

MOCK-UP

PROPOSED AMENDMENT 6042 TO
SENATE BILL NO. 263

MAY 27, 2019

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

Legislative Counsel's Digest:

Existing law authorizes the Department of Taxation to regulate and collect a tax on cigarettes and other tobacco products. (Chapter 370 of NRS) ~~Sections 1.5 and 2~~ of this bill provide that certain **alternative nicotine products and** vapor products, including electronic cigarettes, cigars, cigarillos, pipes, **hookahs, vape pens** and similar products or devices and their components, are regulated and taxed as other tobacco products. Because this bill regulates and taxes such vapor products as other tobacco products, wholesale and retail dealers of those vapor products would be required to obtain a license from the Department and wholesale dealers of those vapor products would be required to ~~collect and~~ pay a tax of 30 percent of the wholesale price of those products. (NRS 370.445, 370.450)

~~Existing law requires retail dealers of cigarettes, retail dealers of other tobacco products and wholesale dealers of other tobacco products to obtain a license to sell cigarettes and other tobacco products. (NRS 370.080, 370.445) Sections 3 and 5 of this bill establish a fee for the issuance of a license as a retail dealer of cigarettes or a license as a retail dealer or wholesale dealer of other tobacco products.~~

1 ~~Existing law requires the Department of Taxation to deposit the proceeds of the taxes~~
2 ~~on other tobacco products with the State Treasurer for credit to the Account for the Tax on~~
3 ~~Products Made From Tobacco, Other Than Cigarettes in the State General Fund. (NRS~~
4 ~~370.500) Section 7 of this bill requires the State Controller, based on information provided~~
5 ~~by the Department of Taxation, to distribute the proceeds of the tax on vapor products to~~
6 ~~the county treasurer of a county in which a health district has been established and transfer~~
7 ~~those proceeds for credit to the newly created Account for Public Health Improvement~~
8 ~~administered by the Division of Public and Behavioral Health of the Department of Health~~
9 ~~and Human Services for those areas for which a health district has not been established, in~~
10 ~~proportion to the percentage of the population represented by each. Sections 9-11 of this~~

1 ~~bill require that a health district and the Division use not less than 50 percent of the tax~~
2 ~~proceeds so received on programs for tobacco prevention and treatment and not more than~~
3 ~~50 percent of such tax proceeds to address needs relating to public health. Sections 10 and~~
4 ~~11 of this bill require each health district to submit a report to the Division regarding the~~
5 ~~use of such tax proceeds by the health district. Section 9 of this bill requires the Division to~~
6 ~~submit a report to the Director of the Legislative Counsel Bureau regarding the use of such~~
7 ~~tax proceeds by the Division and by the health districts in this State.~~

8 ~~Section 14 of this bill requires retail dealers of other tobacco products who, on July 1,~~
9 ~~2019, possess vapor products which would have been subject to the tax imposed by this bill~~
10 ~~if that tax were imposed before July 1, 2019, to collect and pay to the Department of~~
11 ~~Taxation the tax that would have been owed on such vapor products if that tax were~~
12 ~~imposed before July 1, 2019. Under section 14, a retail dealer who pays the tax in~~
13 ~~accordance with that section is entitled to retain 0.25 percent of the taxes collected to cover~~
14 ~~the costs of collecting and administering the tax.~~

15 ~~Sections 4, 6, 12 and 13 of this bill make conforming changes.]~~

16 The Nevada Clean Indoor Air Act was proposed by an initiative petition and
17 approved by the voters at the 2006 General Election. The Act generally prohibits
18 smoking tobacco within indoor places of employment, within school buildings and on
19 school property, but allows smoking tobacco in certain areas or establishments. (NRS
20 202.2483) Section 7.1 of this bill defines “smoking” and expressly applies the Nevada
21 Clean Indoor Air Act to the use of an electronic smoking device.

22 Existing law prohibits a person from selling, distributing or offering to sell
23 cigarettes, cigarette paper, tobacco of any description, products made or derived from
24 tobacco, vapor products or alternative nicotine products to any person under the age
25 of 18 years. (NRS 202.2493) For the purposes of this prohibition, existing law defines
26 “vapor products” to include only products containing nicotine that produce a vapor
27 from nicotine in a solution or other form. (NRS 202.2485) Section 7.3 of this bill
28 extends this definition to include products containing other substances, the use of
29 inhalation of which simulates smoking, and certain associated devices and
30 components.

31 Under existing law, a person who sells, distributes or offers to sell cigarettes,
32 cigarette paper, tobacco of any description, products made or derived from tobacco,
33 vapor products or alternative nicotine products to a person under the age of 18 years
34 is punished by a criminal fine of not more than \$500 and a civil penalty of not more
35 than \$500. (NRS 202.2493) Sections 1 and 7.5 of this bill: (1) remove the criminal
36 penalties for violating this prohibition and, instead, authorize the Department to
37 impose a civil penalty on a person who sells, distributes or offers to sell cigarettes,
38 cigarette paper, tobacco of any description, products made or derived from tobacco,
39 vapor products and alternative nicotine products to a person under the age of 18 years
40 of age; (2) revise the amount of such civil penalties; (3) authorize the imposition of
41 penalties on a licensee whose employee or agent violates this prohibition; and (4)
42 establishes the procedure for the issuance of a notice of infraction to a person who
43 violates this prohibition and the requesting of hearing before the Department.
44 Sections 7.4 and 7.9 make conforming changes related to the removal of criminal
45 penalties and the authorization for the Department to impose civil penalties.

46 Existing law prohibits a person from knowingly selling or distributing cigarettes,
47 cigarette paper, tobacco of any description or products made or derived from tobacco
48 to a child under the age of 18 years through the use of the Internet. Existing law
49 further requires a person who sells or distributes such products through the use of the
50 Internet to adopt a policy to prevent a child under the age of 18 years from obtaining
51 such products from the person through the use of the Internet, which policy is
52 required to include: (1) a method to ensure that the person who delivers the products
53 to obtain the signature of a person who is over the age of 18 years; (2) a requirement
54 that the packaging or wrapping of the items when they are shipped is clearly marked
55 with the words “cigarettes” or the words “tobacco products;” and (3) a requirement

1 to comply with certain federal law relating to the remote sale of cigarettes and certain
2 tobacco products. (NRS 202.24935) Section 7.7 of this bill removes the requirement for
3 such a policy. Instead, section 7.7 requires a person who sells or distributes cigarettes,
4 cigarette paper, tobacco of any description, products made or derived from tobacco,
5 vapor products or alternative nicotine products through a computer network,
6 telephonic network or other electronic network to: (1) ensure that the packaging in
7 which the items are shipped is labeled "cigarettes" or "tobacco products;" and (2) use
8 certain age verification procedures.
9 Section 14.5 of this bill makes an appropriation to the Department of Health and
10 Human Services for programs to control and prevent the use of tobacco in the amount
11 of \$2.5 million for Fiscal Year 2019-2020 and \$2.5 million for Fiscal Year 2020-2021.

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

1 Section 1. Chapter 370 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. Except as otherwise provided in subsections 2 and 3, a person
4 shall not sell, distribute or offer to sell cigarettes, cigarette paper or other
5 tobacco products to any child under the age of 18 years.

6 2. A person shall be deemed to be in compliance with the provisions
7 of subsection 1 if, before the person sells, distributes or offers to sell to
8 another, cigarettes, cigarette paper or other tobacco products, the
9 person:

10 (a) Demands that the other person present a valid driver's license,
11 permanent resident card, tribal identification card or other written or
12 documentary evidence which shows that the other person is 18 years of
13 age or older;

14 (b) Is presented a valid driver's license, permanent resident card,
15 tribal identification card or other written or documentary evidence which
16 shows that the other person is 18 years of age or older; and

17 (c) Reasonably relies upon the driver's license, permanent resident
18 card, tribal identification card or written or documentary evidence
19 presented by the other person.

20 3. The employer of a child who is under 18 years of age may, for the
21 purpose of allowing the child to handle or transport cigarettes, cigarette
22 paper or other tobacco products, in the course of the child's lawful
23 employment, provide cigarettes, cigarette paper or other tobacco products
24 to the child.

25 4. A person who violates this section is liable for a civil penalty of:

26 (a) For the first violation within a 24-month period, \$100.

27 (b) For the second violation within a 24-month period, \$250.

28 (c) For the third and any subsequent violation within a 24-month
29 period, \$500.

30 5. If an employee or agent of a licensee has violated this section:

31 (a) For the first and second violation within a 24-month period at the
32 same premises, the licensee must be issued a warning.

33 (b) For the third violation within a 24-month period at the same
34 premises, the licensee is liable for a civil penalty of \$500.

35 (c) For the fourth violation within a 24-month period at the same
36 premises, the licensee is liable for a civil penalty of \$1,250.

37 (d) For the fifth and any subsequent violation within a 24-month
38 period at the same premises, the licensee is liable for a civil penalty of
39 \$2,500.

40 6. A peace officer or any person performing an inspection pursuant
41 to NRS 202.2496 may issue a notice of infraction for a violation of this
42 section. A notice of infraction must be issued on a form prescribed by the
43 Department and must contain:

44 (a) The location at which the violation occurred;

45 (b) The date and time of the violation;

- 1 (c) The name of the establishment at which the violation occurred;
- 2 (d) The signature of the person who issued the notice of infraction;
- 3 (e) A copy of the section which allegedly is being violated;
- 4 (f) Information advising the person to whom the notice of infraction
- 5 is issued of the manner in which, and the time within which, the person
- 6 must submit an answer to the notice of infraction; and
- 7 (h) Such other pertinent information as the peace officer or person
- 8 performing the inspection pursuant to NRS 202.2496 determines is
- 9 necessary.

10 7. A notice of infraction issued pursuant to subsection 6 or a
 11 facsimile thereof must be filed with the Department and retained by the
 12 Department and is deemed to be a public record of matters which are
 13 observed pursuant to a duty imposed by law and is prima facie evidence
 14 of the facts alleged in the notice.

15 8. A person to whom a notice of infraction is issued pursuant to
 16 subsection 6 shall respond to the notice by:

17 (a) Admitting the violation stated in the notice and paying to the
 18 Department the applicable civil penalty set forth in subsection 4 or 5.

19 (b) Denying liability for the infraction by notifying the Department
 20 and requesting a hearing in the manner indicated on the notice of
 21 infraction. Upon receipt of a request for a hearing pursuant to this
 22 paragraph, the Department shall provide the person submitting the
 23 request an opportunity for a hearing pursuant to chapter 233B of NRS.

24 9. Any money collected by the Department from a civil penalty
 25 pursuant to this section must be deposited in a separate account in the
 26 State General Fund to be used for the enforcement of this section and
 27 NRS 202.2493 and 202.2494.

28 10. As used in this section, "licensee" means a person who holds a
 29 license issued by the Department pursuant to this chapter.

30 **Sec. 1.3. NRS 370.001 is hereby amended to read as follows:**

31 370.001 As used in NRS 370.001 to 370.430, inclusive, and 370.505
 32 to 370.530, inclusive, and section 1 of this act, unless the context
 33 otherwise requires, the words and terms defined in NRS 370.003 to
 34 370.055, inclusive, have the meanings ascribed to them in those sections.

35 ~~{Section 1.}~~ **Sec. 1.7.** NRS 370.0318 is hereby amended to read as
 36 follows:

37 370.0318 "Other tobacco product" means any tobacco of any
 38 description ~~{or}~~, any vapor product, any alternative nicotine product or
 39 any product made from tobacco, other than cigarettes. ~~{, or alternative~~
 40 ~~nicotine products, and vapor products.}~~

41 **Sec. 2.** NRS 370.054 is hereby amended to read as follows:

42 370.054 "Vapor product":

- 43 1. Means any noncombustible product containing nicotine or any
- 44 other substance that employs a heating element, power source, electronic
- 45 circuit or other electronic, chemical or mechanical means, regardless of the

1 shape or size thereof, that can be used to produce vapor from nicotine *or*
2 *any other substance* in a solution or other form ~~[]~~, *the use or inhalation*
3 *of which simulates smoking.*

4 2. Includes, without limitation :
5 (a) An ~~f, an~~ electronic cigarette, cigar, cigarillo, ~~, [or]~~ pipe, *hookah,*
6 *or vape pen,* or a similar product or device ; and

7 (b) ~~[A-the]~~ *The components of such a product or device, whether or*
8 *not sold separately, including, without limitation,* vapor ~~[cartridge]~~
9 *cartridges* or other container of nicotine or any other substance in a
10 solution or other form that is intended to be used with or in an electronic
11 cigarette, cigar, cigarillo, ~~, [or]~~ pipe, *hookah, or vape pen,* or a similar
12 product or device. ~~[containers,]~~, *atomizers, [batteries,]* cartomizers,
13 *digital displays, clearomizers, tank systems, flavors, [and]* programmable
14 software ~~[]~~ *or other similar products or devices.* As used in this
15 ~~[subsection,]~~ *subparagraph, “component” means a product intended*
16 *primarily or exclusively to be used with or in an electronic cigarette,*
17 *cigar, cigarillo ~~[or]~~ pipe, *hookah, or vape pen,* or a similar product or*
18 *device.*

19 3. Does not include any product ~~[regulated]~~ :
20 (a) *Regulated* by the United States Food and Drug Administration
21 pursuant to subchapter V of the Federal Food, Drug, and Cosmetic Act, 21
22 U.S.C. §§ 351 et seq.

23 (b) *Subject to the excise tax on marijuana or marijuana products*
24 *pursuant to NRS 372A.200 to 372A.380, inclusive.*

25 **Sec. 3.** ~~[NRS 370.150 is hereby amended to read as follows:~~

26 ~~370.150 1. Each license issued by the Department is valid only for~~
27 ~~the calendar year for which it is issued, and must be renewed annually.~~

28 ~~2. The Department shall not charge any license fees for a~~
29 ~~manufacturer’s [or retail dealer’s] license.~~

30 ~~3. An annual license fee of \$150 must be charged for each wholesale~~
31 ~~dealer’s license. If such a license is issued at any time during the year other~~
32 ~~than on January 1, except for the renewal of a delinquent license pursuant~~
33 ~~to subsection [5,] 6, the licensee shall pay a proportionate part of the~~
34 ~~annual fee for the remainder of the year, but not less than 25 percent of the~~
35 ~~annual license fee.~~

36 ~~4. An annual license fee of \$50 must be charged for each retail~~
37 ~~dealer’s license. If such a license is issued at any time during the year~~
38 ~~other than on January 1, except for the renewal of a delinquent license~~
39 ~~pursuant to subsection 6, the licensee shall pay a proportionate part of~~
40 ~~the annual fee for the remainder of the year, but not less than 25 percent~~
41 ~~of the annual license fee.~~

42 ~~5. The fees for a wholesale dealer’s license or retail dealer’s license~~
43 ~~are due and payable on January 1 of each year. If the annual license fee is~~
44 ~~not paid by January 15, the license is cancelled automatically.~~

1 ~~— [5.] 6. A wholesale dealer’s license or retail dealer’s license which is~~
2 ~~cancelled for nonpayment of the annual license fee may be renewed at any~~
3 ~~time by the payment of the fee plus a 5 percent penalty thereon.] (Deleted~~
4 ~~by amendment.)~~

5 **Sec. 4.** ~~[NRS 370.440 is hereby amended to read as follows:~~

6 ~~— 370.440 As used in NRS 370.440 to 370.503, inclusive, unless the~~
7 ~~context otherwise requires:~~

8 ~~— 1. “Alternative nicotine product” has the meaning ascribed to it in~~
9 ~~NRS 370.003.~~

10 ~~— 2. “Other tobacco product” has the meaning ascribed to it in NRS~~
11 ~~370.0318.~~

12 ~~— 3. “Retail dealer” means any person who is engaged in selling other~~
13 ~~tobacco products.~~

14 ~~— 4. “Sale” means any transfer, exchange, barter, gift, offer for sale, or~~
15 ~~distribution for consideration of other tobacco products.~~

16 ~~— 5. “Ultimate consumer” means a person who purchases one or more~~
17 ~~other tobacco products for his or her household or personal use and not for~~
18 ~~resale.~~

19 ~~— 6. “Vapor product” has the meaning ascribed to it in~~
20 ~~NRS 370.054.~~

21 ~~— 7. “Wholesale dealer” means any person who:~~

22 ~~— (a) Brings or causes to be brought into this State other tobacco~~
23 ~~products purchased from the manufacturer or a wholesale dealer and who~~
24 ~~stores, sells or otherwise disposes of such other tobacco products within~~
25 ~~this State;~~

26 ~~— (b) Manufactures or produces other tobacco products within this State~~
27 ~~and who sells or distributes such other tobacco products within this State to~~
28 ~~other wholesale dealers, retail dealers or ultimate consumers; or~~

29 ~~— (c) Purchases other tobacco products solely for the purpose of bona~~
30 ~~fide resale to retail dealers or to other persons for the purpose of resale~~
31 ~~only.~~

32 ~~— [7.] 8. “Wholesale price” means:~~

33 ~~— (a) Except as otherwise provided in paragraph (b), the established price~~
34 ~~for which other tobacco products are sold to a wholesale dealer before any~~
35 ~~discount or other reduction is made.~~

36 ~~— (b) For other tobacco products sold to a retail dealer or an ultimate~~
37 ~~consumer by a wholesale dealer described in paragraph (b) of subsection~~
38 ~~[6.] 7, the established price for which the other tobacco product is sold to~~
39 ~~the retail dealer or ultimate consumer before any discount or other~~
40 ~~reduction is made.] (Deleted by amendment.)~~

41 **Sec. 5.** ~~[NRS 370.445 is hereby amended to read as follows:~~

42 ~~— 370.445 1. The Department shall issue a license as a wholesale~~
43 ~~dealer or a license as a retail dealer to a person who submits a complete~~
44 ~~application on a form prescribed by the Department and who otherwise~~
45 ~~complies with the applicable provisions of this chapter and any regulations~~

1 ~~adopted by the Department. [The Department shall not charge any fee for~~
2 ~~the issuance of a license pursuant to this subsection.]~~

3 ~~—2. Except as otherwise provided in subsection 3, a person shall not~~
4 ~~engage in the business of a wholesale dealer or retail dealer in this State~~
5 ~~unless the person first obtains a license as a wholesale dealer or retail~~
6 ~~dealer from the Department. A person may be licensed as a wholesale~~
7 ~~dealer and as a retail dealer.~~

8 ~~—3. A person who wishes to engage in the business of a retail dealer is~~
9 ~~not required to obtain a license as a retail dealer pursuant to this section if~~
10 ~~the person is licensed as a retail cigarette dealer pursuant to NRS 370.001~~
11 ~~to 370.430, inclusive.~~

12 ~~—4. The Department may refuse to issue or renew, or may suspend or~~
13 ~~revoke, a license issued pursuant to this section for any violation of the~~
14 ~~provisions of NRS 370.440 to 370.503, inclusive.~~

15 ~~—5. The Department may adopt regulations prescribing the form and~~
16 ~~contents of an application for, or which are otherwise necessary for the~~
17 ~~issuance of, a license pursuant to this section.~~

18 ~~—6. An annual license fee of \$650 must be charged for each license~~
19 ~~as a wholesale dealer. If such a license is issued at any time during the~~
20 ~~year other than on January 1, except for the renewal of a delinquent~~
21 ~~license pursuant to subsection 8,~~
22 ~~the licensee shall pay a proportionate part of the annual fee for the~~
23 ~~remainder of the year, but not less than 25 percent of the annual license~~
24 ~~fee.~~

25 ~~—7. An annual license fee of \$50 must be charged for each license as~~
26 ~~a retail dealer. If such a license is issued at any time during the year~~
27 ~~other than on January 1, except for the renewal of a delinquent license~~
28 ~~pursuant to subsection 8, the licensee shall pay a proportionate part of~~
29 ~~the annual fee for the remainder of the year, but not less than 25 percent~~
30 ~~of the annual license fee.~~

31 ~~—8. The fee for a license as a wholesale dealer or a retail dealer are~~
32 ~~due and payable on January 1 of each year. If the annual license fee is~~
33 ~~not paid by January 15, the license is cancelled automatically. A license~~
34 ~~as a wholesale dealer or retail dealer which is cancelled for nonpayment~~
35 ~~of the annual license fee may be renewed at any time by the payment of~~
36 ~~the fee plus a 5 percent penalty thereon.~~

37 ~~—9. Any person who violates any of the provisions of this section is~~
38 ~~guilty of a misdemeanor.] (Deleted by amendment.)~~

39 **Sec. 6.** ~~[NRS 370.465 is hereby amended to read as follows:~~

40 ~~370.465 1. A wholesale dealer shall, not later than 20 days after the~~
41 ~~end of each month, submit to the Department a report on a form prescribed~~
42 ~~by the Department setting forth each sale of other tobacco products that the~~
43 ~~wholesale dealer made during the previous month. The wholesale dealer~~
44 ~~shall set forth sales of vapor products separately from sales of other~~
45 ~~tobacco products that are not vapor products.~~

1 ~~2. Each report submitted pursuant to this section on or after August~~
2 ~~20, 2001, must be accompanied by the tax owed pursuant to NRS 370.450~~
3 ~~for other tobacco products that were sold by the wholesale dealer during~~
4 ~~the previous month.~~

5 ~~3. The Department may impose a penalty on a wholesale dealer who~~
6 ~~violates any of the provisions of this section as follows:~~

7 ~~(a) For the first violation within 7 years, a fine of \$1,000.~~

8 ~~(b) For a second violation within 7 years, a fine of \$5,000.~~

9 ~~(c) For a third or subsequent violation within 7 years, revocation of the~~
10 ~~license of the wholesale dealer.] (Deleted by amendment.)~~

11 **Sec. 7.** ~~[NRS 370.500 is hereby amended to read as follows:~~

12 ~~370.500 1. All amounts of tax required to be paid to the State~~
13 ~~pursuant to NRS 370.440 to 370.490, inclusive, must be paid to the~~
14 ~~Department in the form of remittances payable to the Department.~~

15 ~~2. The Department shall deposit these payments with the State~~
16 ~~Treasurer for credit to the Account for the Tax on Products Made From~~
17 ~~Tobacco, Other Than Cigarettes, in the State General Fund. *Except as*~~
18 ~~*otherwise provided in subsection 4, the State Controller, acting upon the*~~
19 ~~*relevant information furnished by the Department, shall:*~~

20 ~~(a) Distribute monthly the taxes, interest and penalties which derive~~
21 ~~from the tax on vapor products required to be paid to the State pursuant~~
22 ~~to NRS 370.440 to 370.490, inclusive, to the county treasurer of each~~
23 ~~county in which a health district has been established pursuant to NRS~~
24 ~~439.361 to 439.410, inclusive, and sections 10 and 11 of this act an~~
25 ~~amount equal to the percentage of the population of this State which~~
26 ~~resides in that county multiplied by the total amount of such taxes,~~
27 ~~interest and penalties paid for the previous month.~~

28 ~~(b) Transfer monthly to the Account for Public Health Improvement~~
29 ~~created by section 9 of this act in the State General Fund the taxes,~~
30 ~~interest and penalties which derive from the tax on vapor products~~
31 ~~required to be paid to the State pursuant to NRS 370.440 to 370.490,~~
32 ~~inclusive, and which remain after the distribution made pursuant to~~
33 ~~paragraph (a).~~

34 ~~3. For the purposes of subsection 2, the percentage of the~~
35 ~~population of this State that resides in a county must be determined~~
36 ~~according to the population figures most recently certified by the~~
37 ~~Governor pursuant to NRS 360.285.~~

38 ~~4. If a health district is created pursuant to NRS 439.370 on or after~~
39 ~~July 1, 2019, the Division of Public and Behavioral Health of the~~
40 ~~Department of Health and Human Services must notify the Department~~
41 ~~of Taxation and the State Controller of the creation of the health district.~~
42 ~~Not later than 90 days after receiving the notification, the State~~
43 ~~Controller shall begin making the distribution required by paragraph (a)~~
44 ~~of subsection 2 to the county treasurer of the county in which the health~~
45 ~~district has been established and shall reduce the transfer made to the~~

1 ~~Account for Public Health Improvement pursuant to paragraph (b) of~~
2 ~~subsection 2 by a corresponding amount.] (Deleted by amendment.)~~

3 **Sec. 7.1. NRS 202.2483 is hereby amended to read as follows:**

4 202.2483 1. Except as otherwise provided in subsection 3, smoking
5 ~~tobacco~~ in any form is prohibited within indoor places of employment
6 including, but not limited to, the following:

- 7 (a) Child care facilities;
- 8 (b) Movie theatres;
- 9 (c) Video arcades;
- 10 (d) Government buildings and public places;
- 11 (e) Malls and retail establishments;
- 12 (f) All areas of grocery stores; and
- 13 (g) All indoor areas within restaurants.

14 2. Without exception, smoking ~~tobacco~~ in any form is prohibited
15 within school buildings and on school property.

16 3. Smoking ~~tobacco~~ is not prohibited in:

17 (a) Areas within casinos where loitering by minors is already
18 prohibited by state law pursuant to NRS 463.350;

19 (b) Completely enclosed areas with stand-alone bars, taverns and
20 saloons in which patrons under 21 years of age are prohibited from
21 entering;

22 (c) Age-restricted stand-alone bars, taverns and saloons;

23 (d) Strip clubs or brothels;

24 (e) Retail tobacco stores;

25 (f) The area of a convention facility in which a meeting or trade show
26 is being held, during the time the meeting or trade show is occurring, if the
27 meeting or trade show:

28 (1) Is not open to the public;

29 (2) Is being produced or organized by a business relating to tobacco
30 or a professional association for convenience stores; and

31 (3) Involves the display of tobacco products; and

32 (g) Private residences, including private residences which may serve as
33 an office workplace, except if used as a child care, an adult day care or a
34 health care facility.

35 4. A supervisor on duty or employee of an age-restricted stand-alone
36 bar, tavern or saloon or a stand-alone bar, tavern or saloon shall not allow a
37 person who is under 21 years of age to loiter in an age-restricted stand-
38 alone bar, tavern or saloon or an area of a stand-alone bar, tavern or saloon
39 where smoking is allowed pursuant to this section. A person who violates
40 the provisions of this subsection is guilty of a misdemeanor.

41 5. If a supervisor on duty or employee of an age-restricted stand-alone
42 bar, tavern or saloon or a stand-alone bar, tavern or saloon violates the
43 provisions of subsection 4, the age-restricted stand-alone bar, tavern or
44 saloon or stand-alone bar, tavern or saloon is liable for a civil penalty of:

45 (a) For the first offense, \$1,000.

1 (b) For a second or subsequent offense, \$2,000.

2 6. In any prosecution or other proceeding for a violation of the
3 provisions of subsection 4 or 5, it is no excuse for a supervisor, employee,
4 age-restricted bar, tavern or saloon, or stand-alone bar, tavern or saloon
5 alleged to have committed the violation to plead that a supervisor or
6 employee believed that the person who was permitted to loiter was 21
7 years of age or older.

8 7. In areas or establishments where smoking is not prohibited by this
9 section, nothing in state law shall be construed to prohibit the owners of
10 said establishments from voluntarily creating nonsmoking sections or
11 designating the entire establishment as smoke free.

12 8. Nothing in state law shall be construed to restrict local control or
13 otherwise prohibit a county, city or town from adopting and enforcing
14 local ~~tobacco~~ smoking control measures that meet or exceed the
15 minimum applicable standards set forth in this section.

16 9. "No Smoking" signs or the international "No Smoking" symbol
17 shall be clearly and conspicuously posted in every public place and place
18 of employment where smoking is prohibited by this section. Each public
19 place and place of employment where smoking is prohibited shall post, at
20 every entrance, a conspicuous sign clearly stating that smoking is
21 prohibited. All ashtrays and other smoking paraphernalia shall be removed
22 from any area where smoking is prohibited.

23 10. Health authorities, police officers of cities or towns, sheriffs and
24 their deputies shall, within their respective jurisdictions, enforce the
25 provisions of this section and shall issue citations for violations of this
26 section pursuant to NRS 202.2492 and 202.24925.

27 11. No person or employer shall retaliate against an employee,
28 applicant or customer for exercising any rights afforded by, or attempts to
29 prosecute a violation of, this section.

30 12. For the purposes of this section, the following terms have the
31 following definitions:

32 (a) "Age-restricted stand-alone bar, tavern or saloon" means an
33 establishment:

34 (1) Devoted primarily to the sale of alcoholic beverages to be
35 consumed on the premises;

36 (2) In which food service or sales may or may not be incidental
37 food service or sales, in the discretion of the operator of the establishment;

38 (3) In which patrons under 21 years of age are prohibited at all
39 times from entering the premises; and

40 (4) That must be located within:

41 (I) A physically independent building that does not share a
42 common entryway or indoor area with a restaurant, public place or any
43 other indoor workplace where smoking is prohibited by this section; or

44 (II) A completely enclosed area of a larger structure, which may
45 include, without limitation, a strip mall or an airport, provided that indoor

1 windows must remain closed at all times and doors must remain closed
2 when not actively in use.

3 (b) "Casino" means an entity that contains a building or large room
4 devoted to gambling games or wagering on a variety of events. A casino
5 must possess a nonrestricted gaming license as described in NRS 463.0177
6 and typically uses the word 'casino' as part of its proper name.

7 (c) "Child care facility" has the meaning ascribed to it in NRS
8 441A.030.

9 (d) "Completely enclosed area" means an area that is enclosed on all
10 sides by any combination of solid walls, windows or doors that extend
11 from the floor to the ceiling.

12 (e) "Government building" means any building or office space owned
13 or occupied by:

14 (1) Any component of the Nevada System of Higher Education and
15 used for any purpose related to the System;

16 (2) The State of Nevada and used for any public purpose; or

17 (3) Any county, city, school district or other political subdivision of
18 the State and used for any public purpose.

19 (f) "Health authority" has the meaning ascribed to it in NRS 202.2485.

20 (g) "Incidental food service or sales" means the service of prepackaged
21 food items including, but not limited to, peanuts, popcorn, chips, pretzels
22 or any other incidental food items that are exempt from food licensing
23 requirements pursuant to subsection 2 of NRS 446.870.

24 (h) "Place of employment" means any enclosed area under the control
25 of a public or private employer which employees frequent during the
26 course of employment including, but not limited to, work areas, restrooms,
27 hallways, employee lounges, cafeterias, conference and meeting rooms,
28 lobbies and reception areas.

29 (i) "Public places" means any enclosed areas to which the public is
30 invited or in which the public is permitted.

31 (j) "Restaurant" means a business which gives or offers for sale food,
32 with or without alcoholic beverages, to the public, guests or employees, as
33 well as kitchens and catering facilities in which food is prepared on the
34 premises for serving elsewhere.

35 (k) "Retail tobacco store" means a retail store utilized primarily for the
36 sale of tobacco products and accessories and in which the sale of other
37 products is merely incidental.

38 (l) "School building" means all buildings on the grounds of any public
39 school described in NRS 388.020 and any private school as defined in
40 NRS 394.103.

41 (m) "School property" means the grounds of any public school
42 described in NRS 388.020 and any private school as defined in NRS
43 394.103.

44 (n) "Smoking" means inhaling, exhaling, burning or carrying any
45 liquid or heated cigar, cigarette or pipe or any other lighted or heated

1 tobacco or plant product intended for inhalation, in any manner or in
2 any form. The term includes the use of an electronic smoking device that
3 creates an aerosol or vapor, in any manner or in any form, and the use
4 of any oral smoking device. As used in this paragraph, "electronic
5 smoking device":

6 (1) Means any product containing or delivering nicotine, a
7 product made or derived from tobacco or any other substance intended
8 for human consumption that can be used by a person to simulate
9 smoking in the delivery of nicotine or any other substance through
10 inhalation of vapor or aerosol from the product.

11 (2) Includes any component part of a product described in
12 subparagraph (1), regardless of whether the component part is sold
13 separately.

14 (3) Does not include any product regulated by the United States
15 Food and Drug Administration pursuant to Subchapter V of the Federal
16 Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 352 et seq.

17 (o) "Stand-alone bar, tavern or saloon" means an establishment:

18 (1) Devoted primarily to the sale of alcoholic beverages to be
19 consumed on the premises;

20 (2) In which food service or sales may or may not be incidental
21 food service or sales, in the discretion of the operator of the establishment;

22 (3) In which smoke from such establishments does not infiltrate
23 into areas where smoking is prohibited under the provisions of this section;
24 and

25 (4) That must be housed in either:

26 (I) A physically independent building that does not share a
27 common entryway or indoor area with a restaurant, public place or any
28 other indoor workplaces where smoking is prohibited by this section; or

29 (II) A completely enclosed area of a larger structure, such as a
30 strip mall or an airport, provided that indoor windows must remain shut at
31 all times and doors must remain closed when not actively in use.

32 ~~(c)~~ (p) "Video arcade" has the meaning ascribed to it in paragraph
33 (d) of subsection 3 of NRS 453.3345.

34 13. Any statute or regulation inconsistent with this section is null and
35 void.

36 14. The provisions of this section are severable. If any provision of
37 this section or the application thereof is declared by a court of competent
38 jurisdiction to be invalid or unconstitutional, such declaration shall not
39 affect the validity of the section as a whole or any provision thereof other
40 than the part declared to be invalid or unconstitutional.

41 **Sec. 7.3. NRS 202.2485 is hereby amended to read as follows:**

42 202.2485 As used in NRS 202.2485 to 202.2497, inclusive:

43 1. "Alternative nicotine product" means any noncombustible product
44 containing nicotine that is intended for human consumption, whether

1 chewed, absorbed, dissolved or ingested by any other means. The term
2 does not include:

- 3 (a) A vapor product;
- 4 (b) A product made or derived from tobacco; or
- 5 (c) Any product regulated by the United States Food and Drug
6 Administration under Subchapter V of the Federal Food, Drug, and
7 Cosmetic Act, 21 U.S.C. §§ 351 et seq.

8 2. "Distribute" includes furnishing, giving away or providing
9 products made or derived from tobacco or samples thereof at no cost to
10 promote the product, whether or not in combination with a sale.

11 3. "Health authority" means the district health officer in a district, or
12 his or her designee, or, if none, the Chief Medical Officer, or his or her
13 designee.

14 4. "Product made or derived from tobacco" does not include any
15 product regulated by the United States Food and Drug Administration
16 pursuant to Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21
17 U.S.C. §§ 351 et seq.

18 5. "Vapor product":

19 (a) Means any noncombustible product containing nicotine *or any*
20 *other substance* that employs a heating element, power source, electronic
21 circuit or other electronic, chemical or mechanical means, regardless of the
22 shape or size thereof, that can be used to produce vapor from nicotine *or*
23 *any other substance* in a solution or other form ~~or~~, *the use or inhalation*
24 *of which simulates smoking.*

25 (b) Includes, without limitation:

26 (1) An electronic cigarette, cigar, cigarillo, ~~or~~ pipe, *hookah or*
27 *vape pen* or a similar product or device ~~or~~ and

28 (2) ~~or~~ *The components of such a product or device, whether or*
29 *not sold separately, including, without limitation, vapor ~~cartridge~~*
30 *cartridges* or other container of nicotine *or any other substance* in a
31 solution or other form that is intended to be used with or in an electronic
32 cigarette, cigar, cigarillo, ~~or~~ pipe, *hookah, or vape pen*, or a similar
33 product or device ~~or~~, *atomizers, cartomizers, digital displays,*
34 *clearomizers, tank systems, flavors, programmable software or other*
35 *similar products or devices. As used in this subparagraph, "component"*
36 *means a product or device intended primarily or exclusively to be used*
37 *with or in an electronic cigarette, cigar, cigarillo, pipe, hookah, or vape*
38 *pen, or a similar product or device.*

39 (c) Does not include any product regulated by the United States Food
40 and Drug Administration pursuant to Subchapter V of the Federal Food,
41 Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

42 **Sec. 7.4. NRS 202.249 is hereby amended to read as follows:**

43 202.249 1. It is the public policy of the State of Nevada and the
44 purpose of NRS 202.2491, 202.24915 and 202.2492 to place restrictions

1 on the smoking of tobacco in public places to protect human health and
2 safety.

3 2. The quality of air is declared to be affected with the public interest
4 and NRS 202.2491, 202.24915 and 202.2492 are enacted in the exercise of
5 the police power of this state to protect the health, peace, safety and
6 general welfare of its people.

7 3. Health authorities, police officers of cities or towns, sheriffs and
8 their deputies and other peace officers of this state shall, within their
9 respective jurisdictions, enforce the provisions of NRS 202.2491,
10 202.24915 and 202.2492. Police officers of cities or towns, sheriffs and
11 their deputies and other peace officers of this state shall, within their
12 respective jurisdictions, enforce the provisions of NRS 202.2493,
13 202.24935 and 202.2494 ~~and section 1 of this ct.~~

14 4. Except as otherwise provided in subsection 5, an agency, board,
15 commission or political subdivision of this state, including, without
16 limitation, any agency, board, commission or governing body of a local
17 government, shall not impose more stringent restrictions on the smoking,
18 use, sale, distribution, marketing, display or promotion of tobacco or
19 products made or derived from tobacco than are provided by NRS
20 202.2491, 202.24915, 202.2492, 202.2493, 202.24935 and 202.2494 ~~and~~
21 and section 1 of this act.

22 5. A school district may, with respect to the property, buildings,
23 facilities and vehicles of the school district, impose more stringent
24 restrictions on the smoking, use, sale, distribution, marketing, display or
25 promotion of tobacco or products made or derived from tobacco than are
26 provided by NRS 202.2491, 202.24915, 202.2492, 202.2493, 202.24935
27 and 202.2494 ~~and section 1 of this act.~~

28 **Sec. 7.5. NRS 202.2493 is hereby amended to read as follows:**

29 202.2493 1. A person shall not sell, distribute or offer to sell
30 cigarettes, any smokeless product made or derived from tobacco or any
31 alternative nicotine product in any form other than in an unopened package
32 which originated with the manufacturer and bears any health warning
33 required by federal law. A person who violates this subsection shall be
34 punished by a fine of \$100 and a civil penalty of \$100. As used in this
35 subsection, "smokeless product made or derived from tobacco" means any
36 product that consists of cut, ground, powdered or leaf tobacco and is
37 intended to be placed in the oral or nasal cavity.

38 2. ~~Except as otherwise provided in subsections 3, 4 and 5, it is~~
39 ~~unlawful for any person to sell, distribute or offer to sell cigarettes,~~
40 ~~cigarette paper, tobacco of any description, products made or derived from~~
41 ~~tobacco, vapor products or alternative nicotine products to any child under~~
42 ~~the age of 18 years. A person who violates this subsection shall be~~
43 ~~punished by a fine of not more than \$500 and a civil penalty of not more~~
44 ~~than \$500.~~

1 ~~3. A person shall be deemed to be in compliance with the provisions~~
2 ~~of subsection 2 if, before the person sells, distributes or offers to sell to~~
3 ~~another, cigarettes, cigarette paper, tobacco of any description, products~~
4 ~~made or derived from tobacco, vapor products or alternative nicotine~~
5 ~~products, the person:~~

6 ~~(a) Demands that the other person present a valid driver's license,~~
7 ~~permanent resident card, tribal identification card or other written or~~
8 ~~documentary evidence which shows that the other person is 18 years of age~~
9 ~~or older;~~

10 ~~(b) Is presented a valid driver's license, permanent resident card, tribal~~
11 ~~identification card or other written or documentary evidence which shows~~
12 ~~that the other person is 18 years of age or older; and~~

13 ~~(c) Reasonably relies upon the driver's license, permanent resident~~
14 ~~card, tribal identification card or written or documentary evidence~~
15 ~~presented by the other person.~~

16 ~~4. The employer of a child who is under 18 years of age may, for the~~
17 ~~purpose of allowing the child to handle or transport tobacco, products~~
18 ~~made or derived from tobacco, vapor products or alternative nicotine~~
19 ~~products, in the course of the child's lawful employment, provide tobacco,~~
20 ~~products made or derived from tobacco, vapor products or alternative~~
21 ~~nicotine products to the child.~~

22 ~~5. With respect to any sale made by an employee of a retail~~
23 ~~establishment, the owner of the retail establishment shall be deemed to be~~
24 ~~in compliance with the provisions of subsection 2 if the owner:~~

25 ~~(a) Had no actual knowledge of the sale; and~~

26 ~~(b) Establishes and carries out a continuing program of training for~~
27 ~~employees which is reasonably designed to prevent violations of~~
28 ~~subsection 2.~~

29 ~~6.1~~ The owner of a retail establishment shall, whenever any product
30 made or derived from tobacco, vapor product or alternative nicotine
31 product is being sold or offered for sale at the establishment, display
32 prominently at the point of sale:

33 (a) A notice indicating that:

34 (1) The sale of cigarettes, other tobacco products, vapor products
35 and alternative nicotine products to minors is prohibited by law; and

36 (2) The retailer may ask for proof of age to comply with this
37 prohibition; and

38 (b) At least one sign that complies with the requirements of NRS
39 442.340.

40 ↪ A person who violates this subsection shall be punished by a fine of not
41 more than \$100.

42 ~~7.1~~ 3. It is unlawful for any retailer to sell cigarettes through the use
43 of any type of display:

44 (a) Which contains cigarettes and is located in any area to which
45 customers are allowed access; and

1 (b) From which cigarettes are readily accessible to a customer without
2 the assistance of the retailer,
3 ↪ except a vending machine used in compliance with NRS 202.2494. A
4 person who violates this subsection shall be punished by a fine of not more
5 than \$500.

6 ~~§8. Any money recovered pursuant to this section as a civil penalty~~
7 ~~must be deposited in a separate account in the State General Fund to be~~
8 ~~used for the enforcement of this section and NRS 202.2494.]~~

9 **Sec. 7.7. NRS 202.24935 is hereby amended to read as follows:**

10 202.24935 1. It is unlawful for a person to knowingly sell or
11 distribute cigarettes, cigarette paper, tobacco of any description, ~~for~~
12 products made or derived from tobacco, vapor products or alternative
13 nicotine products to a child under the age of 18 years through the use of
14 ~~the Internet, a computer network, telephonic network or other~~
15 electronic network.

16 2. A person who violates the provisions of subsection 1 shall be
17 punished by a fine of not more than \$500 and a civil penalty of not more
18 than \$500. Any money recovered pursuant to this section as a civil penalty
19 must be deposited in the same manner as money is deposited pursuant to
20 subsection ~~§8~~ 9 of NRS 202.2493, section 1 of this act.

21 3. Every person who sells or distributes cigarettes, cigarette paper,
22 tobacco of any description, ~~for~~ products made or derived from tobacco,
23 vapor products or alternative nicotine products through the use of ~~the~~
24 Internet, a computer network, telephonic network or electronic network
25 shall ~~adopt a policy to prevent a child under the age of 18 years from~~
26 ~~obtaining cigarettes, cigarette paper, tobacco of any description or products~~
27 ~~made or derived from tobacco from the person through the use of the~~
28 ~~Internet. The policy must include, without limitation, a method for~~
29 ~~ensuring~~ :

30 (a) Ensure that ~~the person who delivers such items obtains the~~
31 ~~signature of a person who is over the age of 18 years when delivering the~~
32 ~~items, that~~ the packaging or wrapping of the items when they are shipped
33 is clearly marked with the word "cigarettes" or , if the item being shipped
34 are not cigarettes, the words "tobacco products." ~~;~~ and that the person
35 ~~complies with the provisions of 15 U.S.C. § 376. A person who fails to~~
36 ~~adopt a policy pursuant to this subsection is guilty of a misdemeanor and~~
37 ~~shall be punished by a fine of not more than \$500.]~~

38 (b) Perform an age verification through an independent, third-party
39 age verification service that compares information available from public
40 records to the personal information entered by the person during the
41 ordering process that establishes that the person is over the age of 18
42 years and use a method of mail, shipping or delivery that requires the
43 signature of a person over the age of 18 years before the items are
44 released to the purchaser, unless the person:

45 (1) Requires the customer to:

1 (I) Create an online profile or account with personal
2 information, including, without limitation, a name, address, social
3 security number and a valid phone number, that is verified through
4 publicly available records; or

5 (II) Upload a copy of a government-issued identification card
6 that includes a photograph of the customer; and

7 (2) Sends the package containing the items to the name and
8 address of the customer who ordered the items.

9 **Sec. 7.9. NRS 202.2496 is hereby amended to read as follows:**

10 202.2496 1. As necessary to comply with any applicable federal
11 law, the Attorney General shall conduct random, unannounced inspections
12 at locations where tobacco, products made or derived from tobacco, vapor
13 products and alternative nicotine products are sold, distributed or offered
14 for sale to inspect for and enforce compliance with NRS 202.2493 and
15 202.2494 ~~§~~ and section 1 of this act, as applicable. For assistance in
16 conducting any such inspection, the Attorney General may contract with:

17 (a) Any sheriff's department;

18 (b) Any police department; or

19 (c) Any other person who will, in the opinion of the Attorney General,
20 perform the inspection in a fair and impartial manner.

21 2. If the inspector desires to enlist the assistance of a child under the
22 age of 18 for such an inspection, the inspector shall obtain the written
23 consent of the child's parent for such assistance.

24 3. A child assisting in an inspection pursuant to this section shall, if
25 questioned about his or her age, state his or her true age and that he or she
26 is under 18 years of age.

27 4. If a child is assisting in an inspection pursuant to this section, the
28 person supervising the inspection shall:

29 (a) Refrain from altering or attempting to alter the child's appearance
30 to make the child appear to be 18 years of age or older.

31 (b) Photograph the child immediately before the inspection is to occur
32 and retain any photographs taken of the child pursuant to this paragraph.

33 5. The person supervising an inspection using the assistance of a child
34 shall, within a reasonable time after the inspection is completed:

35 (a) Inform a representative of the business establishment from which
36 the child attempted to purchase tobacco, products made or derived from
37 tobacco, vapor products or alternative nicotine products that an inspection
38 has been performed and the results of that inspection.

39 (b) Prepare a report regarding the inspection. The report must include
40 the following information:

41 (1) The name of the person who supervised the inspection and that
42 person's position;

43 (2) The age and date of birth of the child who assisted in the
44 inspection;

1 (3) The name and position of the person from whom the child
2 attempted to purchase tobacco, products made or derived from tobacco,
3 vapor products or alternative nicotine products;

4 (4) The name and address of the establishment at which the child
5 attempted to purchase tobacco, products made or derived from tobacco,
6 vapor products or alternative nicotine products;

7 (5) The date and time of the inspection; and

8 (6) The result of the inspection, including whether the inspection
9 resulted in the sale, distribution or offering for sale of tobacco, products
10 made or derived from tobacco, vapor products or alternative nicotine
11 products to the child.

12 6. No administrative, civil or criminal action based upon an alleged
13 violation of NRS 202.2493 or 202.2494 or section 1of this act may be
14 brought as a result of an inspection for compliance in which the assistance
15 of a child has been enlisted unless the inspection has been conducted in
16 accordance with the provisions of this section.

17 **Sec. 8.** ~~[Chapter 439 of NRS is hereby amended by adding thereto~~
18 ~~the provisions set forth as sections 9, 10 and 11 of this act.]~~ (Deleted by
19 amendment.)

20 **Sec. 9.** ~~1. The Account for Public Health Improvement is hereby~~
21 ~~created in the State General Fund. The interest and income earned on~~
22 ~~the money in the Account must be credited to the Account. The Division~~
23 ~~shall administer the Account.~~

24 ~~2. Not less than 50 percent of the money deposited in the Account~~
25 ~~must be used to carry out programs for tobacco prevention and treatment~~
26 ~~in the areas of this State for which a health district has not been~~
27 ~~established pursuant to NRS 439.361 to 439.410, inclusive, and sections~~
28 ~~10 and 11 of this act.~~

29 ~~3. The State Board of Health shall:~~
30 ~~(a) Evaluate the health and public health needs of residents of the~~
31 ~~areas of this State for which a health district has not been established~~
32 ~~pursuant to NRS 439.361 to 439.410, inclusive, and sections 10 and 11 of~~
33 ~~this act; and~~

34 ~~(b) Determine the level of priority of the public health needs~~
35 ~~described in paragraph (a).~~

36 ~~4. Not more than 50 percent of the money deposited in the Account~~
37 ~~must be used to address the needs identified pursuant to subsection 3 in~~
38 ~~accordance with the level of priority determined by the State Board of~~
39 ~~Health pursuant to that subsection.~~

40 ~~5. Any money remaining in the Account at the end of each fiscal~~
41 ~~year does not revert to the State General Fund but must be carried over~~
42 ~~into the next fiscal year. If, during a fiscal year, the Division does not~~
43 ~~spend the full amount of money required to be spent on programs for~~
44 ~~tobacco prevention and treatment pursuant to subsection 2, the~~
45 ~~remaining amount of money in the Account which must be spent for that~~

1 ~~purpose during the fiscal year must be carried forward to each~~
2 ~~subsequent fiscal year until the money is used for that purpose.~~
3 ~~—6. The Division shall not expend money in the Account unless the~~
4 ~~expenditure has been approved by the State Board of Health. Money in~~
5 ~~the Account may only be used for the purposes described in subsections 2~~
6 ~~and 4. The money in the Account must be used to augment and must not~~
7 ~~be used to replace or supplant any legislative appropriations to the~~
8 ~~Division or funding available from other sources.~~
9 ~~—7. On or before February 1 of each year, the Division shall submit a~~
10 ~~report to the Director of the Legislative Counsel Bureau for transmittal~~
11 ~~to the Interim Finance Committee, if the report is received during an~~
12 ~~even-numbered year, or to the next session of the Legislature, if the~~
13 ~~report is received during an odd-numbered year. The report must~~
14 ~~include, without limitation, for the fiscal year immediately preceding the~~
15 ~~submission of the report, a description of:~~
16 ~~—(a) The use of the money in the Account by the Division, including,~~
17 ~~without limitation:~~
18 ~~—(1) The total expenditures made from the Account to carry out~~
19 ~~programs for tobacco prevention and treatment;~~
20 ~~—(2) The total expenditures made from the Account to address the~~
21 ~~needs identified pursuant to subsection 3; and~~
22 ~~—(3) The programs which received money from the Account.~~
23 ~~—(b) The expenditures made by health districts established pursuant to~~
24 ~~NRS 439.361 to 439.410, inclusive, and sections 10 and 11 of this act of~~
25 ~~money remitted to such health districts pursuant to NRS 370.500,~~
26 ~~including, without limitation, whether such expenditures complied with~~
27 ~~the requirements of section 10 or 11 of this act, as applicable.~~
28 ~~—8. If a health district is established pursuant to NRS 439.370 on or~~
29 ~~after July 1, 2019, the Division must notify the State Controller of the~~
30 ~~creation of the health district and the State Controller, based on~~
31 ~~information provided by the Division, must transfer to each county~~
32 ~~treasurer of a county in which the health district was established a~~
33 ~~percentage of the money in the Account equal to the total population of~~
34 ~~each county in which the health district was established, as most recently~~
35 ~~certified by the Governor pursuant to NRS 360.285, divided by the total~~
36 ~~population, as most recently certified by the Governor pursuant to NRS~~
37 ~~360.285, of each county for which the Division was authorized to spend~~
38 ~~money in the Account before the establishment of the health district.~~
39 ~~—9. As used in this section, “program for tobacco prevention and~~
40 ~~treatment” means a program consistent with the guidelines established~~
41 ~~by the Centers for Disease Control and Prevention of the United States~~
42 ~~Department of Health and Human Services relating to evidence-based~~
43 ~~best practices to prevent, reduce or treat the use of tobacco and the~~
44 ~~consequences of the use of tobacco.] (Deleted by amendment.)~~

1 **Sec. 10.** ~~[1. The board of county commissioners shall create a~~
2 ~~public health improvement fund in the county treasury. All money~~
3 ~~received by the county treasurer pursuant to NRS 370.500 and from the~~
4 ~~Division pursuant to section 9 of this act must be deposited for credit to~~
5 ~~the fund. The interest and income earned on the money in the fund must~~
6 ~~be credited to the fund.~~
7 ~~2. Not less than 50 percent of the money deposited in the fund each~~
8 ~~fiscal year must be used to carry out programs for tobacco prevention~~
9 ~~and treatment approved by the district board of health.~~
10 ~~3. The district board of health shall:~~
11 ~~(a) Evaluate the health and public health needs of residents of the~~
12 ~~area over which the health district has jurisdiction; and~~
13 ~~(b) Determine the level of priority of the public health needs~~
14 ~~described in paragraph (a).~~
15 ~~4. Not more than 50 percent of the money deposited in the fund~~
16 ~~each fiscal year must be used to address the needs identified pursuant to~~
17 ~~subsection 3 in accordance with the level of priority determined by the~~
18 ~~district board of health pursuant to that subsection.~~
19 ~~5. Any money remaining in the fund at the end of each fiscal year~~
20 ~~does not revert to the county general fund but must be carried over into~~
21 ~~the next fiscal year. If, during a fiscal year, the health district does not~~
22 ~~spend the full amount of money required to be spent on programs for~~
23 ~~tobacco prevention and treatment pursuant to subsection 2, the~~
24 ~~remaining amount of money in the fund which must be spent for that~~
25 ~~purpose during the fiscal year must be carried forward to each~~
26 ~~subsequent fiscal year until the money is used for that purpose.~~
27 ~~6. The health district shall not expend money in the fund unless the~~
28 ~~expenditure has been approved by the district board of health for the~~
29 ~~health district. Money in the fund may only be used for the purposes~~
30 ~~described in subsections 2 and 4, and must not be used to replace or~~
31 ~~supplant funding available from other sources.~~
32 ~~7. On or before December 1 of each year, the health district shall~~
33 ~~submit a report to the Division which must include:~~
34 ~~(a) The total amount received by the health district from the county~~
35 ~~treasurer pursuant to NRS 370.500 during the immediately preceding~~
36 ~~fiscal year;~~
37 ~~(b) A description of the use of the money in the fund during the~~
38 ~~immediately preceding fiscal year, including, without limitation:~~
39 ~~(1) The total expenditures made from the fund to carry out~~
40 ~~programs for tobacco prevention and treatment;~~
41 ~~(2) The total expenditures made from the fund to address the~~
42 ~~needs identified pursuant to subsection 3;~~
43 ~~(3) The total amount of money in the fund which was carried over~~
44 ~~from a prior fiscal year and the amount of such money which must be~~
45 ~~used to carry out programs for tobacco prevention and treatment; and~~

1 ~~==== (4) A description of the programs which received money from the~~
2 ~~fund; and~~

3 ~~==== (c) Such other information as the Division may require to ensure that~~
4 ~~the money in the fund is being used for the purposes described in~~
5 ~~subsections 2 and 4.~~

6 ~~==== 8. As used in this section, "program for tobacco prevention and~~
7 ~~treatment" means a program consistent with the guidelines established~~
8 ~~by the Centers for Disease Control and Prevention of the United States~~
9 ~~Department of Health and Human Services relating to evidence-based~~
10 ~~best practices to prevent, reduce or treat the use of tobacco and the~~
11 ~~consequences of the use of tobacco.] (Deleted by amendment.)~~

12 **Sec. 11.** ~~[I. The board of county commissioners of each county in~~
13 ~~which a health district is created pursuant to NRS 439.370 shall create a~~
14 ~~public health improvement fund in the county treasury. All money~~
15 ~~received by a county treasurer pursuant to NRS 370.500 and from the~~
16 ~~Division pursuant to section 9 of this act must be deposited for credit to~~
17 ~~the fund. The interest and income earned on the money in the fund must~~
18 ~~be credited to the fund.~~

19 ~~==== 2. Not less than 50 percent of the money deposited in the fund each~~
20 ~~fiscal year must be used to carry out programs for tobacco prevention~~
21 ~~and treatment approved by the district board of health.~~

22 ~~==== 3. Each district board of health shall:~~

23 ~~==== (a) Evaluate the health and public health needs of residents of the~~
24 ~~area over which the health district has jurisdiction; and~~

25 ~~==== (b) Determine the level of priority of the public health needs~~
26 ~~described in paragraph (a).~~

27 ~~==== 4. Not more than 50 percent of the money deposited in the fund~~
28 ~~each fiscal year must be used to address the needs identified pursuant to~~
29 ~~subsection 3 in accordance with the level of priority determined by the~~
30 ~~district board of health pursuant to that subsection.~~

31 ~~==== 5. Any money remaining in the fund at the end of each fiscal year~~
32 ~~does not revert to any county general fund but must be carried over into~~
33 ~~the next fiscal year. If, during a fiscal year, the health district does not~~
34 ~~spend the full amount of money required to be spent on programs for~~
35 ~~tobacco prevention and treatment pursuant to subsection 2, the~~
36 ~~remaining amount of money in the fund which must be spent for that~~
37 ~~purpose during the fiscal year must be carried forward to each~~
38 ~~subsequent fiscal year until the money is used for that purpose.~~

39 ~~==== 6. The health district shall not expend money in the fund unless the~~
40 ~~expenditure has been approved by the district board of health for the~~
41 ~~health district. Money in the fund may only be used for the purposes~~
42 ~~described in subsections 2 and 4, and must not be used to replace or~~
43 ~~supplant funding available from other sources.~~

44 ~~==== 7. On or before December 1 of each year, the health district shall~~
45 ~~submit a report to the Division which must include:~~

1 ~~—(a) The total amount received by the health district from the county~~
2 ~~treasurer pursuant to NRS 370.500 during the immediately preceding~~
3 ~~fiscal year;~~

4 ~~—(b) A description of the use of the money in the fund during the~~
5 ~~immediately preceding fiscal year, including, without limitation;~~

6 ~~—(1) The total expenditures made from the fund to carry out~~
7 ~~programs for tobacco prevention and treatment;~~

8 ~~—(2) The total expenditures made from the fund to address the~~
9 ~~needs identified pursuant to subsection 3;~~

10 ~~—(3) The total amount of money in the fund which was carried over~~
11 ~~from a prior fiscal year and the amount of such money which must be~~
12 ~~used to carry out programs for tobacco prevention and treatment; and~~

13 ~~—(4) A description of the programs which received money from the~~
14 ~~fund; and~~

15 ~~—(c) Such other information as the Division may require to ensure that~~
16 ~~the money in the fund is being used for the purposes described in~~
17 ~~subsections 2 and 4.~~

18 ~~—8. As used in this section, “program for tobacco prevention and~~
19 ~~treatment” means a program consistent with the guidelines established~~
20 ~~by the Centers for Disease Control and Prevention of the United States~~
21 ~~Department of Health and Human Services relating to evidence-based~~
22 ~~best practices to prevent, reduce or treat the use of tobacco and the~~
23 ~~consequences of the use of tobacco.] (Deleted by amendment.)~~

24 **Sec. 12.** ~~[NRS 439.361 is hereby amended to read as follows:~~
25 ~~—439.361 The provisions of NRS 439.361 to 439.3685, inclusive, and~~
26 ~~section 10 of this act apply to a county whose population is 700,000 or~~
27 ~~more.] (Deleted by amendment.)~~

28 **Sec. 13.** ~~[NRS 439.369 is hereby amended to read as follows:~~
29 ~~—439.369 The provisions of NRS 439.369 to 439.410, inclusive, and~~
30 ~~section 11 of this act apply to a county whose population is less than~~
31 ~~700,000.] (Deleted by amendment.)~~

32 **Sec. 14.** ~~[1. Notwithstanding any other provision of law, a retail~~
33 ~~dealer who, on July 1, 2019, possesses vapor products which would have~~
34 ~~been subject to the tax imposed by NRS 370.450 if that tax were imposed~~
35 ~~on vapor products before July 1, 2019, and for which the tax imposed by~~
36 ~~that section has not been paid, including, without limitation, vapor~~
37 ~~products which were in the inventory of the retail dealer before July 1,~~
38 ~~2019, shall collect, at the time of a sale or transfer of such vapor products,~~
39 ~~the tax that would have been imposed by that section if that tax were~~
40 ~~imposed on vapor products before July 1, 2019. Not later than 20 days~~
41 ~~after the end of each month, a retail dealer who collects the tax pursuant to~~
42 ~~this section shall submit a report on a form prescribed by the Department~~
43 ~~of Taxation setting forth each sale of vapor products that the retail dealer~~
44 ~~made during the previous month. Each report submitted pursuant to this~~
45 ~~section must be accompanied by the tax owed pursuant to this section for~~

1 ~~vapor products sold or transferred by the retail dealer during the previous~~
2 ~~month. The retail dealer is entitled to retain 0.25 percent of the taxes~~
3 ~~collected to cover the costs of collecting and administering the taxes if the~~
4 ~~taxes are paid in accordance with the provisions of this section.~~

5 ~~2. As used in this section, unless the context otherwise requires, the~~
6 ~~words and terms defined in NRS 370.440, as amended by section 4 of this~~
7 ~~act, have the meanings ascribed to them in that section.] (Deleted by~~
8 ~~amendment.)~~

9 Sec. 14.5. 1. There is hereby appropriated from the State
10 General Fund to the Department of Health and Human Services for
11 programs to control and prevent the use of tobacco the following
12 sums:

13	<u>For Fiscal Year 2019-2020</u>	<u>\$2,500,000</u>
14	<u>For Fiscal Year 2020-2021</u>	<u>\$2,500,000</u>

15 2. Any remaining balance of the appropriation made by
16 subsection 1 for Fiscal Year 2019-2020 must be added to the money
17 appropriated for Fiscal Year 2020-2021 and may be expended as that
18 money is expended. Any remaining balance of the appropriation made
19 by subsection 1 for Fiscal Year 2020-2021, including any such money
20 added from the previous fiscal year, must not be committed for
21 expenditure after June 30, 2021, by the entity to which the
22 appropriation is made or any entity to which money from the
23 appropriation is granted or otherwise transferred in any manner, and
24 any portion of the appropriated money remaining must not be spent
25 for any purpose after September 17, 2021, by either the entity to which
26 the money was appropriated or the entity to which the money was
27 subsequently granted or transferred, and must be reverted to the State
28 General Fund on or before September 17, 2021.

29 Sec. 15. 1. This section and section 14.5 of this act become
30 effective on July 1, 2019.

31 2. Sections 1, 1.5, 2 and 7.1 to 7.9, inclusive, of this act ~~becomes~~
32 become effective upon passage and approval for the purpose of
33 adopting regulation and performing any other preparatory
34 administrative tasks that are necessary to carry out the provisions of
35 this act, and on effective on ~~July~~ January 1, ~~2019,~~ 2020, for all other
36 purposes.

H