 482.206 shall expire at midnight on the last day of the last month of the registration period. The registration of every vehicle referred to in subsection 3 of NRS 482.206 shall expire at midnight on December 31. The department shall mail to each holder of a valid registration certificate an application form for renewal registration for the following

(REPRINTED WITH ADOPTED AMENDMENTS)
SECOND REPRINT **S. B. 12**

SENATE BILL NO. 12—SENATORS CLOSE, YOUNG AND SWOBE

JANUARY 19, 1971

Referred to Committee on Judiciary

SUMMARY—Codifies law of evidence. Fiscal Note: No. (BDR 4-5)

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to evidence; to harmonize and codify the applicable law; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 47 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this act.

SEC. 2. *1. This Title governs proceedings in the courts of the State of Nevada and before magistrates, except:*

(a) To the extent to which its provisions are relaxed by a statute or procedural rule applicable to the specific situation; and

(b) As otherwise provided in subsection 3.

2. The provisions of chapter 49 of NRS with respect to privileges apply at all stages of all proceedings.

3. The other provisions of this Title do not apply to:

(a) Issuance of warrants for arrest, criminal summonses and search warrants.

(b) Proceedings with respect to release on bail.

(c) Sentencing, granting or revoking probation.

(d) Proceedings for extradition.

SEC. 3. *The purposes of this Title are to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.*

SEC. 4. *1. Except as otherwise provided in subsection 2, error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and:*

(a) In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection.

This bill is 52 pages long. Please contact the Research Library to view the bill in its entiretv.

MOTIONS, RESOLUTIONS, AND NOTICES

Mr. Bryan moved that Senate Bill No. 626 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Mr. Bryan.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Joint Resolution No. 12.

Resolution read third time.

Roll call on Senate Joint Resolution No. 12:

YEAS—31.
NAYS—None.
Absent—Branch, Dini, Foote, Hafen, Hilbrecht, Mello, Torvinen—7.
Not voting—Frazzini, Roy Young—2.

Senate Joint Resolution No. 12 having received a constitutional majority, Mr. Speaker declared it passed.

Resolution ordered transmitted to the Senate.

Assembly Bill No. 384.

Bill read third time.

Mr. Fry moved that Assembly Bill No. 384 be taken from its position on the General File and placed at the bottom of the General File.

Remarks by Mr. Fry.

Motion carried.

Senate Bill No. 12.

Bill read third time.

Remarks by Mr. Fry.

Roll call on Senate Bill No. 12:

YEAS—37.
NAYS—None.
Absent—Branch, Hilbrecht, Roy Young—3.

Senate Bill No. 12 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 196.

Bill read third time.

Mr. Capurro moved that Senate Bill No. 196 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Mr. Capurro.

Motion carried.

MOTIONS, RESOLUTIONS, AND NOTICES

Mr. Capurro moved that Senate Bill No. 281 be taken from the General File and placed on the Chief Clerk's desk.

Remarks by Mr. Capurro.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 318.

Bill read third time.

8. Where a party has been committed or indicted on any criminal charge under a statute or ordinance that is unconstitutional, or if constitutional on its face is unconstitutional in its application.

SEC. 2. This act shall become effective upon passage and approval.

Assembly Bill No. 328—Committee on Education

A - G

CHAPTER 400

AN ACT to amend NRS 625.530, relating to services of professional engineers and architects in the construction of public works, by limiting its provision to higher maximum-cost projects.

[Approved April 22, 1971]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. NRS 625.530 is hereby amended to read as follows:

625.530 1. It is unlawful for the State of Nevada or any of its political subdivisions, such as a county, city or town, to engage in the construction of any public work requiring the practice of engineering, unless the plans, specifications and estimates have been prepared by, and the construction executed under the supervision of, a registered professional engineer or a duly licensed architect.

2. Nothing in this section shall be:

(a) Held to apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed **[**$2,000.**]** *$15,000.*

(b) Deemed to include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Deemed to authorize either a professional engineer or a licensed architect or a registered land surveyor to practice in violation of any of the provisions of chapter 623 of NRS or this chapter.

SEC. 2. This act shall become effective upon passage and approval.

Assembly Bill No. 277—Mr. Smith

A - G

CHAPTER 401

AN ACT relating to the state planning board; empowering the board to use grants of money for public buildings or projects for which no legislative appropriation is provided; and providing other matters properly relating thereto.

[Approved April 22, 1971]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 341 of NRS is hereby amended by adding thereto a new section which shall read as follows:

341 121

The board may, with the concurrence of the interim finance committee,

use grants of money received under authority of this chapter, unless otherwise limited by the conditions of any such grant, for:

1. The design and construction of public buildings or projects for which no appropriation has been made by the legislature.

2. Additional design and construction costs on public buildings or projects, through appropriate contract procedures, for which the original legislative appropriation made no provision.

SEC. 2. This act shall become effective upon passage and approval.

Senate Bill No. 12—Senators Close, Young and Swobe

A - G

CHAPTER 402

AN ACT relating to evidence; to harmonize and codify the applicable law; and providing other matters properly relating thereto.

[Approved April 22, 1971]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 47 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this act.

SEC. 2. *1. This Title governs proceedings in the courts of the State of Nevada and before magistrates, except:* 47.020

(a) To the extent to which its provisions are relaxed by a statute or procedural rule applicable to the specific situation; and

(b) As otherwise provided in subsection 3.

2. The provisions of chapter 49 of NRS with respect to privileges apply at all stages of all proceedings.

3. The other provisions of this Title do not apply to:

(a) Issuance of warrants for arrest, criminal summonses and search warrants.

(b) Proceedings with respect to release on bail.

(c) Sentencing, granting or revoking probation.

(d) Proceedings for extradition.

SEC. 3. *The purposes of this Title are to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.* 47.030

SEC. 4. *1. Except as otherwise provided in subsection 2, error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and:* 47.040

(a) In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection.

(b) In case the ruling is one excluding evidence, the substance of the evidence was made known to the judge by offer or was apparent from the context within which questions were asked.

2. This section does not preclude taking notice of plain errors affecting substantial rights although they were not brought to the attention of the judge.

47.050 SEC. 5. The judge may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made and the ruling thereon. He may direct the making of an offer in question and answer form, and on request shall do so in actions tried without a jury, unless it clearly appears that the evidence is not admissible on any ground or is privileged.

47.060 SEC. 6. 1. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege or the admissibility of evidence shall be determined by the judge, subject to the provisions of section 7 of this act.

2. In making his determination he is not bound by the provisions of this Title except the provisions of chapter 49 of NRS with respect to privileges.

47.070 SEC. 7. 1. When the relevancy of evidence depends upon the fulfillment of a condition of fact, the judge shall admit it upon the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

2. If under all the evidence upon the issue the jury might reasonably find that the fulfillment of the condition is not established, the judge shall instruct the jury to consider the issue and to disregard the evidence unless they find the condition was fulfilled.

3. If under all the evidence upon the issue the jury could not reasonably find that the condition was fulfilled, the judge shall instruct the jury to disregard the evidence.

47.080 SEC. 8. In jury cases, hearings on preliminary questions of admissibility, offers of proof in narrative or question and answer form, and statements of the judge showing the character of the evidence shall to the extent practicable, unless further restricted by section 9 of this act, be conducted out of the hearing of the jury, to prevent the suggestion of inadmissible evidence.

47.090 SEC. 9. Preliminary hearings on the admissibility of confessions or statements by the accused or evidence allegedly unlawfully obtained shall be conducted outside the hearing of the jury. The accused does not by testifying at the hearing subject himself to cross-examination as to other issues in the case. Testimony given by him at the hearing is not admissible against him on the issue of guilt at the trial.

47.100 SEC. 10. Sections 6 to 9, inclusive, of this act do not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

47.110 SEC. 11. When evidence which is admissible as to one party or for one purpose but inadmissible as to another party or for another purpose is admitted, the judge, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

47.120 SEC. 12. 1. When any part of a writing or recorded statement is introduced by a party, he may be required at that time to introduce any other part of it which is relevant to the part introduced, and any party may introduce any other relevant parts.

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2. This section does not limit cross-examination.

47.130 SEC. 13. 1. The facts subject to judicial notice are facts in issue or facts from which they may be inferred.

2. A judicially noticed fact must be:

(a) Generally known within the territorial jurisdiction of the trial court; or

(b) Capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned,

so that the fact is not subject to reasonable dispute.

47.140 SEC. 14. The laws subject to judicial notice are:

1. The Constitution and statutes of the United States, and the contents of the Federal Register.

2. The constitution of this state and Nevada Revised Statutes.

3. Any other statute of this state if brought to the attention of the court by its title and the day of its passage.

4. A county, city or town code which has been filed as required by NRS 244.118, 266.160, 269.168 or the city charter and any city ordinance which has been filed or recorded as required by the applicable law.

5. A regulation of an agency of this state which has been adopted pursuant to NRS 233B.060 and filed pursuant to NRS 233B.070.

6. The class and organization of a city incorporated under general law.

7. The constitution, statutes or other written law of any other state or territory of the United States, or of any foreign jurisdiction, as contained in a book or pamphlet published by its authority or proved to be commonly recognized in its courts.

47.150 SEC. 15. 1. A judge or court may take judicial notice, whether requested or not.

2. A judge or court shall take judicial notice if requested by a party and supplied with the necessary information.

47.160 SEC. 16. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter to be noticed.

47.170 SEC. 17. Judicial notice may be taken at any stage of the proceeding prior to submission to the court or jury.

47.180 SEC. 18. 1. A presumption, other than a presumption against the accused in a criminal action, imposes on the party against whom it is directed the burden of proving that the nonexistence of the presumed fact is more probable than its existence.

2. As applied to presumptions, "direct evidence" means evidence which tends to establish the existence or nonexistence of the presumed fact independently of the basic facts.

47.190 SEC. 19. When a presumption is made conclusive by statute or no direct evidence is introduced contrary to the existence of the presumed fact, the question of the existence of the presumed fact depends upon the existence of the basic facts and is determined as follows:

1. If reasonable minds would necessarily agree that the evidence renders the existence of the basic facts more probable than not, the judge shall direct the jury to find in favor of the existence of the presumed fact.

2. If reasonable minds would necessarily agree that the evidence does

not render the existence of the basic facts more probable than not, the judge shall direct the jury to find against the existence of the presumed fact.

3. If reasonable minds would not necessarily agree as to whether the evidence renders the existence of the basic facts more probable than not, the judge shall submit the matter to the jury with an instruction to find in favor of the existence of the presumed fact if they find from the evidence that the existence of the basic facts is more probable than not, but otherwise to find against the existence of the presumed fact.

47.200 SEC. 20. *When reasonable minds would necessarily agree that the evidence renders the existence of the basic facts more probable than not, but direct evidence is introduced contrary to the existence of the presumed fact, the question of the existence of the presumed fact is determined as follows:*

1. If reasonable minds would necessarily agree that the direct evidence renders the nonexistence of the presumed fact more probable than not, the judge shall direct the jury to find against the existence of the presumed fact.

2. If reasonable minds would necessarily agree that the direct evidence does not render the nonexistence of the presumed fact more probable than not, the judge shall direct the jury to find in favor of the presumed fact.

3. If reasonable minds would not necessarily agree as to whether the direct evidence renders the nonexistence of the presumed fact more probable than not, the judge shall submit the matter to the jury with an instruction to find in favor of the existence of the presumed fact unless they find from the direct evidence that its nonexistence is more probable than its existence, in which event they should find against its existence.

47.210 SEC. 21. *When reasonable minds would necessarily agree that the evidence does not render the existence of the basic facts more probable than not, but direct evidence is introduced concerning the existence of the presumed fact, the judge shall submit the matter to the jury with an instruction to determine the existence of the presumed fact from the direct evidence without reference to the presumption.*

47.220 SEC. 22. *When reasonable minds would not necessarily agree as to whether the evidence renders the existence of the basic facts more probable than not, and direct evidence is introduced concerning the existence of the presumed fact, the question of the existence of the presumed fact is determined as follows:*

1. If reasonable minds would necessarily agree that the direct evidence renders the existence of the presumed fact more probable than not, the judge shall direct the jury to find in favor of the existence of the presumed fact.

2. If reasonable minds would necessarily agree that the direct evidence renders the nonexistence of the presumed fact more probable than not, the judge shall direct the jury to find against the existence of the presumed fact.

3. If reasonable minds would not necessarily agree that the direct evidence renders the nonexistence of the presumed fact more probable than not, the judge shall submit the matter to the jury with an instruction to find in favor of the existence of the presumed fact if they find from the evidence that the existence of the basic facts is more probable than not and unless they find the nonexistence of the presumed fact more probable than not, otherwise to find against the existence of the presumed fact.

47.230 SEC. 23. *1. In criminal actions, presumptions against an accused recognized at common law or created by statute, including statutory provisions that certain facts are prima facie evidence of other facts or of guilt, are governed by this section.*

2. The judge shall not direct the jury to find a presumed fact against the accused. When the presumed fact establishes guilt or is an element of the offense or negatives a defense, the judge may submit the question of guilt or of the existence of the presumed fact to the jury, if, but only if, a reasonable juror on the evidence as a whole, including the evidence of the basic facts, could find guilt or the presumed fact beyond a reasonable doubt. Under other presumptions, the existence of the presumed fact may be submitted to the jury if the basic facts are supported by substantial evidence, or are otherwise established, unless the evidence as a whole negatives the existence of the presumed fact.

3. Whenever the existence of a presumed fact against the accused is submitted to the jury, the judge shall give an instruction that the law declares that the jury may regard the basic facts as sufficient evidence of the presumed fact but does not require it to do so. In addition, if the presumed fact establishes guilt or is an element of the offense or negatives a defense, the judge shall instruct the jury that its existence must, on all the evidence, be proved beyond a reasonable doubt.

47.240 SEC. 24. *The following presumptions, and no others, are conclusive:*

1. A malicious and guilty intent, from the deliberate commission of an unlawful act, for the purpose of injuring another.

2. The truth of the fact recited, from the recital in a written instrument between the parties thereto, or their successors in interest by a subsequent title, but this rule does not apply to the recital of a consideration.

3. Whenever a party has, by his own declaration, act or omission, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it.

4. A tenant is not permitted to deny the title of his landlord at the time of the commencement of the relation.

5. The judgment or order of a court, when declared by Titles 2, 3 and 6 of NRS to be conclusive; but such judgment or order must be alleged in the pleadings if there is an opportunity to do so; if there is no such opportunity, the judgment or order may be used as evidence.

6. Any other presumption which, by statute, is expressly made conclusive.

47.250 SEC. 25. *All other presumptions are disputable. The following are of that kind:*

1. That an unlawful act was done with an unlawful intent.

2. That a person intends the ordinary consequences of his voluntary act.

3. That evidence willfully suppressed would be adverse if produced.

4. That higher evidence would be adverse from inferior being produced.

5. That money paid by one to another was due to the latter.

6. That a thing delivered by one to another belonged to the latter.

7. That things which a person possesses are owned by him.

8. That a person is the owner of property from exercising acts of ownership over it, or from common reputation of his ownership.

9. That official duty has been regularly performed.

10. That a court or judge, acting as such, whether in this state or any other state or country, was acting in the lawful exercise of his jurisdiction.

11. That a judicial record, when not conclusive, does still correctly determine or set forth the rights of the parties.

12. That a writing is truly dated.

13. That a letter duly directed and mailed was received in the regular course of the mail.

14. That a person not heard from in 7 years is dead.

15. That a child born in lawful wedlock is legitimate.

16. That the law has been obeyed.

17. That a trustee or other person, whose duty it was to convey real property to a particular person, has actually conveyed to him, when such presumption is necessary to perfect the title of such person or his successor in interest.

18. In situations not governed by the Uniform Commercial Code:

(a) That an obligation delivered up to the debtor has been paid.

(b) That private transactions have been fair and regular.

(c) That the ordinary course of business has been followed.

(d) That there was good and sufficient consideration for a written contract.

SEC. 26. Chapter 48 of NRS is hereby amended by adding thereto the provisions set forth as sections 27 to 37, inclusive, of this act.

48.015 SEC. 27. *As used in this chapter, "relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.*

48.025 SEC. 28. *1. All relevant evidence is admissible, except:*

(a) As otherwise provided by this Title;

(b) As limited by the Constitution of the United States or of the State of Nevada; or

(c) Where a statute limits the review of an administrative determination to the record made or evidence offered before that tribunal.

2. Evidence which is not relevant is not admissible.

48.035 SEC. 29. *1. Although relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury.*

2. Although relevant, evidence may be excluded if its probative value is substantially outweighed by considerations of undue delay, waste of time or needless presentation of cumulative evidence.

3. Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary witness cannot describe the act in controversy or the crime charged without referring to the other act or crime shall not be excluded, but a cautionary instruction shall be given explaining the reason for its admission.

48.045 SEC. 30. *1. Evidence of a person's character or a trait of his character is not admissible for the purpose of proving that he acted in conformity therewith on a particular occasion, except:*

(a) Evidence of his character or a trait of his character offered by an accused, and similar evidence offered by the prosecution to rebut such evidence;

(b) Evidence of the character or a trait of character of the victim of the crime offered by an accused, and similar evidence offered by the prosecution to rebut such evidence; and

(c) Evidence of the character of a witness, offered to attack or support his credibility, within the limits provided by section 78 of this act.

2. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

48.055 SEC. 31. *1. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or in the form of an opinion*

2. In cases in which character or a trait of character of a person is an essential element of a charge, claim or defense, proof may also be made of specific instances of his conduct.

48.059 SEC. 32. *1. Evidence of the habit of a person of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.*

2. Habit or routine practice may be proved by testimony in the form of an opinion or by specific instances of conduct sufficient in number to warrant a finding that the habit existed or that the practice was routine.

48.075 SEC. 33. *1. When, after an event, measures are taken which, if taken previously, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event.*

2. This section does not require the exclusion of evidence of subsequent remedial measures when offered for another purpose, such as proving ownership, control, feasibility of precautionary measures, or impeachment.

SEC. 34. *1. Evidence of:*

48.105 *(a) Furnishing or offering or promising to furnish; or*

(b) Accepting or offering or promising to accept,

a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible.

2. This section does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negativing a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

48.115 SEC. 35. *Evidence of furnishing or offering or promising to pay medical, hospital or similar expenses occasioned by an injury is not admissible to prove liability for the injury.*

48.125 SEC. 36. *1. Evidence of a plea of guilty, later withdrawn, or of an offer to plead guilty to the crime charged or any other crime is not admissible in a criminal proceeding involving the person who made the plea or offer.*

2. Evidence of a plea of nolo contendere or of an offer to plead nolo contendere to the crime charged or any other crime is not admissible in a civil or criminal proceeding involving the person who made the plea or offer.

48.135 SEC. 37. *1. Evidence that a person was or was not insured against liability is not admissible upon the issue whether he acted negligently or otherwise wrongfully.*

2. This section does not require the exclusion of evidence of insurance against liability when it is relevant for another purpose, such as proof of agency, ownership or control, or bias or prejudice of a witness.

SEC. 38. Chapter 49 of NRS is hereby amended by adding thereto the provisions set forth as sections 39 to 69, inclusive, of this act.

49.015 SEC. 39. *1. Except as otherwise required by the Constitution of the United States or of the State of Nevada, and except as provided in this Title or Title 14 of NRS, no person has a privilege to:*

(a) Refuse to be a witness;

(b) Refuse to disclose any matter;

(c) Refuse to produce any object or writing; or

(d) Prevent another from being a witness or disclosing any matter or producing any object or writing.

2. This section does not:

(a) Impair any privilege created by Title 14 of NRS or by the Nevada Rules of Civil Procedure which is limited to a particular stage of the proceeding; or

(b) Extend any such privilege to any other stage of a proceeding.

49.025 SEC. 40. *1. A person making a return or report required by law to be made has a privilege to refuse to disclose and to prevent any other person from disclosing the return or report, if the law requiring it to be made so provides.*

2. A public officer or agency to whom a return or report is required by law to be made has a privilege to refuse to disclose the return or report if the law requiring it to be made so provides.

3. No privilege exists under this section in actions involving false statements or fraud in the return or report.

49.035 SEC. 41. *As used in sections 41 to 49, inclusive, of this act, the words and phrases defined in sections 42 to 46, inclusive, of this act have the meanings ascribed to them in sections 42 to 46, inclusive, of this act.*

49.045 SEC. 42. *"Client" means a person, including a public officer, corporation, association or other organization or entity, either public or private, who is rendered professional legal services by a lawyer, or who consults a lawyer with a view to obtaining professional legal services from him.*

49.055 SEC. 43. *A communication is "confidential" if it is not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.*

49.065 SEC. 44. *"Lawyer" means a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation.*

49.075 SEC. 45. *"Representative of the client" means a person having authority to obtain professional legal services, or to act on advice rendered pursuant thereto, on behalf of the client.*

49.085 SEC. 46. *"Representative of the lawyer" means a person employed by the lawyer to assist in the rendition of professional legal services.*

49.095 SEC. 47. *A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications:*

1. Between himself or his representative and his lawyer or his lawyer's representative.

2. Between his lawyer and the lawyer's representative.

3. Made for the purpose of facilitating the rendition of professional legal services to the client, by him or his lawyer to a lawyer representing another in a matter of common interest.

49.105 SEC. 48. *1. The privilege may be claimed by the client, his guardian or conservator, the personal representative of a deceased client, or the successor, trustee or similar representative of a corporation, association or other organization, whether or not in existence.*

2. The person who was the lawyer at the time of the communication may claim the privilege but only on behalf of the client. His authority to do so is presumed in the absence of evidence to the contrary.

49.115 SEC. 49. *There is no privilege under section 47 or 48 of this act:*

1. If the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud.

2. As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction.

3. As to a communication relevant to an issue of breach of duty by the lawyer to his client or by the client to his lawyer.

4. As to a communication relevant to an issue concerning an attested document to which the lawyer is an attesting witness.

5. As to a communication relevant to a matter of common interest between two or more clients if the communication was made by any of them to a lawyer retained or consulted in common, when offered in an action between any of the clients.

49.125 SEC. 49.1. *As used in sections 49.1 to 49.9, inclusive, of this act, the words and phrases defined in sections 49.2 to 49.6, inclusive, of this act have the meanings ascribed to them in sections 49.2 to 49.6, inclusive, of this act.*

49.135 SEC. 49.2. *"Accountant" means a person certified or registered as a public accountant under chapter 628 of NRS who holds a live permit.*

49.145 SEC. 49.3. *"Client" means a person, including a public officer, corporation, association or other organization or entity, either public or private, who is rendered professional accounting services by an accountant, or*

who consults an accountant with a view to obtaining professional accounting services from him.

49.155 SEC. 49.4. *A communication is "confidential" if it is not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional accounting services to the client or those reasonably necessary for the transmission of the communication.*

49.165 SEC. 49.5. *"Representative of the accountant" means a person employed by the accountant to assist in the rendition of professional accounting services.*

49.175 SEC. 49.6. *"Representative of the client" means a person having authority to obtain professional accounting services, or to act on advice rendered pursuant thereto, on behalf of the client.*

49.185 SEC. 49.7. *A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications:*

1. Between himself or his representative and his accountant or his accountant's representative.

2. Between his accountant and the accountant's representative.

3. Made for the purpose of facilitating the rendition of professional accounting services to the client, by him or his accountant to an accountant representing another in a matter of common interest.

49.195 SEC. 49.8. *1. The privilege may be claimed by the client, his guardian or conservator, the personal representative of a deceased client, or the successor, trustee or similar representative of a corporation, association or other organization, whether or not in existence.*

2. The person who was the accountant may claim the privilege but only on behalf of the client. His authority to do so is presumed in the absence of evidence to the contrary.

49.205 SEC. 49.9. *There is no privilege under section 49.7 or 49.8 of this act:*

1. If the services of the accountant were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud.

2. As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction.

3. As to a communication relevant to an issue of breach of duty by the accountant to his client or by the client to his accountant.

4. As to a communication relevant to an issue concerning the examination, audit or report of any financial statements, books, records or accounts which the accountant may be engaged to make or requested by a prospective client to discuss for the purpose of making a public report.

5. As to a communication relevant to a matter of common interest between two or more clients if the communication was made by any of them to an accountant retained or consulted in common, when offered in an action between any of the clients.

6. As to a communication between a corporation and its accountant:

(a) In an action by a shareholder against the corporation which is based upon a breach of fiduciary duty; or

(b) In a derivative action by a shareholder on behalf of the corporation.

49.215 SEC. 50. *As used in sections 50 to 53, inclusive, of this act:*

1. A communication is "confidential" if it is not intended to be disclosed to third persons other than:

(a) Those present to further the interest of the patient in the consultation, examination or interview;

(b) Persons reasonably necessary for the transmission of the communication; or

(c) Persons who are participating in the diagnosis and treatment under the direction of the doctor, including members of the patient's family.

2. "Doctor" means a person licensed to practice medicine, dentistry, osteopathy or psychology in any state or nation, or a person who is reasonably believed by the patient to be so licensed.

3. "Patient" means a person who consults or is examined or interviewed by a doctor for purposes of diagnosis or treatment.

49.225 SEC. 51. *A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications among himself, his doctor or persons who are participating in the diagnosis or treatment under the direction of the doctor, including members of the patient's family.*

49.230 SEC. 52. *1. The privilege may be claimed by the patient, by his guardian or conservator, or by the personal representative of a deceased patient.*

2. The person who was the doctor may claim the privilege but only on behalf of the patient. His authority so to do is presumed in the absence of evidence to the contrary.

49.240 SEC. 53. *1. There is no privilege under section 51 or 52 of this act for communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the doctor in the course of diagnosis or treatment has determined that the patient is in need of hospitalization.*

2. If the judge orders an examination of the condition of the patient, communications made in the course thereof are not privileged under section 51 or 52 of this act with respect to the particular purpose for which the examination is ordered unless the judge orders otherwise.

3. There is no privilege under section 51 or 52 of this act as to communications relevant to an issue of the condition of the patient in any proceeding in which the condition is an element of a claim or defense.

4. There is no privilege under section 51 or 52 of this act:

(a) In a prosecution or mandamus proceeding under chapter 441 of NRS.

(b) As to any information communicated to a physician in an effort unlawfully to procure a narcotic, dangerous or hallucinogenic drug, or unlawfully to procure the administration of any such drug.

49.255 SEC. 54. *A clergyman or priest shall not, without the consent of the person making the confession, be examined as a witness as to any confession made to him in his professional character.*

49.265 SEC. 55. *1. Except as provided in subsection 2:*

(a) The proceedings and records of organized committees of hospital medical staffs having the responsibility of evaluation and improvement of the quality of care rendered in such hospital and medical review committees of medical societies are not subject to discovery proceedings.

(b) No person who attends a meeting of any such committee may be required to testify concerning the proceedings at such meetings.

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

(a) Any statement made by a person in attendance at such meeting who is a party to an action or proceeding the subject of which is reviewed at such meeting.

(b) Any statement made by a person who is requesting hospital staff privileges.

(c) The proceedings of any meeting considering an action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

49.275 SEC. 56. *No reporter or editorial employee of any newspaper, periodical, press association or radio or television station may be required to disclose the source of any information procured or obtained by such person, in any legal proceedings, trial or investigation:*

1. Before any court, grand jury, coroner's inquest, jury or any officer thereof.

2. Before the legislature or any committee thereof.

3. Before any department, agency or commission of the state.

4. Before any local governing body or committee thereof, or any officer of a local government.

49.285 SEC. 57. *A public officer shall not be examined as a witness as to communications made to him in official confidence, when the public interests would suffer by the disclosure.*

49.295 SEC. 58. *A husband cannot be examined as a witness for or against his wife without her consent, nor a wife for or against her husband without his consent. Neither a husband nor a wife can be examined, during the marriage or afterwards, without the consent of the other, as to any communication made by one to the other during marriage, except in a:*

1. Civil proceeding brought by or on behalf of one spouse against the other spouse;

2. Proceeding to commit or otherwise place his spouse, the property of his spouse or both the spouse and the property of the spouse under the control of another because of the alleged mental or physical condition of the spouse;

3. Proceeding brought by or on behalf of a spouse to establish his competence;

4. Proceeding in the juvenile court pursuant to chapter 62 of NRS; or

5. Criminal proceeding in which one spouse is charged with:

(a) A crime against the person or the property of the other spouse or of a child of either, whether such crime was committed before or during marriage.

(b) Bigamy or incest.

(c) A crime related to abandonment of a child or nonsupport of a wife or child.

49.305 SEC. 59. *When a husband or wife is insane, and has been so declared by a court of competent jurisdiction, the other shall be a competent witness to testify as to any fact which transpired before or during such insanity, but the privilege of so testifying shall cease when the party declared insane has been found by a court of competent jurisdiction to be*

of sound mind, and the husband and wife shall then have the testimonial limitations and privileges provided in section 58 of this act.

49.315 SEC. 60. *Every person has a privilege to refuse to disclose the tenor of his vote at a political election conducted by secret ballot unless the vote was cast illegally.*

49.325 SEC. 61. *1. A person has a privilege, which may be claimed by him or his agent or employee, to refuse to disclose and to prevent other persons from disclosing a trade secret owned by him, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice.*

2. When disclosure is directed, the judge shall take such protective measure as the interests of the holder of the privilege and of the parties and the furtherance of justice may require.

49.335 SEC. 62. *The state or a political subdivision thereof has a privilege to refuse to disclose the identity of a person who has furnished to a law enforcement officer information purporting to reveal the commission of a crime.*

49.345 SEC. 63. *The privilege may be claimed by an appropriate representative of the state, regardless of whether the information was furnished to an officer of the state or a subdivision thereof. The privilege may be claimed by an appropriate representative of a political subdivision if the information was furnished to an officer thereof.*

49.355 SEC. 64. *No privilege exists under section 62 or 63 of this act if the identity of the informer or his interest in the subject matter of his communication has been disclosed by a holder of the privilege or by the informer's own action, or if the informer appears as a witness.*

49.365 SEC. 65. *If the state or a political subdivision elects not to disclose the identity of an informer and the circumstances indicate a reasonable probability that the informer can give testimony necessary to a fair determination of the issue of guilt or innocence, the judge shall on motion of the accused dismiss the proceedings, and he may do so on his own motion.*

49.375 SEC. 66. *1. If information from an informer is relied upon to establish the legality of the means by which evidence was obtained and the judge is not satisfied that the information was received from an informer reasonably believed to be reliable, he may require the identity of the informer to be disclosed.*

2. The judge may permit the disclosure to be made in camera or make any other order which justice requires. All counsel shall be permitted to be present at every stage at which any counsel is permitted to be present.

3. If disclosure of the identity of the informer is made in chambers, the record thereof shall be sealed and preserved to be made available to the appellate court in the event of an appeal.

49.385 SEC. 67. *1. A person upon whom these rules confer a privilege against disclosure of a confidential matter waives the privilege if he or his predecessor while holder of the privilege voluntarily discloses or consents to disclosure of any significant part of the matter.*

2. This section does not apply if the disclosure is itself a privileged communication.

49.395 SEC. 68. *Evidence of a statement or other disclosure of privileged*

matter is inadmissible against the holder of the privilege if the disclosure was:

1. Compelled erroneously; or

2. Made without opportunity to claim the privilege.

49.405 SEC. 69. *1. The claim of a privilege, whether in the present proceeding or upon a prior occasion, is not a proper subject of comment by judge or counsel. No inference may be drawn therefrom.*

2. In jury cases, proceedings shall be conducted, to the extent practicable, so as to facilitate the making of claims of privilege outside the presence of the jury.

3. Upon request, any party against whom the jury might draw an adverse inference from a claim of privilege is entitled to an instruction that no inference may be drawn therefrom.

SEC. 70. Chapter 50 of NRS is hereby amended by adding thereto the provisions set forth as sections 71 to 100, inclusive, of this act.

50.015 SEC. 71. *Every person is competent to be a witness except as otherwise provided in this Title.*

50.025 SEC. 72. *1. A witness may not testify to a matter unless:*

(a) Evidence is introduced sufficient to support a finding that he has personal knowledge of the matter; or

(b) He states his opinion or inference as an expert.

2. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness himself.

50.035 SEC. 73. *1. Before testifying, every witness shall be required to declare that he will testify truthfully, by oath or affirmation administered in a form calculated to awaken his conscience and impress his mind with his duty to do so.*

2. An affirmation is sufficient if the witness is addressed in the following terms: "You do solemnly affirm that the evidence you shall give in this issue (or matter), pending between ..... and ....., shall be the truth, the whole truth, and nothing but the truth." Assent to this affirmation shall be made by the answer, "I do."

50.045 SEC. 74. *Interpreters are subject to the provisions of this chapter relating to qualification as an expert and the administration of an oath or affirmation in appropriate form.*

50.055 SEC. 75. *1. The judge presiding at the trial shall not testify in that trial as a witness.*

2. If he is called to testify, no objection need be made in order to preserve the point.

50.065 SEC. 76. *1. A member of the jury shall not testify as a witness in the trial of the case in which he is sitting as a juror. If he is called to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.*

2. Upon an inquiry into the validity of a verdict or indictment:

(a) A juror shall not testify concerning the effect of anything upon his or any other juror's mind or emotions as influencing him to assent to or dissent from the verdict or indictment or concerning his mental processes in connection therewith.

(b) The affidavit or evidence of any statement by a juror indicating an effect of this kind is inadmissible for any purpose.

50.075 SEC. 77. *The credibility of a witness may be attacked by any party, including the party calling him.*

50.085 SEC. 78. *1. Opinion evidence as to the character of a witness is admissible to attack or support his credibility but subject to these limitations:*

(a) Opinions are limited to truthfulness or untruthfulness; and

(b) Opinions of truthful character are admissible only after the introduction of opinion evidence of untruthfulness or other evidence impugning his character for truthfulness.

2. Evidence of the reputation of a witness for truthfulness or untruthfulness is inadmissible.

3. Specific instances of the conduct of a witness, for the purpose of attacking or supporting his credibility, other than conviction of crime, may not be proved by extrinsic evidence. They may, however, if relevant to truthfulness, be inquired into on cross-examination of the witness himself or on cross-examination of a witness who testifies to an opinion of his character for truthfulness or untruthfulness, subject to the general limitations upon relevant evidence and the limitations upon interrogation.

50.095 SEC. 79. *1. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible but only if the crime was punishable by death or imprisonment in excess of 1 year under the law under which he was convicted.*

2. Evidence of a conviction is inadmissible under this section if a period of more than 10 years has elapsed since:

(a) The date of the release of the witness from confinement; or

(b) The expiration of the period of his parole, probation or sentence, whichever is the later date.

3. Evidence of a conviction is inadmissible under this section if the conviction has been the subject of a pardon.

4. Evidence of juvenile adjudications is inadmissible under this section.

5. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

50.105 SEC. 80. *Evidence of the beliefs or opinions of a witness on matters of religion is inadmissible for the purpose of showing that by reason of their nature his credibility is impaired or enhanced.*

50.115 SEC. 81. *1. The judge shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence:*

(a) To make the interrogation and presentation effective for the ascertainment of the truth;

(b) To avoid needless consumption of time; and

(c) To protect witnesses from undue harassment or embarrassment.

2. Cross-examination is limited to the subject matter of the direct examination and matters affecting the credibility of the witness, unless the judge in the exercise of discretion permits inquiry into additional matters as if on direct examination.

3. Except as provided in subsection 4:

(a) Leading questions shall not be used on the direct examination of a witness without the permission of the court.

(b) Leading questions are permitted on cross-examination.

4. In civil cases, a party is entitled to call:

(a) An adverse party; or

(b) A witness identified with an adverse party,

and interrogate by leading questions. The attorney for such adverse party may employ leading questions in cross-examining the party or witness so called only to the extent permissible if he had called such person on direct examination.

50.125 SEC. 82. 1. If a witness uses a writing to refresh his memory, either before or while testifying, an adverse party is entitled:

(a) To have it produced at the hearing;

(b) To inspect it;

(c) To cross-examine the witness thereon; and

(d) To introduce in evidence those portions which relate to the testimony of the witness for the purpose of affecting his credibility.

2. If it is claimed that the writing contains matters not related to the subject matter of the testimony, the judge shall examine the writing in chambers, excise any portions not so related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal.

3. If a writing is not produced or delivered pursuant to order under this section, the judge shall make any order which justice requires, except that in criminal cases when the state elects not to comply, the order shall be one:

(a) Striking the testimony; or

(b) If the judge in his discretion determines that the interests of justice so require, declaring a mistrial.

50.135 SEC. 83. 1. In examining a witness concerning a prior statement made by him, whether written or not, the statement need not be shown or its contents disclosed to him, but on request the statement shall be shown or disclosed to opposing counsel.

2. Extrinsic evidence of a prior contradictory statement by a witness is inadmissible unless:

(a) The statement fulfills all the conditions required by subsection 3 of section 104 of this act; or

(b) The witness is afforded an opportunity to explain or deny the statement and the opposite party is afforded an opportunity to interrogate him thereon.

50.145 SEC. 84. 1. The judge may, on his own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

2. The judge may interrogate witnesses, whether called by himself or by a party. The parties may object to questions so asked and to evidence thus adduced at any time prior to the submission of the cause.

50.165 SEC. 85. 1. Except as otherwise provided in subsection 2, at the request of a party the judge shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and he may make the order of his own motion.

2. This section does not authorize exclusion of:

(a) A party who is a natural person;

(b) An officer or employee of a party which is not a natural person designated as its representative by its attorney; or

(c) A person whose presence is shown by a party to be essential to the presentation of his cause.

50.165 SEC. 86. 1. A witness, duly served with a subpena, shall attend at the time appointed, with any papers under his control required by the subpena, to answer all pertinent and legal questions, and, unless sooner discharged, to remain till the testimony is closed.

2. A person present in court or before a judicial officer may be required to testify in the same manner as if he were in attendance upon a subpena issued by such court or officer.

50.175 SEC. 87. Every person who has been, in good faith, served with a subpena to attend as a witness before a court, judge, commissioner, master or other person, in a case where the disobedience of the witness may be punished as a contempt, is exonerated from arrest in a civil action while going to the place of attendance, necessarily remaining there, and returning therefrom.

50.185 SEC. 88. 1. The arrest of a witness contrary to section 87 of this act is void.

2. An officer is not liable to the party for making the arrest in ignorance of the facts creating the exoneration, but is liable for any subsequent detention of the party, if such party claims the exemption and makes an affidavit, stating:

(a) That he has been served with a subpena to attend as a witness before a court, officer or other person, specifying the same, the place of attendance and the action or proceeding in which the subpena was issued; and

(b) That he has not been thus served by his own procurement, with the intention of avoiding an arrest.

50.195 SEC. 89. 1. Refusal to be sworn or to answer as a witness may be punished as a contempt by the court. In a civil action, if the person so refusing is a party, the court may strike any pleading on his behalf, and may enter judgment against him.

2. A witness disobeying a subpena in a civil action shall also forfeit to the party aggrieved the sum of $100 and all damages which he may sustain by the failure of the witness to attend, which forfeiture and damages may be recovered in a civil action.

3. A witness disobeying a subpena issued on the part of a defendant in a criminal action shall also forfeit to the defendant the sum of $100, which may be recovered in a civil action, unless good cause can be shown for his nonattendance.

50.205 SEC. 90. In case of failure of a witness to attend, the court or officer issuing the subpena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the county to arrest the witness and bring him before the court or officer where his attendance was required.

50.210 SEC. 91. 1. A person imprisoned in the state prison or in a county jail may be examined as a witness in the district court pursuant to this section. Such examination can only be made on motion of a party upon

affidavit showing the nature of the action or proceeding, the testimony expected from the witness, and its materiality.

2. In a civil action, if the witness is imprisoned in the county where the action or proceeding is pending, his production may, in the discretion of the court or judge, be required; in all other cases his examination, when allowed, shall be taken upon deposition.

3. In a criminal action, an order for that purpose may be made by the district court or district judge, at chambers, and executed by the sheriff of the county where the action is pending. The judge may order the sheriff to bring the prisoner before the court at the expense of the state or, in his discretion, at the expense of the defendant.

50.225 SEC. 92. *Witnesses required to attend in the courts of this state shall receive the following compensation:*

1. For attending in any criminal case, or civil suit or proceeding before a court of record, master, commissioner, justice of the peace, or before the grand jury, in obedience to a subpena, $10 for each day's attendance, which shall include Sundays and holidays.

2. Mileage shall be allowed and paid at the rate of 15 cents a mile, one way only, for each mile necessarily and actually traveled from the place of residence by the shortest and most practical route, provided:

(a) That no person shall be obliged to testify in a civil action or proceeding unless his mileage and at least 1 day's fees have been paid him if he demanded the same.

(b) That any person being in attendance at the trial and sworn as a witness shall be entitled to witness fees irrespective of service of subpena.

3. Witness fees in civil cases shall be taxed as disbursement costs against the defeated party upon proof by affidavit that they have been actually incurred. Costs shall not be allowed for more than two witnesses to the same fact or series of facts, nor shall a party plaintiff or defendant be allowed any fees or mileage for attendance as a witness in his own behalf.

50.235 SEC. 93. *1. The county clerk in cases in the district court shall keep a payroll, enrolling thereon all names of witnesses in criminal cases, the number of days in attendance and the actual number of miles traveled by the shortest and most practical route in going to and returning from the place where the court is held, and at the conclusion of the trial shall forthwith give a statement of the amounts due to such witnesses, to the county auditor, who shall draw warrants upon the county treasurer for the payment thereof.*

2. In criminal cases, where witnesses are subpenaed from without the county, or who, being residents of another state, voluntarily appear as witnesses, at the request of the district attorney and the board of county commissioners of the county in which the court is held, they shall be allowed their actual and necessary traveling expenses incurred by them in going to and returning from the place where the court is held, and such sum per diem, not exceeding $3, as may be fixed by the district judge, who shall certify the same to the county clerk for entry upon the payroll hereinbefore required.

50.245 SEC. 94. *Where criminal or quasi-criminal cases originating in the municipal court of an incorporated town or city are brought before the district court, the county clerk shall give a statement of the amounts due to witnesses, in the manner and form provided in NRS 48.300, to the district judge, who shall, upon approval thereof, by an order subscribed by him, direct the treasurer of the town or city to pay the same. Upon the production of the order, or a certified copy thereof, the treasurer of the town or city shall pay the sum specified therein out of any fund in the town or city treasury not otherwise specially appropriated or set apart. It shall not be necessary for such order to be otherwise audited or approved.*

SEC. 95. *No attorney or counselor at law, in any case, shall be allowed any fees for attending as a witness in such case.* 50.255

SEC. 96. *If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are:* 50.265

1. Rationally based on the perception of the witness; and

2. Helpful to a clear understanding of his testimony or the determination of a fact in issue.

SEC. 97. *If scientific, technical or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by special knowledge, skill, experience, training or education may testify to matters within the scope of such knowledge.* 50.275

SEC. 98. *1. The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing.* 50.285

2. If of a type reasonably relied upon by experts in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

SEC. 99. *Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.* 50.295

SEC. 100. *The expert may testify in terms of opinion or inference and give his reasons therefor without prior disclosure of the underlying facts or data, unless the judge requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.* 50.305

SEC. 101. Chapter 51 of NRS is hereby amended by adding thereto the provisions set forth as sections 102 to 138, inclusive, of this act.

SEC. 102. *As used in this chapter, unless the context otherwise requires, the words and phrases defined in sections 103 to 106, inclusive, of this act have the meanings ascribed to them in such sections.* 51.015

SEC. 103. *"Declarant" means a person who makes a statement.* 51.025

SEC. 104. *"Hearsay" means a statement offered in evidence to prove the truth of the matter asserted unless:* 51.035

1. The statement is one made by a witness while testifying at the trial or hearing;

2. The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is:

(a) Inconsistent with his testimony;

(b) Consistent with his testimony and offered to rebut an express or implied charge against him of recent fabrication or improper influence or motive;

(c) One of identification of a person made soon after perceiving him; or

(d) A transcript of testimony given under oath at a trial or hearing or before a grand jury; or

3. The statement is offered against a party and is:

(a) His own statement, in either his individual or a representative capacity;

(b) A statement of which he has manifested his adoption or belief in its truth;

(c) A statement by a person authorized by him to make a statement concerning the subject;

(d) A statement by his agent or servant concerning a matter within the scope of his agency or employment, made before the termination of the relationship; or

(e) A statement by a coconspirator of a party during the course and in furtherance of the conspiracy.

SEC. 105. *"Statement" means:*

1. An oral or written assertion; or

2. Nonverbal conduct of a person, if it is intended by him as an assertion.

SEC. 106. *1. A declarant is "unavailable as a witness" if he is:*

(a) Exempted by ruling of the judge on the ground of privilege from testifying concerning the subject matter of his statement;

(b) Persistent in refusing to testify despite an order of the judge to do so;

(c) Unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(d) Absent from the hearing and beyond the jurisdiction of the court to compel appearance and the proponent of his statement has exercised reasonable diligence but has been unable to procure his attendance or to take his deposition.

2. A declarant is not "unavailable as a witness" if his exemption, refusal, inability or absence is due to the procurement or wrongdoing of the proponent of his statement for the purpose of preventing the witness from attending or testifying.

SEC. 107. *1. Hearsay is inadmissible except as provided in this chapter, Title 14 of NRS and the Nevada Rules of Civil Procedure.*

2. This section constitutes the hearsay rule.

SEC. 108. *1. A statement is not excluded by the hearsay rule if its nature and the special circumstances under which it was made offer assurances of accuracy not likely to be enhanced by calling the declarant as a witness, even though he is available.*

2. The provisions of sections 109 to 131, inclusive, of this act are illustrative and not restrictive of the exception provided by this section.

SEC. 109. *A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter, is not inadmissible under the hearsay rule.*

SEC. 110. *A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition is not inadmissible under the hearsay rule.*

SEC. 110.5. *Transactions or conversations with or actions of a deceased person are admissible if supported by corroborative evidence.*

SEC. 111. *1. A statement of the declarant's then existing state of mind, emotion, sensation or physical condition, such as intent, plan, motive, design, mental feeling, pain and bodily health, is not inadmissible under the hearsay rule.*

2. A statement of memory or belief to prove the fact remembered or believed is inadmissible under the hearsay rule unless it relates to the execution, revocation, identification or terms of declarant's will.

SEC. 112. *Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain or sensations, or the inception or general character of the cause or external source thereof are not inadmissible under the hearsay rule insofar as they were reasonably pertinent to diagnosis or treatment.*

SEC. 113. *1. A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable him to testify fully and accurately is not inadmissible under the hearsay rule if it is shown to have been made when the matter was fresh in his memory and to reflect that knowledge correctly.*

2. The memorandum or record may be read into evidence but may not itself be received unless offered by an adverse party.

SEC. 114. *A memorandum, report, record or data compilation, in any form, of acts, events, conditions, opinions or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, all in the course of a regularly conducted activity, as shown by the testimony of the custodian or other qualified witness, is not inadmissible under the hearsay rule unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.*

SEC. 115. *Evidence that a matter is not included in the memoranda, reports, records or data compilations, in any form, of a regularly conducted activity is not inadmissible under the hearsay rule to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record or data compilation was regularly made and preserved.*

SEC. 116. *Records, reports, statements or data compilations, in any form, of public officials or agencies are not inadmissible under the hearsay rule if they set forth:*

1. The activities of the official or agency;

2. Matters observed pursuant to duty imposed by law; or

3. In civil cases and against the state in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law,

unless the sources of information or the method or circumstances of the investigation indicate lack of trustworthiness.

SEC. 117. *Records or data compilations, in any form, of births, fetal deaths, deaths or marriages are not inadmissible under the hearsay rule if the report thereof was made to a public office pursuant to requirements of law.*

SEC. 118. *To prove:*

1. The absence of a record, report, statement or data compilation, in any form; or

2. The nonoccurrence or nonexistence of a matter of which a record,

report, statement or data compilation, in any form, was regularly made and preserved by a public officer, agency or official,
evidence in the form of a certificate of the custodian or other person authorized to make the certification, or testimony, that diligent search failed to disclose the record, report, statement, data compilation or entry is not inadmissible under the hearsay rule.

SEC. 119. *Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization, are not inadmissible under the hearsay rule.*

SEC. 120. *Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter, are not inadmissible under the hearsay rule.*

SEC. 121. *Statements of fact contained in family bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts or tombstones, or the like, are not inadmissible under the hearsay rule.*

SEC. 122. *The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, is not inadmissible under the hearsay rule if the record is a record of a public office and an applicable statute authorized the recording of documents of that kind in that office.*

SEC. 123. *A statement contained in a document purporting to establish or affect an interest in property is not inadmissible under the hearsay rule if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.*

SEC. 124. *Statements in a document more than 20 years old whose authenticity is established are not inadmissible under the hearsay rule.*

SEC. 125. *Market quotations, tabulations, lists, directories or other published compilations, generally used and relied upon by the public or by persons in particular occupations, are not inadmissible under the hearsay rule.*

SEC. 126. *To the extent called to the attention of an expert witness upon cross-examination or relied upon by him in direct examination, a statement contained in a published treatise, periodical or pamphlet on a subject of history, medicine or other science or art, is not inadmissible under the hearsay rule if such book is established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.*

SEC. 127. *Reputation among members of a person's family by blood or marriage, or among his associates, or in the community, is not inadmissible under the hearsay rule if it concerns his birth, marriage, divorce,*

death, legitimacy, relationship by blood or marriage, ancestry or other similar fact of his personal or family history.

SEC. 128. *Reputation in a community, arising before the controversy, as to:*

1. Boundaries of or customs affecting lands in the community; and

2. Events of general history important to the community or to the state or nation in which the community is located,

are not inadmissible under the hearsay rule.

SEC. 129. *Reputation of a person's character among his associates or in the community is not inadmissible under the hearsay rule.*

SEC. 130. *1. Evidence of a final judgment, entered after trial or upon a plea of guilty, but not upon a plea of nolo contendere, adjudging a person guilty of a crime punishable by death or imprisonment in excess of 1 year, is not inadmissible under the hearsay rule to prove any fact essential to sustain the judgment.*

2. This section does not make admissible, when offered by the state in a criminal prosecution for purposes other than impeachment, a judgment against a person other than the accused.

3. The pendency of an appeal may be shown but does not affect admissibility.

SEC. 131. *A judgment is not inadmissible under the hearsay rule as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the matters would be provable by evidence of reputation.*

SEC. 132. *1. A statement is not excluded by the hearsay rule if:*

(a) Its nature and the special circumstances under which it was made offer strong assurances of accuracy; and

(b) The declarant is unavailable as a witness.

2. The provisions of sections 133 to 136, inclusive, of this act are illustrative and not restrictive of the exception provided by this section.

SEC. 133. *Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of another proceeding, is not inadmissible under the hearsay rule if:*

1. The declarant is unavailable as a witness; and

2. If the proceeding was different, the party against whom the former testimony is offered was a party or is in privity with one of the former parties and the issues are substantially the same.

SEC. 134. *A statement made by a declarant while believing that his death was imminent is not inadmissible under the hearsay rule if the declarant is unavailable as a witness.*

SEC. 135. *1. A statement which at the time of its making:*

(a) Was so far contrary to the declarant's pecuniary or proprietary interest;

(b) So far tended to subject him to civil or criminal liability;

(c) So far tended to render invalid a claim by him against another; or

(d) So far tended to make him an object of hatred, ridicule or social disapproval,

that a reasonable man in his position would not have made the statement

unless he believed it to be true is not inadmissible under the hearsay rule if the declarant is unavailable as a witness.

2. This section does not make admissible a statement or confession offered against the accused in a criminal case, made by a codefendant or other person implicating both himself and the accused.

SEC. 136. *1. A statement concerning the declarant's own birth, marriage, divorce, legitimacy, relationship by blood or marriage, ancestry or other similar fact of personal or family history is not inadmissible under the hearsay rule if the declarant is unavailable as a witness, even though declarant had no means of acquiring personal knowledge of the matter stated.*

2. A statement concerning the matters enumerated in subsection 1, and death also, of another person is not inadmissible under the hearsay rule if the declarant:

(a) Was related to the other by blood or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared; and

(b) Is unavailable as a witness.

SEC. 137. *Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms to an exception to the hearsay rule provided in this chapter.*

SEC. 138. *1. When a hearsay statement has been admitted in evidence, the credibility of the declarant may be attacked or supported by any evidence which would be admissible for those purposes if declarant had testified as a witness.*

2. Evidence of a statement or conduct by the declarant at any time, inconsistent with his hearsay statement, is not subject to any requirement that he have been afforded an opportunity to deny or explain.

SEC. 139. Chapter 52 of NRS is hereby amended by adding thereto the provisions set forth as sections 140 to 170, inclusive, of this act.

SEC. 140. *1. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence or other showing sufficient to support a finding that the matter in question is what its proponent claims.*

2. The provisions of sections 141 to 149, inclusive, of this act are illustrative and not restrictive examples of authentication or identification which conform to the requirements of this section.

3. Every authentication or identification is rebuttable by evidence or other showing sufficient to support a contrary finding.

SEC. 141. *The testimony of a witness is sufficient for authentication or identification if he has personal knowledge that a matter is what it is claimed to be.*

SEC. 142. *Nonexpert opinion as to the genuineness of handwriting is sufficient for authentication or identification if it is based upon familiarity not acquired for purposes of the litigation.*

SEC. 143. *Comparison by the trier of fact or by expert witnesses with specimens which have been authenticated is sufficient for authentication.*

SEC. 144. *Appearance, contents, substance, internal patterns or other distinctive characteristics are sufficient for authentication when taken in conjunction with circumstances.*

SEC. 145. *A voice, whether heard firsthand or through mechanical or electronic transmission or recording, is sufficiently identified by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.*

SEC. 146. *A telephone conversation is sufficiently authenticated by evidence that a call was made to the number supplied by the telephone company for the person in question if:*

1. The call was to a place of business and the conversation related to business reasonably transacted over the telephone; or

2. Circumstances, including self-identification, show the person answering to be the one called.

SEC. 147. *Evidence that:*

1. A writing authorized by law to be recorded or filed and in fact recorded or filed in a public office; or

2. A purported public record, report, statement or data compilation, in any form,

is from the public office where items of this nature are kept is sufficient to authenticate the writing, record, report, statement or compilation.

SEC. 148. *Evidence that a document or data compilation, in any form:*

1. Is in such condition as to create no suspicion concerning its authenticity;

2. Was in a place where it, if authentic, would likely be; and

3. Is at least 20 years old at the time it is offered,

is sufficient to authenticate the document or compilation.

SEC. 149. *Evidence describing a process or system used to produce a result and showing that the result is accurate is sufficient to authenticate the result.*

SEC. 150. *1. A document purporting to be executed or attested in his official capacity by a person authorized by the laws of a foreign country to make the execution or attestation is presumed to be authentic if it is accompanied by a final certification as to the genuineness of the signature and official position:*

(a) Of the executing or attesting person; or

(b) Of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation.

2. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States.

3. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of an official document the court may, for good cause shown, order that it be treated as presumptively authentic without final certification or permit it to be evidenced by an attested summary with or without final certification.

SEC. 151. *A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any*

form, is presumed to be authentic if it is certified as correct by the custodian or other person authorized to make the certification.

SEC. 152. *Books, pamphlets or other publications purporting to be issued by public authority are presumed to be authentic.*

SEC. 153. *Printed materials purporting to be newspapers or periodicals are presumed to be authentic.*

SEC. 154. *Inscriptions, signs, tags or labels purporting to have been affixed in the course of business and indicating ownership, control or origin are presumed to be authentic.*

SEC. 155. *Documents accompanied by a certificate of acknowledgment of a notary public or other officer authorized by law to take acknowledgments are presumed to be authentic.*

SEC. 156. *The testimony of a subscribing witness is not necessary to authenticate a writing unless required by the laws of the jurisdiction whose laws govern the validity of the writing.*

SEC. 157. *As used in sections 157 to 168, inclusive, of this act, unless the context otherwise requires, the words defined in sections 158 to 161, inclusive, of this act have the meanings ascribed to them in sections 158 to 161, inclusive, of this act.*

SEC. 158. *"Duplicate" means a counterpart produced:*

1. By the same impression as the original;

2. From the same matrix;

3. By means of photography, including enlargements and miniatures;

4. By mechanical or electronic rerecording;

5. By chemical reproduction; or

6. By other equivalent technique designed to insure an accurate reproduction of the original.

SEC. 159. *1. An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it.*

2. An "original" of a photograph includes the negative or any print therefrom.

3. If data are stored in a computer or similar device, any printout or other output readable by sight, shown accurately to reflect the data, is an "original."

SEC. 160. *"Photographs" include still photographs, X-rays and motion pictures.*

SEC. 161. *"Writings" and "recordings" consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.*

SEC. 162. *To prove the content of a writing, recording or photograph, the original writing, recording or photograph is required, except as otherwise provided in this Title.*

SEC. 163. *1. In addition to the situations governed by subsection 2, a duplicate is admissible to the same extent as an original unless:*

(a) A genuine question is raised as to the authenticity of the original; or

(b) In the circumstances it would be unfair to admit the duplicate in lieu of the original.

2. A duplicate is admissible to the same extent as an original if the person or office having custody of the original was authorized to destroy the original after preparing a duplicate, and in fact did so.

SEC. 164. *The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible, if:*

1. All originals are lost or have been destroyed, unless the loss or destruction resulted from the fraudulent act of the proponent.

2. No original can be obtained by any available judicial process or procedure.

3. At a time when an original was under the control of the party against whom offered, he was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the hearing, and he does not produce the original at the hearing.

4. The writing, recording or photograph is not closely related to a controlling issue.

SEC. 165. *1. The contents of an official record, or of a document authorized to be recorded or filed and actually recorded or filed, including data compilations in any form, if otherwise admissible, may be proved by copy, certified as correct by the custodian or other person authorized to make the certification or testified to be correct by a witness who has compared it with the original.*

2. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, then other evidence of the contents may be given.

SEC. 166. *1. The contents of voluminous writings, recordings or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary or calculation.*

2. The originals shall be made available for examination or copying, or both, by other parties at a reasonable time and place. The judge may order that the originals be produced in court.

SEC. 167. *Contents may be proved by the testimony or deposition of the party against whom offered or by his written admission, without accounting for the nonproduction of the original.*

SEC. 168. *1. Except as otherwise provided in subsection 2, when the admissibility of other evidence of contents under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is for the judge to determine.*

2. When an issue is raised:

(a) Whether the asserted writing ever existed;

(b) Whether another writing, recording or photograph produced at the trial is the original; or

(c) Whether other evidence of contents correctly reflects the contents, the issue is for the trier of fact to determine as in the case of other issues of fact.

SEC. 169. *1. The signature of a party, when required to a written instrument, is equally valid if the party cannot write, if:*

(a) The person makes his mark;

(b) The name of the person making the mark is written near it; and

(c) The mark is witnessed by a person who writes his own name as a witness.

2. *In order that a signature by mark may be acknowledged or may serve as the signature to any sworn statement, it must be witnessed by two persons who must subscribe their own names as witnesses thereto.*

52 315 SEC. 170. *The word "seal," and the initial letters "L. S.," and other words, letters or characters of like import, opposite the name of the signer of any instrument in writing, are unnecessary to give such instrument legal effect, and any omission to use them by the signer of any instrument does not impair the validity of such instrument.*

SEC. 171. Chapter 53 of NRS is hereby amended by adding thereto the provisions set forth as sections 172 to 174, inclusive, of this act.

53 050 SEC. 172. *Sections 172 to 174, inclusive, of this act may be cited as the Uniform Foreign Depositions Act.*

53.060 SEC. 173. *Whenever any mandate, writ or commission is issued out of any court of record in any other state, territory, district or foreign jurisdiction, or whenever upon notice or agreement it is required to take the testimony of a witness or witnesses in this state, witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in this state.*

53 070 SEC. 174. *Sections 172 to 174, inclusive, of this act shall be so interpreted and construed as to effectuate their general purposes to make uniform the law of those states which enact them.*

SEC. 175. NRS 18.010 is hereby amended to read as follows:

18.010 1. The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law. From the commencement of an action, or the service of an answer containing a counterclaim, the attorney who appears for a party has a lien upon his client's cause of action or counterclaim which attaches to a verdict, report, decision or judgment in his client's favor and the proceeds thereof in whosesoever hands they may come, and cannot be affected by any settlement between the parties before or after judgment. There shall be allowed to the prevailing party in any action, or special proceeding in the nature of an action, in the supreme court and district courts, his costs and necessary disbursements in the action or special proceeding, including:

(a) Clerk's fees.

(b) Costs of depositions obtained by the prevailing party and used by him at the trial.

(c) Jury fees as provided in NRS 6.150.

(d) Witness fees [of witnesses] as provided in [NRS 48.290.] *section 92 of this act.*

2. The court may allow to the prevailing party the fees of not more than three expert witnesses in an amount not to exceed $250 for each witness.

3. The court may make an allowance of attorney's fees to:

(a) The plaintiff as prevailing party when the plaintiff has not recovered more than $10,000; or

(b) The counterclaimant as prevailing party when he has not recovered more than $10,000; or

(c) The defendant as prevailing party when the plaintiff has not sought recovery in excess of $10,000.

SEC. 176. Chapter 111 of NRS is hereby amended by adding thereto the provisions set forth as sections 177 and 178 of this act.

SEC. 177. *Any instrument affecting the title to real property, 3 years after the instrument has been copied into the proper book of record kept in the office of any county recorder, imparts notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission or informality in the execution of the instrument, or in the certificate of acknowledgment thereof, or the absence of any such certificate; but nothing herein affects the rights of purchasers or encumbrancers previous to March 27, 1935. When such copying in the proper book of record occurred within 5 years prior to the trial of an action, the instrument is not admissible in evidence unless it is first shown that the original instrument was genuine.* 111.340

SEC. 178. *In the case of real property owned by two or more persons as joint tenants, it is presumed that all title or interest in and to such real property of each of one or more deceased joint tenants has terminated, and vested solely in the surviving joint tenant or vested jointly in the surviving joint tenants, if there has been recorded in the office of the recorder of the county or counties in which such real property is situate an affidavit, subscribed and sworn to by a person who has knowledge of the hereinafter required facts, which sets forth the following:* 111.365

1. The family relationship, if any, of affiant to each of such one or more deceased joint tenants;

2. A description of the instrument or conveyance by which the joint tenancy was created;

3. A description of the real property subject to such joint tenancy; and

4. The date and place of death of each of such one or more deceased joint tenants.

SEC. 179. NRS 126.180 is hereby amended to read as follows:

126.180 [1.] The trial shall be by jury, if either party demands a jury, otherwise by the court, and shall be conducted as in other civil cases.

[2. Both the mother and the alleged father shall be competent but not compellable to give evidence, and if either gives evidence he or she shall be subject to cross-examination.]

SEC. 180. NRS 126.200 is hereby amended to read as follows:

126.200 If after the complaint the mother dies or becomes insane or cannot be found within the jurisdiction, the proceeding does not abate, but the child shall be substituted as complainant [The testimony of the mother taken at the preliminary hearing, and her deposition taken as in other civil cases, may in any such case be read in evidence and in all cases shall be read in evidence, if demanded by the defendant.]

SEC. 181. NRS 175.221 is hereby amended to read as follows:

175.221 1. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by statute.

2. The admissibility of evidence and the competency and privileges of witnesses shall be governed [, except when otherwise provided by statute, by] *by:*

(a) The general provisions of Title 4 of NRS;

(b) The specific provisions of any other applicable statute; and

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(c) Where no statute applies, the principles of the common law as they may be interpreted by the courts of the State of Nevada in the light of reason and experience.

SEC. 182. NRS 200.506 is hereby amended to read as follows:

200.506 In any proceeding resulting from a report made or action taken pursuant to the provisions of NRS 200.502, 200.503 and 200.504 or in any proceeding where such report or the contents thereof is sought to be introduced in evidence, such report or contents or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter [is or may be the subject of confidentiality or similar privilege or rule against disclosure, notwithstanding the provisions of NRS 48.080 or any other law or rule of evidence concerning confidential communications.] *would otherwise be privileged against disclosure under chapter 49 of NRS.*

SEC. 183. NRS 233B.040 is hereby amended to read as follows:

233B.040 Unless otherwise provided by law, each agency may adopt reasonable regulations to aid it in carrying out the functions assigned to it by law and shall adopt such regulations as are necessary to the proper execution of those functions. If adopted and filed in accordance with the provisions of this chapter, such regulations shall have the force of law and be enforced by all peace officers. In every instance, the power to adopt regulations to carry out a particular function is limited by the terms of the grant of authority under which the function was assigned. [The courts shall take judicial notice of every regulation duly adopted and filed under the provisions of NRS 233B.060 and 233B.070 from the effective date of such regulation.]

SEC. 184. NRS 244.118 is hereby amended to read as follows:

244.118 Two copies of the county code shall be filed with the librarian of the Nevada state library after such code becomes effective. [, and thereafter in all civil actions and in all prosecutions for the violation of any of the provisions of such county code, whether in a court of original jurisdiction or in any appellate court, it shall not be necessary to plead or prove the contents of the code, but the court shall take judicial notice of the contents of such code.]

SEC. 185. NRS 247.120 is hereby amended to read as follows:

247.120 1. Each county recorder must, upon the payment of the statutory fees for the same, record separately, in a fair hand, or typewriting, or by filing or inserting a microfilm picture or photostatic copy thereof, the following specified instruments in large, well-bound separate books, either sewed or of insertable leaves which when placed in the book cannot be removed:

(a) Deeds, grants, *patents issued by the State of Nevada or by the United States,* transfers and mortgages of real estate, releases of mortgages of real estate, powers of attorney to convey real estate, and leases of real estate which have been acknowledged or proved.

(b) Certificates of marriage and marriage contracts.

(c) Wills admitted to probate.

(d) Official bonds.

(e) Notice of mechanics' liens.

(f) Transcripts of judgments, which by law are made liens upon real estate in this state.

(g) Notices of attachment upon real estate.

(h) Notices of the pendency of an action affecting real estate, the title thereto, or the possession thereof.

(i) Instruments describing or relating to the separate property of married women.

(j) Notice of preemption claims.

(k) Births and deaths.

(l) Notices and certificates of location of mining claims.

(m) Affidavits or proof of annual labor on mining claims.

(n) Certificates of sale.

(o) Judgments or decrees.

(p) Declarations of homesteads.

(q) Such other writings as are required or permitted by law to be recorded.

2. Each of the instruments named in paragraph (a) of subsection 1 may be recorded in separate books in the discretion of the county recorder.

3. Before accepting for recording any instrument enumerated in subsection 1, the county recorder may require a copy suitable for recording by photographic or photostatic methods. Where any rights might be adversely affected because of delay in recording caused by such a requirement, the county recorder shall accept the instrument conditionally subject to submission of a suitable copy at a later date. The provisions of this subsection do not apply where it is impossible or impracticable to submit a more suitable copy.

SEC. 186. (Deleted by amendment.)

SEC. 187. NRS 266.160 is hereby amended to read as follows:

266.160 1. The city council shall have the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the council, have incorporated therein a copy of this chapter and such additional data as the council may prescribe. When such a publication is published, two copies shall be filed with the librarian of the Nevada state library. [, and thereafter the same shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of ....."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 188. NRS 269.168 is hereby amended to read as follows:

269.168 Two copies of the town code shall be filed with the librarian of the Nevada state library after such code becomes effective. [, and thereafter in all civil actions and in all prosecutions for the violation of any of the provisions of such town code, whether in a court of original jurisdiction or in any appellate court, it shall not be necessary to plead

or prove the contents of the code, but the court shall take judicial notice of the contents of such code.]

SEC. 189. NRS 321.060 is hereby amended to read as follows:

321.060 1. The state land register is authorized to provide and use a seal for the state land office.

2. The impression of the seal of the state land office upon the original or copy of any paper, plat, map or document emanating from the state land office shall impart verity to the [same, and such paper, plat, map or document bearing the impression of such seal shall be admitted as evidence in any court in this state.] *document so impressed.*

SEC. 190. NRS 340 150 is hereby amended to read as follows:

340.150 Upon the rendition of the final judgment vesting title in the petitioner, the clerk of the court shall make and certify, under the seal of the court, a copy or copies of such judgment, which shall be filed or recorded in the proper county office or offices for the recording of documents pertaining to the real property described therein, and such filing or recording shall constitute notice to all persons of the contents thereof. [A copy of the judgment certified by the clerk of the court as aforesaid shall be competent and admissible evidence in any proceedings at law or in equity.]

SEC. 191. NRS 412.052 is hereby amended to read as follows:

412.052 The adjutant general shall:

1. Supervise the preparation and submission of all such returns and reports pertaining to the militia of the state as may be required by the United States.

2. Be the channel of official military correspondence with the governor, and shall, on or before November 1 of each even-numbered year, make a report to the governor of the transactions, expenditures and condition of the Nevada National Guard. The report shall include the report of the United States Property and Fiscal Officer.

3. Be the custodian of records of officers and enlisted men and all other records and papers required by law or regulations to be filed in his office. He may deposit with the division of archives in the office of the secretary of state for safekeeping in the secretary of state's official custody records of his office that are used for historical purposes rather than the administrative purposes assigned to his office by law.

4. Attest all military commissions issued and keep a roll of all commissioned officers, with dates of commission and all changes occurring in the commissioned forces.

5. Record, authenticate and communicate to troops and individuals of the militia all orders, instructions and regulations.

6. Cause to be procured, printed and circulated to those concerned all books, blank forms, laws, regulations or other publications governing the militia needful to the proper administration, operation and training thereof or to carry into effect the provisions of this chapter.

7. Have an appropriate seal of office and affix its impression to all certificates of record issued from his office. [, which shall be received in evidence in all cases.]

8. Render such professional aid and assistance and perform such military duties, not otherwise assigned, as may be ordered by the governor.

9. In time of peace, perform the duties of quartermaster general and chief of ordnance.

SEC. 192. NRS 412.154 is hereby amended to read as follows:

412.154 1. Members of the Nevada National Guard ordered into active service of the state pursuant to this chapter are not liable civilly or criminally for any act or acts done by them in the performance of their duty. When an action or proceeding of any nature is commenced in any court by any person against any officer of the militia for any act done by him in his official capacity in the discharge of any duty under this chapter, or an alleged omission by him to do an act which it was his duty to perform, or against any person acting under the authority or order of such officer, or by virtue of any warrant issued by him pursuant to law, the defendant:

(a) May have counsel of his own selection; or

(b) Shall be defended by the attorney general in civil actions and by the state judge advocate in criminal actions; and

(c) May require the person instituting or prosecuting the action or proceeding to file security for the payment of costs that may be awarded to the defendant therein. [; and

(d) In all cases may make a general denial and give the special matter in evidence.]

2. A defendant in whose favor a final judgment is rendered in an action or a final order is made in a special proceeding shall recover his costs.

3. No member of the Nevada National Guard shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

SEC. 193. Chapter 426 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The failure of a totally or partially blind person to carry a white or metallic colored cane or to use a guide dog does not constitute contributory negligence per se, but may be admissible as evidence of contributory negligence in a personal injury action by such a blind person against a common carrier or any other means of public conveyance or transportation or a place of public accommodation as defined by NRS 651.050 when the injury arises from such blind person's making use of the facilities or services offered by such carrier or place of public accommodation.

SEC. 194. NRS 439.200 is hereby amended to read as follows:

439.200 1. The state board of health shall have the power by affirmative vote of a majority of its members to adopt, promulgate, amend and enforce reasonable rules and regulations consistent with law:

(a) To define and control dangerous communicable diseases.

(b) To prevent and control nuisances.

(c) To regulate sanitation and sanitary practices in the interests of the public health.

(d) To provide for the sanitary protection of water and food supplies and the control of sewage disposal.

(e) To govern and define the powers and duties of local boards of health and health officers.

(f) To protect and promote the public health generally.

(g) To carry out all other purposes of this chapter.

2. Such rules and regulations shall have the force and effect of law and shall supersede all local ordinances and regulations heretofore or hereafter enacted inconsistent therewith, except those local ordinances and regulations which are more stringent than the state rules and regulations provided for in this section.

3. A copy of every rule and regulation adopted by the state board of health and every rule and regulation approved by such board pursuant to NRS 439.350 and 439.460, showing the date that any such rules and regulations take effect, shall be filed with the secretary of state, and copies of such rules and regulations shall be published immediately after adoption and issued in pamphlet form for distribution to local health officers and the citizens of the state.

[4. A certified copy of any rules or regulations specified in subsection 3 shall be received by all courts and administrative hearing bodies in this state as prima facie evidence of such rules and regulations.]

SEC. 195. NRS 440.165 is hereby amended to read as follows:

440.165 To preserve original documents, the state registrar is authorized to prepare typewritten, photographic or other reproductions of original records and files in his office. [Such reproductions when certified by him shall be accepted as the original record.]

SEC. 196. Chapter 452 of NRS is hereby amended by adding thereto a new section which shall read as follows:

4 52 002 *The uninterrupted use by the public of land for a burial ground for 5 years, with the consent of the owner and without a reservation of his rights, is presumptive evidence of his intention to dedicate it to the public for that purpose.*

SEC. 197. NRS 453.180 is hereby amended to read as follows:

453.180 1. No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug:

(a) By fraud, deceit, misrepresentation, or subterfuge; or

(b) By the forgery or alteration of a prescription or of any written order; or

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

2. [Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

3.] No person shall willfully make a false statement in any prescription, order, report, or record, required by NRS 453.010 to 453.240, inclusive.

[4.] *3.* No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veteriuarian, or other authorized person.

[5.] *4.* No person shall make or utter any false or forged prescription or false or forged written order.

[6.] *5.* No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

[7.] *6.* The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of NRS 453.090, in the same way as they apply to transactions under all other sections.

SEC. 198. NRS 454.532 is hereby amended to read as follows:

454.532 1. It is unlawful for any person to obtain or attempt to obtain a dangerous or hallucinogenic drug, or procure or attempt to procure the administration of a dangerous or hallucinogenic drug:

(a) By fraud, deceit, misrepresentation or subterfuge;

(b) By the forgery or alteration of a prescription or of any written order;

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

2. [Information communicated to a physician in an effort unlawfully to procure a dangerous or hallucinogenic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

3.] It is unlawful for any person to make a false statement in any prescription, order, report or record required by NRS 454.180 to 454.460, inclusive.

[4.] *3.* It is unlawful, for the purpose of obtaining a dangerous or hallucinogenic drug, for any person falsely to assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian or other authorized person.

[5.] *4.* It is unlawful to affix any false or forged label to a package or receptacle containing dangerous or hallucinogenic drugs.

SEC. 199. NRS 485.300 is hereby amended to read as follows:

485.300 [Neither the] *The* report required by NRS 485.150 to 485.180, inclusive, the action taken by the division pursuant to NRS 485.150 to 485.300, inclusive, the findings, if any, of the division upon which such action is based, [nor] *and* the security filed as provided in NRS 485.150 to 485.300, inclusive, [shall be referred to in any way, nor be any evidence of the negligence or due care of either party,] *are privileged against disclosure* at the trial of any action at law to recover damages.

SEC. 200. NRS 517.320 is hereby amended to read as follows:

517.320 1. In every mining district in this state in which the seat of government of any county is situated, the county recorder of that county shall be ex officio mining district recorder, subject, in the discharge of his duties, to such rules, regulations and compensation as may be prescribed by the mining laws of the mining districts to which this section is applicable. He shall, as such ex officio mining district recorder, be responsible on his official bond for the faithful performance of the duties of his office and the correct and safekeeping of all the records thereof, and the correct and safekeeping of the copies of all the records mentioned and referred to in subsection 2.

2. Each mining district recorder of the several mining districts in the state shall, on or before the 1st Monday in January, April, July and October in each year, transcribe into a suitable book or books, to be provided for that purpose, and shall deposit and file with the county recorders of the respective counties in which such mining districts are

located a full, true and correct copy of the mining records of the respective mining districts for the 3 months next preceding the 1st Monday in January, April, July and October, duly certified under oath. This section shall not apply to the mining district recorder created by subsection 1.

3. There shall be provided by the boards of county commissioners of the several counties and furnished to each mining district recorder, on his application, suitable books, into which the mining records mentioned in subsection 2 shall be transcribed.

4. The several mining district recorders shall receive, for services required by subsection 2, $1 for the transcript of each claim, including the oath, which shall be paid at the time of recording by the persons making the locations.

5. [The certified copies of the mining records certified to be deposited and filed as provided in this section shall be received in evidence and shall have the same force and effect in all courts as the originals.

6.] Any person neglecting or refusing to comply with the provisions of subsection 2 shall be guilty of a misdemeanor.

SEC. 201. NRS 517.330 is hereby amended to read as follows:

517.330 1. Each mining district recorder of the several mining districts shall require all persons locating and recording a mining claim to make a duplicate copy of each mining notice, which copy the mining district recorder shall carefully compare with the original and mark "duplicate" on its face or margin. He shall immediately deposit with or transmit the same to the county recorders of the respective counties in which the mining district may be located.

2. At the time of comparing the duplicate notices with the original, the mining district recorders shall collect from the locators of the mining claims the sum of $1 for each notice compared, which sum he shall transmit, together with the duplicate notices, to the county recorders of the respective counties in which the mining claims shall be located.

3. Whenever, owing to the distance of the mining district from the county seat, it becomes inconvenient for the mining district recorder personally to deposit the duplicate copy with the county recorder, he may forward the same by mail or express or such other manner as will insure safe transit and delivery to the county recorder.

4. The county recorders of the several counties shall receive for their services in recording each of the duplicate notices mentioned in subsection 2 the sum of $1. If the location is made outside of an organized mining district, or in the absence of a mining district recorder in any organized mining district, the person or persons making such location shall, within 90 days after making the location, transmit a duplicate copy of such notice to the county recorder of the county in which the location is made and the county recorder shall record the same for a fee of $1.

5. [The record of any original or duplicate notice of the location of a mining claim in the office of the county recorder as provided in this section shall be received in evidence and have the same force and effect in the courts of this state as the original mining district records.

6.] Any person neglecting or refusing to comply with the provisions of this section shall be guilty of a misdemeanor.

SEC. 202. NRS 517.350 is hereby amended to read as follows:

517.350 [1.] All instruments of writing relating to mining claims copied into books of mining records or other records in the office of the county recorders of the several counties prior to February 20, 1873, shall, after February 20, 1873, be deemed to impart to subsequent purchasers and encumbrancers and all other persons whomsoever notice of the contents thereof. Nothing contained in this subsection shall be construed to affect any rights acquired or vested prior to February 20, 1873.

[2. Copies of the records of all such instruments mentioned in subsection 1, duly certified by the county recorder in whose custody such records are, may be read in evidence under the same circumstances and rules as are provided by law for using copies of instruments relating to mining claims or real property, duly executed or acknowledged, or proved and recorded.]

SEC. 203. NRS 616.170 is hereby amended to read as follows:

616.170 1. The commission shall have a seal upon which shall be inscribed the words "Nevada Industrial Commission—State of Nevada."

2. The seal shall be fixed to all orders, proceedings, and copies thereof, and to such other instruments as the commission may direct.

[3. All courts shall take judicial notice of the seal, and any copy of any record or proceeding of the commission certified under the seal shall be received in all courts as evidence of the original thereof.]

SEC. 204. NRS 618.160 is hereby amended to read as follows:

618.160 [1.] The department of industrial safety shall have a seal upon which will be the words "Department of Industrial Safety," by which seal it shall authenticate its proceedings and orders.

[2. All papers made under such seal shall be admitted in evidence without further authentication or proof.]

SEC. 205. NRS 642.060 is hereby amended to read as follows:

642.060 1. The members of the board shall have power to adopt such regulations for the transaction of business of the board and management of its affairs as they may deem expedient.

2. The board is authorized to adopt and use a common seal. [Any description of any matter of evidence in the office of the board with the certificate of the secretary thereon attached, under the seal of the board, shall be competent evidence of such matter of record in any court in this state.]

SEC. 206. NRS 673.039 is hereby amended to read as follows:

673.039 1. The savings and loan division may adopt and amend, from time to time, regulations for the orderly conduct of its affairs.

2. The savings and loan division shall:

(a) Have a seal. [which shall be judicially noticed.]

(b) Keep, in the office of the commissioner, records of its proceedings. [In any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of such records certified as correct under the seal of the division shall be admissible in evidence as tending to prove the contents of such records.]

SEC. 207. NRS 680.150 is hereby amended to read as follows:

680.150 1. The commissioner shall have the rights, powers and duties appertaining to the enforcement and execution of all the insurance laws of this state.

2. In addition to the other duties imposed upon him by law, the powers and duties of the commissioner shall be:

(a) To make reasonable rules and regulations as may be necessary for making effective such insurance laws; but nothing in this Title shall be deemed to empower the commissioner, by any rule or regulation, or by an administrative act, to differentiate between persons entitled to act as insurance agents in the State of Nevada on the basis that such persons are engaged in other businesses to which their insurance agency is incidental or supplemental.

(b) To conduct such investigations as may be necessary to determine whether any person or company has violated any provision of the insurance laws.

(c) To conduct such examinations, investigations and hearings, in addition to those specifically provided for by law, as may be necessary and proper for the efficient administration of the insurance laws of this state.

(d) To classify as confidential certain records and information obtained by the insurance division [when the same] *which* are confidential communications as defined in chapter [48] *49* of NRS, or obtained from a governmental agency upon the express condition that [the same] *they* shall remain confidential.

SEC. 208. NRS 688.405 is hereby amended to read as follows:

688.405 1. Every society authorized to do business in this state shall appoint in writing the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on such attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. [Copies of such appointment, certified by the commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.]

2. Service shall be made only upon the commissioner, or if absent, upon the person in charge of his office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, he shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer.

3. No such service shall require a society to file its answer, pleading or defense in less than 30 days from the date of mailing the copy of the service to a society.

4. Legal process shall not be served upon a society except in the manner herein provided.

5. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner a fee of $2.

SEC. 209. NRS 15.020, 41.490, 47.010, 48 010 to 48.320, inclusive, 49.010 to 49.100, inclusive, 50.010 to 50.040, inclusive, 51.010 to 51.070, inclusive, 52.010 to 52.080, inclusive, 111.335, 174.355, 175.231, 175.281, 239.060, 239.115, 240.090, 266.065, 433.731, 441.270, 441.310, 454.445 and 639.237 are hereby repealed.

SEC. 210. (Deleted by amendment.)

SEC. 211. Section 2.110 of the charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, is hereby amended to read as follows:

Sec. 2.110 Codification of ordinances; publication of code.

1. The city council may codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the city council, have incorporated therein a copy of this charter and such additional data as the city council may prescribe. When such code is published, two copies shall be filed with the librarian at the Nevada state library. [, and thereafter the code shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance and shall not contain any substantive changes, modifications or alterations of existing ordinances; and the only title necessary for the ordinance shall be, "An ordinance for codifying and compiling the general ordinances of the City of Caliente."

4. The codification may be amended or extended by ordinance.

SEC. 212. Section 2.110 of the charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 296, is hereby amended to read as follows:

Section 2.110 Ordinances: Enactment procedure; emergency ordinances.

1. All proposed ordinances when first proposed shall be read to the board by title and referred to a committee for consideration, after which an adequate number of copies of the proposed ordinance shall be filed with the clerk for public distribution. Except as otherwise provided in subsection 3, notice of such filing shall be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in Carson City at least 1 week prior to the adoption of the ordinance. The board shall adopt or reject the ordinauce or an amendment thereto, within 30 days from the date of such publication.

2. At the next regular meeting or adjourned meeting of the board following the proposal of an ordinance and its reference to committee, such committee shall report such ordinance back to the board. Thereafter, it shall be read as first introduced, or as amended, and thereupon the proposed ordinance shall be finally voted upon or action thereon postponed.

3. In cases of emergency or where the ordinance is of a kind specified in section 7.030, by unanimous consent of the board, final action may be taken immediately or at a special meeting called for that purpose, and no notice of the filing of copies of the proposed ordinance with the clerk need be published.

4. All ordinances shall be signed by the mayor, attested by the clerk, and shall be published by title, together with the names of the supervisors voting for or against passage, in a newspaper qualified pursuant to the

provisions of chapter 238 of NRS and published in Carson City for at least one publication, before the ordinance shall become effective. The board may, by majority vote, order the publication of the ordinance in full in lieu of publication by title only.

5. The clerk shall record all ordinances in a book kept for that purpose together with the affidavits of publication by the publisher. [; and the book or a certified copy of the ordinances therein recorded, under the seal of the city, shall be received as prima facie evidence in all courts and places without further proof or, if published in book or pamphlet form by authority of the board, they shall be so received.]

SEC. 213. Section 2.120 of the charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 297, is hereby amended to read as follows:

Section 2.120 Codification of ordinances; publication of code.

1. The board may codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the board, have incorporated therein a copy of this charter and such additional data as the board may prescribe. When such a code is published, two copies shall be filed with the librarian of the Nevada state library. [, and thereafter the code shall be received in all courts of this state as an authorized compilation of the municipal ordinances of Carson City.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance, which shall not contain any substantive changes, modifications or alterations of existing ordinances; and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of Carson City."

4. The codification may be amended or extended by ordinance.

SEC. 214. Section 29 of chapter II of the charter of the City of Elko, being chapter 417, Statutes of Nevada 1965, as amended by chapter 186, Statutes of Nevada 1967, at page 384, is hereby amended to read as follows:

Section 29. Ordinances when first proposed shall be read aloud in full to the board of supervisors, and final action thereon shall be deferred until the next regular meeting of the board, of which action notice shall be given by publication in a newspaper at least once and at least one week prior to the meeting at which such final action is to be taken, which notice shall state briefly, by reference to the title of the proposed ordinance or by reference to the purpose or content thereof, the nature of such proposed ordinance; provided, however, that in cases of emergency, by unanimous consent of the whole board, such special action may be taken immediately or at a special meeting called for that purpose. No ordinance shall be passed as an emergency measure unless reasons for passing it as such are expressed in its preamble.

No ordinance passed by the board, unless it be an emergency measure, shall go into effect until thirty days, after its passage.

All ordinances shall be signed by the mayor and attested by the city clerk and be published once in full, together with the names of the supervisors voting for or against their passage, in a newspaper published in such city, if any there be; otherwise some newspaper published in the county and having a general circulation in such city, for the period of at least one week before the same shall go into effect. The city clerk shall record all ordinances in a book kept for that purpose, together with the affidavits of publication by the publisher. [, and said book or certified copy of the ordinances therein recorded, in the name of the city, shall be received as prima facie evidence in all courts and places without further proof, or if published in book or pamphlet forms by the authority of the said board of supervisors, they shall be so received.] All ordinances heretofore adopted or amended, unless previously repealed, are hereby declared valid and in full force and effect.

SEC. 215. Section 29.5 of chapter II of the charter of the City of Elko, being chapter 417, Statutes of Nevada 1965, at page 1110, is hereby amended to read as follows:

Section 29.5. 1. The board of supervisors shall have the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the board of supervisors, have incorporated therein a copy of this charter and such additional data as the board of supervisors may prescribe. When such a publication is published, two copies shall be filed with the librarian of the Nevada state library. [, and thereafter the same shall be received in all courts of the state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances, and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Elko."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 216. Section 33 of the charter of the City of Gabbs, being chapter 381, Statutes of Nevada 1955, as amended by chapter 186, Statutes of Nevada 1967, at page 385, is hereby amended to read as follows:

Section 33. Ordinances—Procedure—Emergency Measures—Notices. Ordinances when first proposed shall be read aloud in full to the board of councilmen and final action thereon shall be deferred until the next regular meeting of the board, of which action notice shall be given by publication in a newspaper published in the county and having a general circulation in the city, at least once and at least 1 week prior to the meeting at which such final action is to be taken, which notice shall state briefly, by reference to the title of the proposed ordinance or by reference to the purpose or content thereof, the nature of such proposed ordinance; provided, however, that in cases of emergency, by unanimous consent of the whole board, such special action may be taken immediately or at a special meeting called for that purpose. No ordinance shall be passed as

an emergency measure unless reasons for passing it as such are expressed in its preamble.

No ordinance passed by the board, unless it be an emergency measure, shall go into effect until 30 days after its passage.

All ordinances shall be signed by the mayor and attested by the city clerk and be published in full, together with the names of the councilmen voting for or against their passage, in a newspaper published in the connty and having a general circulation in snch city, at least once before the same shall go into effect; provided, that whenever a revision is made and the revised ordinances are published in book or pamphlet forms by the authority of the board, no further publication shall be deemed necessary. The city clerk shall record all ordinances in a book kept for that purpose, together with the affidavits of publication by the publisher. [, and the book or certified copy thereof of the ordinances therein contained, in the name of the city, shall be received as prima facie evidence in all courts and places without further proof, or if published in book or pamphlet forms by the authority of the board of councilmen, they shall be so received.]

SEC. 217. Section 23 of Article VI of the charter of the City of Henderson, being chapter 240, Statutes of Nevada 1965, at page 446, is hereby amended to read as follows:

Section 23. Ordinances: Enactment procedure; emergency ordinances.

1. All proposed ordinances when first proposed shall be read to the council by title and referred to a committee for consideration, after which an adequate number of copies of the proposed ordinance shall be filed with the city clerk for public distribution. Except as otherwise provided in subsection 3, notice of such filing shall be published once in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the city, if any there be, otherwise in some qualified newspaper published in Clark County and having a general circulation in the city, at least 1 week prior to the adoption of the ordinance. The council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days from the date of such publication.

2. At the next regular meeting or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, such committee shall report such ordinance back to the council. Thereafter, except as provided in section 24, it shall be read in full as first introduced, or if amended, as amended, and thereupon the proposed ordinance shall be finally voted upon or action thereon postponed.

3. In cases of emergency, by unanimous consent of the whole council, final action may be taken immediately or at a special meeting called for that purpose, and no notice of the filing of copies of the proposed ordinance with the city clerk need be published.

4. All ordinances shall be signed by the mayor, attested by the city clerk, and shall be published in full, together with the names of the mayor and councilmen voting for or against passage, in a newspaper qualified pursuant to the provisions of chapter 238 of NRS and published in the city, if any there be, otherwise in some qualified newspaper published in Clark County and having a general circulation in the city, for at least one publication before the same shall become effective.

5. The city clerk shall record all ordinances in a book kept for that purpose together with the affidavits of publication by the publisher. [and the book or a certified copy of the ordinances therein recorded, under the seal of the city, shall be received as prima facie evidence in all courts and places without further proof, or if published in book or pamphlet form, by authority of the council, they shall be so received.]

SEC. 218. Section 25 of Article VI of the charter of the City of Henderson, being chapter 240, Statutes of Nevada 1965, at page 447, is hereby amended to read as follows:

Section 25. Codification of ordinances; pnblication of code.

1. The city council has the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the council, have incorporated therein a copy of this charter and such additional data as the council may prescribe. When such a publication is published, two copies shall be filed with the librarian of the Nevada state library. [, and thereafter the same shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the city of Henderson."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 219. Section 30 of chapter II of the charter of the City of Las Vegas, being chapter 132, Statutes of Nevada 1911, as last amended by chapter 272, Statutes of Nevada 1959, at page 343, is hereby amended to read as follows:

Section 30. Ordinances—Procedure for Adoption. All proposed ordinances shall first be read by title to the board of commissioners, at a regular meeting, or special meeting called for that purpose, and then referred to a committee for consideration. The committee shall report said ordinances back to the board of commissioners at the next regular meeting, or at a special meeting called for that purpose, when said ordinances shall be read by title as first introduced, or if amended by the committee, as so amended, and shall be adopted or disapproved as so finally read. All ordinances, when adopted, shall be signed by the mayor and attested by the city clerk and be published in full, together with the names of the commissioners voting for or against such adoption, once a week for two successive weeks immediately following such adoption, in a newspaper published in said city, and shall become effective immediately following the second publication thereof; provided, that in cases of emergency, all proposed ordinances shall be read by title when first

introduced at a regular meeting, or special meeting called for that purpose and shall be adopted or disapproved as so read, or if amended, adopted as amended, and such ordinances shall be designated as "emergency ordinances." All emergency ordinances shall be signed by the mayor and attested by the city clerk, and be published in full, together with the names of the commissioners voting for or against their adoption, once a week for two successive weeks immediately following said adoption, in a newspaper published in said city, and shall become effective immediately following the second publication thereof.

The board may at any time make an order for the revision or codification of the ordinances of said city. Such revision or codification may, upon its adoption, include amendments, changes, and additions to existing ordinances, and new matters unrelated thereto. The proposed revision or codification of ordinances shall be filed with the city clerk for use and examination of the public for at least one week prior to the adoption of the ordinance adopting such revision or codification, and shall thereafter be adopted by the board after the same has been read by title at a regular meeting or at a special meeting called for that purpose, and shall be signed by the mayor and attested by the city clerk. When such a revision or codification of ordinances shall be so adopted, signed, and attested, and at least fifty copies thereof shall have been printed or typewritten in book, pamphlet or looseleaf form and not less than three copies thereof are filed in the office of the clerk of said city, and a notice referring to such revision or codification, adoption, and filing shall have been published once a week for two successive weeks in a newspaper published in said city, the ordinances as contained in such a revision, or codification shall become effective immediately after the second publication of such notice. It shall not be necessary to publish such revision or codification, or the ordinance adopting the same, as required in the first paragraph of this section with respect to ordinances generally.

The city clerk shall record all ordinances except the revision or code of ordinances, in a book kept for that purpose, together with the affidavits of publication by the publisher. [, and said book or certified copy of the ordinance therein recorded in the name of the city, and the book or pamphlet containing the revision or codification of ordinances or certified copy of all or any part thereof in the name of the city, shall be prima facie evidence in all courts and places without further proof.]

An ordinance may adopt any specialized or uniform building or plumbing or electrical code, or codes, printed in book or pamphlet form, or any other specialized or uniform code or codes of any nature whatsoever so printed, or any portion thereof, with such changes as may be necessary to make the same applicable to conditions in the city of Las Vegas, and with such other changes as may be desirable, by reference thereto. Such ordinance or the code adopted thereby need not be read or published as required in the first paragraph of this same section, if three (3) copies of such code, either typewritten or printed with such changes, if any, shall have been filed for use and examination by the public in the office of the city clerk at least one week prior to the adoption of the ordinance

adopting said code. Notice of such filing shall be given daily in a newspaper in the city of Las Vegas at least one week prior to the adoption of the ordinance adopting said code.

SEC. 220. Section 32 of chapter II of the charter of the city of North Las Vegas, being chapter 283, Statutes of Nevada 1953, as last amended by chapter 186, Statutes of Nevada 1967, at page 399, is hereby amended to read as follows:

Section 32. Enactment of Ordinances.

1. An ordinance may be introduced by any member of the city council at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk shall distribute a copy to each councilman, the mayor and the city manager, and shall file a reasonable number of copies in the office of the city clerk and in such other public places as the council may order. Final action thereon shall be deferred until the next regular meeting of the board, of which action notice shall be given by publication in a newspaper at least once and at least one week prior to the meeting at which such final action is to be taken, which notice shall state briefly, by reference to the title of the proposed ordinance or by reference to the purpose of content thereof, the nature of such proposed ordinance; provided, however, that in cases of emergency, by unanimous consent of the whole council, such special action may be taken immediately or at a special meeting called for that purpose. No ordinance shall be passed as an emergency measure unless reasons for passing it as such are expressed in its preamble.

2. No ordinance passed by the board, unless it be an emergency measure, shall go into effect until fifteen days after its passage.

3. All ordinances shall be signed by the mayor and attested by the city clerk and shall be published in full together with the names of the councilmen voting for or against their passage, in a newspaper published in such city if there be one; otherwise, some newspaper published in the county and having a general circulation in such city, for a period of at least two weeks, and at least once a week during such time, before the same shall go into effect; provided, that whenever a revision is made and the revised ordinances are published in a book or pamphlet forms by the authority of the board, no further publication shall be deemed necessary. The city clerk shall record all ordinances in a book kept for that purpose, together with the affidavits of publication by the publishers. [, and the book or certified copy of the ordinances therein recorded, in the name of the city, shall be received as prima-facie evidence in all courts and places without further proof, or if published in book or pamphlet forms by the authority of the city council, they shall be so received.] All ordinances heretofore adopted or amended unless previously repealed, are hereby declared valid and in full force and effect.

SEC. 221. Section 32.5 of chapter II of the charter of the city of North Las Vegas, being chapter 283, Statutes of Nevada 1953, as added by chapter 320, Statutes of Nevada 1963, and amended by chapter 440, Statutes of Nevada 1965, at page 1215, is hereby amended to read as follows:

Section 32.5. Codification of Ordinances; Publication of Municipal Code.

1. The city council shall have the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the city council, have incorporated therein a copy of this charter and such additional data as the city council may prescribe. When such a publication is published, two copies shall be filed with the librarian of the Nevada state library and two copies shall be filed with the Clark County law library. [, and thereafter the same shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of North Las Vegas."

4. The codification may, by ordinance regularly passed, adopted and published be amended or extended.

SEC. 222. Section 7 of Article XII of the charter of the City of Reno, being chapter 102, Statutes of Nevada 1903, as added by chapter 71, Statutes of Nevada 1905, and last amended by chapter 148, Statutes of Nevada 1949, at page 309, is hereby amended to read as follows:

Section 7. The style of ordinances shall be as follows: "The city council of the city of Reno do ordain," and all proposed ordinances, when first proposed, shall be read by title to the city council and referred to a committee for consideration, after which an adequate number of copies of the ordinance shall be filed with the city clerk for public distribution, and notice of such filing shall be published once in a newspaper published in the city of Reno at least one week prior to the adoption of the ordinance, and the council shall adopt or reject the ordinance, or the ordinance as amended, within thirty days from the date of such publication. At the next regular or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, such committee shall report such ordinance back to the council, and thereafter it shall be read in full as first introduced, or if amended, as amended, and thereupon said proposed ordinance shall be finally voted upon or action thereon postponed. After final adoption the ordinance shall be signed by the mayor, and, together with the votes cast thereon, be published once in a newspaper published in the city of Reno before the same shall go into effect, except as provided in section 9a, article XII of this act. [In all prosecutions for the violation of any of the provisions of this charter or for the violation of any city ordinance, rule, resolution, or other regulation of the city council, whether in the court of original jurisdiction or in any appellate court, it shall not be necessary to plead the contents of the same, but the court before which the proceedings may be pending shall take judicial notice of this charter and of such ordinance, rule, resolution, or other regulation, and of the contents thereof, and in all civil actions it shall not be necessary to plead the contents of any ordinance, rule, resolution, or other regulation of the city council, but the same may be pleaded by title and may be proved prima facie by the introduction of the original entry thereof on the records of the city council, or a copy thereof certified by the city clerk to be a full, true, and correct copy of such original entry, or by the introduction of a printed copy published or purported to have been published by authority of the city council.]

SEC. 223. Section 9b of Article XII of the charter of the city of Reno, being chapter 102, Statutes of Nevada 1903, as added by chapter 223, Statutes of Nevada 1945, and amended by chapter 83, Statutes of Nevada 1951, at page 96, is hereby amended to read as follows:

Section 9b. The council shall have the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the council, have incorporated therein the charter of the city and such additional data as the council may prescribe. When such a publication is published, two copies shall be filed with the librarian of the law library of the State of Nevada. [, and thereafter the same shall be received in all courts of this state as an authorized compilation of the municipal ordinances and charter of the city of Reno.] The ordinances in such code shall be arranged in appropriate chapters, articles, and sections, excluding the titles, enacting clauses, signatures of mayor, attestations and other formal parts. Such codification shall be adopted by an ordinance and the only title necessary for such ordinance shall be "An ordinance for codifying and compiling the general ordinances of the city of Reno." Such codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 224. Section 7 of Article XIX of the charter of the City of Reno, being chapter 102, Statutes of Nevada 1903, as added by chapter 71, Statutes of Nevada 1905, at page 140, is hereby amended to read as follows:

Section 7. This Act [shall be deemed a public Act and may be read in evidence without further proof, and judicial notice shall be taken thereof in all courts and places, and] shall be in full force and effect immediately upon its approval.

SEC. 225. Section 3.06 of Article III of the charter of the City of Sparks, being chapter 180, Statutes of Nevada 1949, as last amended by chapter 107, Statutes of Nevada 1960, at page 124, is hereby amended to read as follows:

Section 3.06. The style of all ordinances shall be as follows: "The City Council of the City of Sparks do ordain," and all proposed ordinances when first proposed shall be read by title to the city council and referred to a committee for consideration, after which an adequate number of copies of the ordinance shall be filed with the city clerk for public distribution, and notice of such filing shall be published once in a newspaper published in the city of Sparks, if any there be, otherwise in some newspaper published in the county and having a general circulation in the city, at least 1 week prior to the adoption of the ordinance, or

the ordinance as amended, within 30 days from the date of such publication. In cases of emergency, by unanimous consent of the whole council, final action may be taken immediately or at a special meeting called for that purpose, and no notice of the filing of copies of the ordinance with the city clerk need be published. At the next regular meeting or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, such committee shall report such ordinance back to the council, and thereafter it shall be read in full as first introduced, or if amended, as amended, and thereupon the proposed ordinance shall be finally voted upon or action thereon postponed. All ordinances shall be signed by the mayor, attested by the city clerk, and be published in full, together with the names of the councilmen voting for or against their passage, in a newspaper published in the city of Sparks, if any there be, otherwise in some newspaper published in the county and having a general circulation in the city, for at least one publication in such newspaper, before the same shall go into effect; provided, that whenever a revision is made and the revised ordinances are published in book or pamphlet form by authority of the city council, no further publication shall be deemed necessary. The city clerk shall record all ordinances in a book kept for that purpose, together with the affidavits of publication by the publisher. [and the book or a certified copy of the ordinances therein recorded, under the seal of the city, shall be received as prima facie evidence in all courts and places without further proof, or if published in book or pamphlet form, by authority of the city council, they shall be so received.]

The council shall have the power to revise, codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the council, have incorporated therein the charter of the city and such additional data as the council may prescribe. When such a publication is published, two copies shall be filed with the state librarian of the state library. [, and thereafter the same shall be received in all courts of this state as an authorized revision and codification of the municipal ordinances and a compilation of the charter of the city of Sparks.] The ordinances in such code shall be arranged in appropriate chapters, articles, and sections, excluding the titles, enacting clauses, signatures of the mayor, attestations and other formal parts. Such revision and codification shall be adopted by an ordinance and the only title necessary for such ordinance shall be "An ordinance for revising, codifying and compiling the general ordinances of the city of Sparks." Such municipal code may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 226. Section 39 of chapter II of the charter of the City of Wells, being chapter 159, Statutes of Nevada 1967, at page 297, is hereby amended to read as follows:

Section 39. Ordinances: Procedure; emergency measures; notices.

1. Ordinances when first proposed shall be read aloud in full to the board of councilmen and final action thereon shall be deferred until the next regular meeting of the board, of which action notice shall be given by publication in a newspaper at least once and at least 1 week prior to the meeting at which such final action is to be taken. The notice

shall state briefly, by reference to the title of the proposed ordinance or by reference to the purpose or content thereof, the nature of such proposed ordinance. However, in cases of emergency, by unanimous consent of the whole board, special action may be taken immediately or at a special meeting called for that purpose. No ordinance shall be passed as an emergency measure unless reasons for passing it as such are expressed in its preamble.

2. No ordinance passed by the board, unless it is an emergency measure, shall go into effect until 30 days, after its passage. If at any time during the 30 days a petition signed by qualified electors numbering not less than 20 percent of those who voted at the last preceding general municipal election, requesting the repeal of the ordinance or its submission to a referendum, is presented to the board, such ordinance shall thereupon be suspended from going into operation, and it shall be the duty of the board to reconsider such ordinance. If upon reconsideration such ordinance is not repealed, the board shall, after the sufficiency of the referendum petition has been certified to by the city clerk, submit the ordinance to a vote of the electors of the municipality at a special election, unless a regular municipal election is to be held within 90 days, in which event it shall be submitted at such regular municipal election. No ordinance submitted to a vote of the electors shall become operative unless approved by a majority of those voting thereon.

Emergency measures shall be subject to referendum like other ordinances passed by the board, except that they shall go into effect at the time indicated in them. If, when submitted to a vote of the electors, an emergency measure is not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder.

3. Any proposed ordinance may be submitted to the board by petition signed by qualified electors numbering not less than 20 percent of those who voted at the last preceding general city election. The form, sufficiency and regularity of such petitions shall be determined in the manner herein provided. The petition presenting the proposed ordinance shall contain a statement in not more than 200 words giving the petitioners' reason why such ordinance should be adopted; and if such petition contains a request that the ordinance be submitted to a vote of the people, the board shall either (a) pass such ordinance without alteration at its next regular meeting, after the sufficiency of the petition has been determined and certified to by the clerk, or (b) immediately after its refusal to pass such ordinance at such meeting, and after certification by the clerk as to the sufficiency of the petition, call a special election, unless a general city election is to be held within 90 days thereafter, and at such special or general election submit such proposed ordinance without alteration to a vote of the electors of the city. The ballot used when voting upon any such ordinance shall contain a brief statement of the nature of the ordinance, and the two propositions in the order here set forth:

For the ordinance
Against the ordinance

and shall be printed as provided herein or in the general election laws. Immediately to the right of each of the propositions shall be placed a

square in which the elector, by making a cross (X) mark, may vote for or against the adoption of the ordinance. If a majority of the qualified electors voting on the proposed ordinance vote, in favor thereof, it shall thereupon become a valid and binding ordinance of the municipality. Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section, but there shall not be more than one special election for such purpose in any period of 6 months. Ordinances adopted under the provisions of this section shall not be repealed or amended except by direct vote of the people as herein provided.

4. All ordinances shall be signed by the mayor and attested by the city clerk and shall be published in full, together with the names of the councilmen voting for or against their passage, in a newspaper published in the city, if any there be, and otherwise, in some newspaper published in the county and having a general circulation in the city, for a period of at least 1 week before the same goes into effect, except that whenever a revision is made and the revised ordinances are published in book or pamphlet forms by the authority of the board, no further publication is necessary. The city clerk shall record all ordinances in a book kept for that purpose, together with the affidavits of publication by the publisher. [, and such book or certified copy thereof of the ordinances therein contained, in the name of the city, shall be received as prima facie evidence in all courts and places without further proof, or if published in book or pamphlet forms by the authority of the board of councilmen, they shall be so received.]

SEC. 227. Section 41 of chapter II of the charter of the City of Wells, being chapter 159, Statutes of Nevada 1967, at page 299, is hereby amended to read as follows:

Section 41. Codification of general ordinances.

1. The board of councilmen have the power to codify and publish a code of its municipal ordinances in the form of a municipal code, which code may, at the election of the board of councilmen, have incorporated therein a copy of this charter and such additional data as the board of councilmen may prescribe. When such a publication is published, two copies shall be filed with the librarian of the Nevada state library. [, and thereafter such code shall be received in all courts of this state as an authorized compilation of the municipal ordinances of the city.]

2. The ordinances in the code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, signature of the mayor, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances, and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Wells."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

SEC. 228. Section 16 of the charter of the City of Yerington, being chapter 72, Statutes of Nevada 1907, as amended by chapter 190,

Statutes of Nevada 1957, at page 277, is hereby amended to read as follows:

Section 16. 1. The style of all ordinances shall be as follows: "The City Council of the City of Yerington do ordain." All proposed ordinances when first proposed shall be read by title to the city council and may be referred to a committee of any number of the members of the council for consideration, after which at least one copy of the ordinance shall be filed with the city clerk for public examination. Notice of such filing shall be published once in a newspaper published in the city, if any there be, and otherwise in some newspaper published in the county and having a general circulation in the city, at least 1 week prior to the adoption of the ordinance. The city council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days from the date of such publication, except that in cases of emergency, by unanimous consent of the whole council, final action may be taken immediately or at a special meeting called for that purpose.

2. At the next regular or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, the committee shall report the ordinance back to the council, and thereafter it shall be read in full as first introduced, or if amended, as amended, and thereupon the proposed ordinance shall be finally voted upon or action thereon postponed.

3. After final adoption the ordinance shall be signed by the mayor, and, together with the votes cast thereon, shall be published once in a newspaper published in the city, if any there be, otherwise in some newspaper published in the county and having a general circulation in the city. Twenty days after such publication the same shall go into effect, except emergency ordinances which may be effective immediately.

[4. In all prosecutions for the violation of any of the provisions of any city ordinance, rule, resolution, or other regulation of the city council, whether in a court of original jurisdiction or in any appellate court, it shall not be necessary to plead the contents of the same, but the court before which the proceedings may be pending shall take judicial notice of such ordinance, rule, resolution, or other regulation, and of the contents thereof. In all civil actions it shall not be necessary to plead the contents of any ordinance, rule, resolution, or other regulation of the city council, but the same may be pleaded by title, and may be proved prima facie by the introduction of the original entry thereof on the records of the city council, or a copy thereof certified by the city clerk to be a full, true and correct copy of the original entry, or by the introduction of a printed copy published or purported to have been published by authority of the city council.]

SEC. 229. Section 49 of the charter of the City of Yerington, being chapter 72, Statutes of Nevada 1907, at page 172, is hereby repealed.

SEC. 230. This act shall become effective at 12:01 a.m. on July 1, 1971.
