NEVADA LEGISLATURE

81st Session, 2021

SENATE DAILY JOURNAL

THE ONE HUNDRED FIFTEENTH DAY

CARSON CITY (Wednesday), May 26, 2021

Senate called to order at 2:56 p.m.

President Marshall presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Nick Emery.

Father God, we thank You for all that has happened this day and what will happen for the remainder of this day. Thank You for each of these leaders. Scripture says, "If my people, which are called by name, shall humble themselves, and pray, and seek my face … ." Lord, we do that now. We ask Your favor to be poured out upon this gathering today. Give to our leaders Your wisdom, strength and unity as they conduct the business of our State, Nevada. Bless every single conversation that will transpire.

I pray over them now from Your Holy Word, Colossians 4:5-6, which says, "Conduct yourselves with wisdom toward outsiders, making the most of the opportunity. Your speech must always be with grace, as though seasoned with salt, so that you will know how you should respond to each person."

Father God, help our leaders see what makes each person they work with unique and special as well as the community they serve and the value that is there. Give them opportunities to learn from those whom are different and the boldness to move forward toward lasting change.

May You, Lord, richly bless this gathering of servant leaders.

May You bless this day, we pray, in Your Name.

AMEN.

Pledge of Allegiance to the Flag.

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

REPORTS OF COMMITTEE

Madam President:

Your Committee on Finance, to which was referred Senate Bill No. 457, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

CHRIS BROOKS, *Chair*

MESSAGES FROM ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 25, 2021

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolutions Nos. 9, 14.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 512 to Assembly Bill No. 19; Senate Amendments Nos. 655, 714 to Assembly Bill No. 42; Senate Amendment No. 616 to Assembly Bill No. 57; Senate Amendment No. 651 to Assembly Bill No. 71; Senate Amendment No. 642 to Assembly Bill No. 84; Senate Amendment No. 575 to Assembly Bill No. 85; Senate Amendment No. 539 to Assembly Bill No. 88; Senate Amendment No. 656 to Assembly Bill No. 104; Senate Amendment No. 540 to Assembly Bill No. 105; Senate Amendment No. 589 to Assembly Bill No. 115; Senate Amendment No. 641 to Assembly Bill No. 158; Senate Amendment No. 522 to Assembly Bill No. 177; Senate Amendment No. 520 to Assembly Bill No. 181; Senate Amendment No. 556 to Assembly Bill No. 200; Senate Amendment No. 659 to Assembly Bill No. 202; Senate Amendment No. 626 to Assembly Bill No. 207; Senate Amendment No. 498 to Assembly Bill No. 214; Senate Amendments Nos. 625, 733 to Assembly Bill No. 222; Senate Amendment No. 658 to Assembly Bill No. 237; Senate Amendment No. 624 to Assembly Bill No. 250; Senate Amendment No. 553 to Assembly Bill No. 277; Senate Amendment No. 543 to Assembly Bill No. 286; Senate Amendments Nos. 587, 729 to Assembly Bill No. 287; Senate Amendment No. 623 to Assembly Bill No. 290; Senate Amendment No. 622 to Assembly Bill No. 298; Senate Amendment No. 555 to Assembly Bill No. 327; Senate Amendment No. 584 to Assembly Bill No. 345; Senate Amendment No. 662 to Assembly Bill No. 394; Senate Amendment No. 722 to Assembly Bill No. 400; Senate Amendment No. 619 to Assembly Bill No. 436.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

COMMUNICATIONS

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

May 26, 2021

THE HONORABLE NICOLE CANNIZZARO, *Senate Majority Leader,* State of Nevada Senate
Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747

THE HONORABLE JASON FRIERSON, Speaker of the Nevada Assembly
Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747

DEAR MAJORITY LEADER CANNIZZARO AND SPEAKER FRIERSON:

I respectfully request the opportunity to address the distinguished members of the Nevada Legislature on Thursday, May 27, 2021. As the Representative for Nevada's Fourth Congressional District, I look forward to sharing both information from the halls of Congress, as well as information regarding the communities that affect Nevada's future.

I am honored and grateful for this opportunity. Thank you in advance for your consideration.

Sincerely,

STEVEN HORSFORD
Member of Congress

MOTIONS, RESOLUTIONS AND NOTICES

Senator Scheible moved that the action whereby the Senate did not concur with Assembly Amendment No. 618 to Senate Bill No. 21 be rescinded.

Motion carried.

Senator Scheible moved to concur with Assembly Amendment No. 618 to Senate Bill No. 21.

Remarks by Senator Scheible.

Amendment No. 618 makes changes to Senate Bill No. 21 that are in line with the original intent of the sponsors and stakeholders. I move to adopt Amendment No. 618 so the bill does not die.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senator Cannizzaro moved that Assembly Bill No. 37 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Cannizzaro moved that Assembly Bill No. 386 be taken from the General File and placed on the General File on the last Agenda.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 459—AN ACT relating to state financial administration; authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State Government for the 2021-2023 biennium; authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; and providing other matters properly relating thereto.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 353.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 767.

SUMMARY—Requires the Department of Education to review certain assessments. (BDR 34-528)

AN ACT relating to education; requiring the Department of Education to review examinations and assessments for certain information; requiring the Department to adopt regulations that prescribe certain limitations on examinations and assessments; authorizing the board of trustees of a school district or the governing body of a charter school to request a waiver from the State Board of Education for certain limitations; authorizing the State Board to grant a waiver in certain circumstances; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the administration of examinations and assessments to measure the achievement and proficiency of pupils in various subjects. (NRS 390.055, 390.105) Section 2 of this bill requires the Department of Education to review the examinations and assessments administered to pupils for: (1) the educational benefit of administering an

examination or assessment; (2) the costs of administering an examination or assessment; and (3) redundancy in the information, skills or abilities measured by an examination or assessment. Section 3 of this bill requires the Department to adopt regulations that prescribe limitations for: (1) the time taken from instruction to conduct an examination or assessment; and (2) the number of examinations or assessments administered in a school year. Section 3 requires the board of trustees of a school district or the governing body of a charter school to request a waiver from the State Board of Education if the board of trustees or the governing body intends to administer an examination or assessment that would exceed the limits imposed by the Department. Section 3 authorizes the State Board to grant a waiver from the limitations to a school district or charter school if the State Board deems a waiver to be appropriate. Section 3.5 of this bill makes an appropriation to the Department for costs related to contract services and adopting regulations to carry out the provisions of this bill.

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

Section 1. Chapter 390 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *The Department shall review examinations and assessments administered pursuant to this chapter for:*

1. The educational benefit of an examination or assessment;

2. The cost of administering an examination or assessment; and

3. Any redundancy in the information, skills or abilities measured by different examinations and assessments.

Sec. 3. *1. The Department shall adopt regulations that prescribe limits on the:*

(a) Actual time taken from instruction to conduct an examination or assessment pursuant to this chapter; and

(b) Number of examinations or assessments administered to pupils pursuant to this chapter in a school year.

2. If the board of trustees of a school district or the governing body of a charter school intends to administer an examination or assessment pursuant to this chapter that would exceed a limitation in a regulation adopted by the Department pursuant to subsection 1, the board of trustees of the school district or the governing body of the charter school must request a waiver from the State Board to exceed the limitation. The State Board may grant a waiver requested pursuant to this subsection if the State Board deems it appropriate.

Sec. 3.5. 1. There is hereby appropriated from the State General Fund to the Department of Education for costs related to contract services and adopting regulations to carry out the provisions of this act the following sums:

For the Fiscal Year 2021-2022 ..... $65,364

For the Fiscal Year 2022-2023 ..... $187,500

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after

June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2022, and September 15, 2023, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2022, and September 15, 2023, respectively.

Sec. 4. 1. This section and section 3.5 of this act become effective on July 1, 2021.

2. Sections 1, 2 and 3 of this act ~~[becomes]~~ become effective on January 1, 2022.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Amendment No. 767 to Senate Bill No. 353 provides General Fund appropriations of $65,364 in Fiscal Year 2022 and $187,500 in Fiscal Year 2023 to the Department of Education to fund costs related to contract services and adopting regulations to carry out the provisions of the bill.

Amendment adopted.

Bill read third time.

Remarks by Senator Denis.

Senate Bill No. 353 requires the Department of Education to review the examinations and assessments administered to pupils for the educational benefit; cost and redundancy in the information, skills or abilities measured. Senate Bill No. 353 requires the Department to adopt regulations prescribing limits on the actual instructional time taken to conduct an examination or assessment and the total number administered in a school year. The bill requires a school district's board of trustees or a charter school's governing body to request a waiver from the State Board of Education if the number of examinations or assessments exceed the limits imposed by the Department.

Senate Bill No. 353 also provides General Fund appropriations of $65,364 in Fiscal Year 2022 and $187,500 in Fiscal Year 2023 to the Department to fund the costs related to contract services and adopting regulations to carry out the provisions of the bill.

Roll call on Senate Bill No. 353:

YEAS—21.

NAYS—None.

Senate Bill No. 353 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 389.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 703.

SUMMARY—Establishes provisions governing peer-to-peer car sharing programs. (BDR 43-585)

AN ACT relating to motor vehicles; establishing provisions governing the licensing and operation of a peer-to-peer car sharing program; requiring the

charging and collecting of certain fees when a ~~[vehicle]~~ passenger car is shared through a peer-to-peer car sharing program; making appropriations to the Department of Taxation; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires, with certain exceptions, a person who leases a passenger car to another person for a period of 31 days or less, or by the day or by the trip, to charge and collect a governmental services fee of 10 percent of the total amount for which the passenger car was leased, excluding certain charges, and certain additional fees imposed by certain counties. (NRS 482.313) Section 11.3 of this bill similarly requires a peer-to-peer car sharing program, with certain exceptions, to collect from each shared vehicle driver a governmental services fee of 10 percent of the total amount for which a passenger car was shared through the program, plus any additional fee imposed on the sharing of the passenger car by authorized counties. Section 11.3 requires the peer-to-peer car sharing program to remit such fees to the Department of Taxation, along with a quarterly report. ~~[Section]~~ Sections 11.7 and 30.23 of this bill ~~[requires]~~ require a peer-to-peer car sharing program to maintain certain records. Sections ~~[31.1 and]~~ 31.2-31.65 of this bill make conforming changes to provide for the administration of the governmental services fee by the Department of Taxation.

Existing law imposes upon each retailer a sales tax measured by the gross receipts of the retailer from the retail sale of tangible personal property in this State. (NRS 372.105, 374.110, 374.111) Existing law also imposes a use tax on the storage, use or other consumption in this State of tangible personal property purchased outside of this State from a retailer in a transaction that would have been subject to the sales tax in this State if it had occurred within this State. (NRS 372.185, 374.190, 374.191) A "retail sale" does not include a sale for resale in the regular course of business and a purchaser of tangible personal property who purchases the property for resale in the regular course of business may present a resale certificate to the retailer to avoid collection of the sales and use tax. (NRS 372.050, 372.155, 372.225, 374.055, 374.160, 374.230) A person who purchases tangible personal property for the purpose of renting or leasing the property to customers may elect to pay sales and use tax on the purchase price of the tangible personal property or to collect and remit sales and use tax on the rental price of the tangible personal property to a customer. (NRS 372.060, NRS 372.170, 372.240, 374.065, 374.175, 374.245; NAC 372.938) Section 11.5 of this bill ~~[prohibits]~~ requires a peer-to-peer car sharing program ~~[from operating in this State unless the program has entered into an agreement with the Department of Taxation]~~ to collect and remit, on behalf of the shared vehicle owner, sales and use ~~[tax]~~ taxes on the total amount for which a shared vehicle that was ~~[shared]~~ placed on a digital network or software application on or after October 1, 2021 for sharing through the program if the owner of the shared vehicle has not ~~[, for~~

~~any reason,~~] paid any sales or use tax due on the purchase of the vehicle or has elected to pay sales and use taxes measured by gross charges for which the vehicle is shared. Section 11.5 provides that a peer-to-peer car sharing program is not liable for the failure to collect and remit sales and use taxes on a shared vehicle if the peer-to-peer car sharing program can provide proof that it made reasonable efforts to obtain accurate information regarding whether sales and use taxes were owed on the shared vehicle and the failure to collect and remit the sales and use taxes was due to incorrect or false information being provided by the shared vehicle owner.

Existing law authorizes the board of county commissioners of certain counties in this State to impose a fee on the short-term lease of a passenger car. (NRS 244A.810, 244A.860) Sections 31.13 and 31.15 of this bill provide that if the board of county commissioners has imposed such a fee, the board of county commissioners is required to impose this fee on the sharing of a passenger car through a peer-to-peer car sharing program.

Section 30.37 of this bill requires a person to obtain a license from the Department of Motor Vehicles before operating a peer-to-peer car sharing program in this State and establishes provisions governing the issuance and renewal of such a license. Section 30.4 of this bill establishes the grounds upon which the Department may refuse to issue or suspend or revoke a license. Sections 30.43 and 30.47 of this bill establish procedures to review a decision of the Department to refuse to issue or suspend or revoke a license. Section 30.5 of this bill provides for the filing of a bond or, alternatively, a deposit by a licensee.

Section 30.1 of this bill requires the Director of the Department to adopt regulations to carry out the provisions of law relating to peer-to-peer car sharing programs.

Section 30.13 of this bill provides that a peer-to-peer car sharing program assumes liability for certain damages on behalf of a shared vehicle owner. Section 30.13 also requires a peer-to-peer car sharing program to ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy meeting certain requirements. If the insurance policy used to satisfy these requirements has lapsed or does not meet the requirements, the peer-to-peer car sharing program assumes liability for damages up to the required level of coverage. Section 30.2 of this bill authorizes an authorized insurer to exclude from coverage claims afforded under a shared vehicle owner's motor vehicle liability insurance policy.

Sections 30.17 and 30.53 of this bill require a peer-to-peer car sharing program to make certain disclosures to shared vehicle owners and shared vehicle drivers.

Existing federal law provides that a vehicle owner who rents or leases the vehicle is not vicariously liable for harm to persons or property that results or arises out of the use, operation or possession of the vehicle during the period of the rental or lease under certain circumstances. (49 U.S.C. § 30106)

Section 30.27 of this bill provides that the provisions of sections 2-30.67 of this bill are not to be construed to impose liability which is inconsistent with federal law.

Section 30.3 of this bill authorizes an insurer who defends or indemnifies certain claims to seek recovery from the motor vehicle insurer of a peer-to-peer car sharing program under certain circumstances.

Section 30.33 of this bill provides that a peer-to-peer car sharing program has an insurable interest in the shared vehicle during the car sharing period and may own and maintain certain types of motor vehicle liability insurance.

Section 30.57 of this bill prohibits a peer-to-peer car sharing program from entering into a car sharing program agreement with a person who does not possess a valid driver's license.

Section 30.6 of this bill establishes liability for the loss of or damage to equipment placed in or on a shared vehicle.

Section 30.63 of this bill establishes provisions relating to safety recalls on shared vehicles.

Section 30.67 of this bill prohibits a local governmental entity from imposing additional taxes, fees or licensing requirements on a peer-to-peer car sharing program, shared vehicle owner, shared vehicle driver or shared vehicle, other than those which are applicable, in general, to all businesses.

Sections ~~[5-11]~~ 4.3-11 of this bill define terms relating to peer-to-peer car sharing programs.

Existing law prohibits a person from engaging in the activities of a short-term lessor unless such person has obtained a license to do so. (NRS 482.300) Section 31 of this bill provides that a peer-to-peer car sharing program and a vehicle owner who makes a vehicle available through such a program are not engaged in the activities of a short-term lessor. Section 30.7 of this bill provides that the sharing of a vehicle through a peer-to-peer car sharing program is not a lease for certain purposes.

Section 31.7 of this bill makes appropriations to the Department of Taxation for certain costs associated with carrying out the provisions of this bill.

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

Section 1. Title 43 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~[29,]~~ 30.67, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to ~~[11,]~~ 11.1, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 4.3. "Car sharing delivery period" means the period of time before the car sharing start time during which a shared vehicle is being delivered to the location where the shared vehicle driver will assume control of the shared vehicle.

Sec. 4.7. "Car sharing period" means the period of time that:

1. Begins:

(a) If there is a car sharing delivery period, at the start of that period; or

(b) If there is no car sharing delivery period, at the car sharing start time; and

2. Ends at the car sharing termination time.

Sec. 5. *"Car sharing program agreement" means an agreement entered into between a peer-to-peer car sharing program and a shared vehicle driver or shared vehicle owner which establishes terms and conditions governing the sharing of a vehicle through the peer-to-peer car sharing program.*

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 7.1. "Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin, as documented in the records of the peer-to-peer car sharing program.

Sec. 7.3. "Car sharing termination time" means whichever of the following events occurs first:

1. The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

2. The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to a location alternatively agreed upon by the shared vehicle owner and shared vehicle driver and as communicated through a peer-to-peer car sharing program and incorporated into the car sharing program agreement; or

3. When the shared vehicle owner or the authorized designee of the shared vehicle owner takes possession and control of the shared vehicle.

Sec. 7.5. *"Passenger car" has the meaning ascribed to it in NRS 482.087.*

Sec. 7.7. "Peer-to-peer car sharing" means the authorized use of a vehicle by an individual other than the owner of the vehicle through a peer to-peer car sharing program.

Sec. 8. *"Peer-to-peer car sharing program" means a platform operated by a business that connects shared vehicle owners with shared vehicle drivers to enable the sharing of vehicles in exchange for money.*

Sec. 9. *"Shared vehicle" means a ~~[passenger car]~~ vehicle that is shared or available for sharing through a peer-to-peer car sharing program.*

Sec. 10. *"Shared vehicle driver" means a person who has been authorized to drive a shared vehicle by the shared vehicle owner pursuant to the terms of a car sharing program agreement.*

Sec. 11. *"Shared vehicle owner" means the registered owner of a shared vehicle or a person who is authorized by the registered owner to make a vehicle available for sharing through a peer-to-peer car sharing program.*

Sec. 11.1. *"Vehicle" has the meaning ascribed to it in NRS 482.135.*

Sec. 11.3. *1. Except as otherwise provided in subsection 8, when a shared vehicle that is a passenger car is shared through a peer-to-peer car sharing program in this State, the peer-to-peer car sharing program shall charge and collect from the shared vehicle driver:*

(a) A governmental services fee of 10 percent of the total amount for which the shared vehicle was shared with the shared vehicle driver, excluding any taxes or other fees imposed by a governmental entity and the items described in subsection 7; and

(b) Any fee required pursuant to NRS 244A.810 or 244A.860, as applicable.

➥ *The amount of each fee charged pursuant to this subsection must be indicated in the car sharing program agreement.*

2. The fees due from a peer-to-peer car sharing program to the Department of Taxation pursuant to subsection 1 are due on the last day of each calendar quarter. On or before the last day of the month following each calendar quarter, the peer-to-peer car sharing program shall:

(a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of each of the fees collected by the peer-to-peer car sharing program pursuant to subsection 1 during the immediately preceding calendar quarter; and

(b) Remit to the Department of Taxation the fees collected by the peer-to-peer car sharing program pursuant to subsection 1 during the immediately preceding calendar quarter.

3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit all money received from a peer-to-peer car sharing program pursuant to the provisions of subsection 1 with the State Treasurer for credit to the State General Fund.

4. To ensure compliance with this section, the Department of Taxation may audit the records of a peer-to-peer car sharing program.

5. Except as otherwise provided in this subsection, the provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of chapter 482 of NRS. A shared vehicle owner is not required to:

(a) Be licensed pursuant to NRS 482.363 to make a shared vehicle available for sharing through a peer-to-peer car sharing program; or

(b) Charge and collect the fees required pursuant to subsection 1 or any fee required pursuant to NRS 244A.810, 244A.860 or 482.313 when sharing a shared vehicle through a peer-to-peer car sharing program if the shared vehicle owner is the registered owner of the shared vehicle or a person authorized by the registered owner of the shared vehicle to make the shared vehicle available for sharing through the peer-to-peer car sharing program.

6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a

peer-to-peer car sharing program that the Department of Taxation considers necessary to collect the fees described in subsection 1.

7. For the purposes of charging and collecting the governmental services fee described in paragraph (a) of subsection 1, the following items must not be included in the total amount for which the shared vehicle was shared:

(a) The amount of any fee charged and collected pursuant to paragraph (b) of subsection 1;

(b) The amount of any charge for fuel used to operate the shared vehicle;

(c) The amount of any fee or charge for the delivery, transportation or other handling of the shared vehicle by an agent of the peer-to-peer vehicle sharing program, not including the shared vehicle driver;

(d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; and

(e) The amount of any charges assessed against a shared vehicle driver for damages for which the shared vehicle driver is held responsible.

8. The fees required pursuant to subsection 1 do not apply with respect to any shared vehicle made available through a peer-to-peer car sharing program to this State, its unincorporated agencies and instrumentalities or any county, city, district or other political subdivisions of this State.

9. The Executive Director of the Department of Taxation shall:

(a) Adopt such regulations as the Executive Director determines are necessary to carry out the provisions of this section; and

(b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.

Sec. 11.5. *1. ~~[A]~~ Except as otherwise provided in subsection 2, a peer to-peer car sharing program shall ~~[not operate in this State unless the operator of the peer to peer car sharing program has entered into an agreement with the Department of Taxation whereby the peer-to-peer car sharing program agrees to]~~ collect and remit, on behalf of any shared vehicle owner, sales and use taxes measured by the gross charges for the sharing of ~~[the]~~ a vehicle that is placed on a digital network or software application of the peer-to-peer car sharing program on or after October 1, 2021, for the purpose of making the vehicle available for sharing through the peer-to-peer car sharing program if the shared vehicle owner has not ~~[, for any reason,]~~ paid any sales or use tax due or has elected to collect sales and use taxes measured by the gross charges for the sharing of the vehicle.*

2. The Department of Taxation shall not hold a peer-to-peer car sharing program liable for the payment, collection or remittance of sales and use taxes owed by a shared vehicle owner if:

(a) The peer-to-peer car sharing program provides proof satisfactory to the Department of Taxation that the peer-to-peer car sharing program has made a reasonable effort to obtain accurate information from the shared vehicle

owner regarding whether the shared vehicle owner has paid the sales and use taxes due on a shared vehicle described in subsection 1; and

(b) The failure to collect and remit the sales and use taxes measured by the gross charges for the sharing of the vehicle through the peer-to-peer car sharing program was due to incorrect or false information provided to the peer-to-peer car sharing program by the shared vehicle owner.

3. ~~[Before]~~ On or after October 1, 2021, a peer-to-peer car sharing program ~~[allows]~~ shall not allow a vehicle to be ~~[shared]~~ placed on a digital network or software application of the peer-to-peer car sharing program for the purpose of making the vehicle available for sharing through the peer-to-peer car sharing program ~~[.]~~ unless the peer-to-peer car sharing program ~~[must]~~ first ~~[determine]~~ requests an electronic certification from the shared vehicle owner as to whether the shared vehicle owner paid all sales and use taxes due on the purchase of the shared vehicle. The Department of Taxation may prescribe by regulation the method by which a peer-to-peer car sharing program shall ~~[determine if]~~ obtain an electronic certification from the shared vehicle owner as to whether the shared vehicle owner paid all sales and use taxes due on the purchase of the shared vehicle.

4. Nothing in this section shall be construed to relieve a peer-to-peer car sharing program of liability for collecting but failing to remit to the Department of Taxation any sales and use tax pursuant to this section. The Department of Taxation shall not require a peer-to-peer car sharing program to collect or remit sales and use taxes measured by the gross charges for the sharing of the vehicle if the full amount of sales and use taxes were paid on the purchase price of the shared vehicle by the shared vehicle owner.

Sec. 11.7. *1. Each person responsible for maintaining the records of a peer-to-peer car sharing program shall:*

(a) Keep such records as may be necessary to determine the amount of the liability of the peer-to-peer car sharing program pursuant to ~~[section]~~ sections 11.3 ~~[of this act and the agreement entered into pursuant to section]~~ and 11.5 of this act;

(b) Preserve those records for 4 years or until any litigation or prosecution pursuant to chapter 360 of NRS or audit conducted pursuant to section 11.3 of this act is finally determined, whichever is longer; and

(c) Make the records available for inspection by the Department of Taxation upon demand at reasonable times during regular business hours.

2. The Department of Taxation may by regulation specify the types of records which must be kept to determine the amount of the liability of a taxpayer pursuant to ~~[section]~~ sections 11.3 ~~[of this act and the agreement entered into pursuant to section]~~ and 11.5 of this act.

3. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)
Sec. 16. (Deleted by amendment.)
Sec. 17. (Deleted by amendment.)
Sec. 18. (Deleted by amendment.)
Sec. 19. (Deleted by amendment.)
Sec. 20. (Deleted by amendment.)
Sec. 21. (Deleted by amendment.)
Sec. 22. (Deleted by amendment.)
Sec. 23. (Deleted by amendment.)
Sec. 24. (Deleted by amendment.)
Sec. 25. (Deleted by amendment.)
Sec. 26. (Deleted by amendment.)
Sec. 27. (Deleted by amendment.)
Sec. 28. (Deleted by amendment.)
Sec. 29. (Deleted by amendment.)
Sec. 30. (Deleted by amendment.)

Sec. 30.1. *The Director shall adopt such regulations as are necessary to carry out the provisions of this chapter.*

Sec. 30.13. *1. Except as otherwise provided in subsection 2, a peer-to-peer car sharing program assumes any tort liability of a shared vehicle owner arising out of the use or operation of the shared vehicle during the car sharing period up to an amount of:*

(a) For bodily injury to or death of one person in any one crash, $50,000;

(b) For bodily injury to or death of two or more persons in any one crash and subject to the limit for one person, $100,000; and

(c) For injury to or destruction of property of others in any one crash, $20,000,

➥ or any amount set forth in the car sharing program agreement which is greater than an amount provided for by this section.

2. The provisions of subsection 1 do not apply to a shared vehicle owner:

(a) Who made an intentional and fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the liability arose; or

(b) Who acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

3. The assumption of liability pursuant to subsection 1 includes, without limitation, liability for bodily injury, property damage, uninsured and underinsured motorist or personal injury protection losses by damaged third parties to the same extent as the insurance required by NRS 485.185 is required to include coverage for such damage or losses, up to any applicable amount set forth in subsection 1.

4. A peer-to-peer car sharing program shall ensure that, during each car sharing period:

(a) Both the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that includes coverage which is not less than:

(1) For bodily injury to or death of one person in any one crash, $50,000;

(2) For bodily injury to or death of two or more persons in any one crash and subject to the limit for one person, $100,000; and

(3) For injury to or destruction of property of others in any one crash, $20,000,

➥ or any amount set forth in the car sharing program agreement which is greater than an amount provided for by this section.

(b) Any insurance policy used to satisfy the requirements of paragraph (a):

(1) Expressly recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or

(2) Does not prohibit or exclude the use of the shared vehicle by a shared vehicle driver.

5. The insurance policy used to satisfy the requirements of subsection 4 may be a policy maintained by:

(a) The shared vehicle owner;

(b) The shared vehicle driver;

(c) The peer-to-peer car sharing program; or

(d) The shared vehicle owner, shared vehicle driver and peer-to-peer car sharing program.

6. The insurance policy used to satisfy the requirements of subsection 4 must provide primary insurance during each car sharing period. If, during the car sharing period, a claim arises in another state with minimum financial responsibility requirements that are higher than the amounts set forth in paragraph (a) of subsection 4, the insurance policy used to satisfy the requirements of subsection 4 must satisfy the difference in minimum coverage amounts, up to the applicable policy limits.

7. The insurer providing the insurance used to satisfy the requirements of subsection 4 shall assume primary liability for a claim when:

(a) A dispute exists as to who was in control of the shared vehicle at the time of the occurrence out of which liability arose and the peer-to-peer car sharing program does not have available, did not retain or fails to provide the information required by section 30.23 of this act; or

(b) A dispute exists as to whether the shared vehicle was returned to an alternatively agreed upon location.

8. If the insurance used to satisfy the requirements of subsection 4 has lapsed or does not provide the coverage required pursuant to subsection 4, the peer-to-peer car sharing program:

(a) Shall assume liability for damages up to the amounts set forth in subsection 1, which may be satisfied through the peer-to-peer car sharing program's own insurance policy, beginning with the first dollar of any claim; and

(b) Is responsible for defending against any such claim,

➥ *except in the situation where the shared vehicle owner acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.*

9. Coverage under a motor vehicle liability insurance policy maintained by a peer-to-peer car sharing program must not be dependent on another insurer first denying a claim or require another motor vehicle liability insurance policy to first deny a claim.

10. Nothing in this chapter shall be construed to:

(a) Limit the liability of a peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program that results in injury to any person as a result of the use of a shared vehicle through the peer-to-peer car sharing program; or

(b) Limit the ability of a peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

11. As used in this section, "alternatively agreed upon location" means a location alternatively agreed upon by the shared vehicle owner and shared vehicle driver, as communicated through a peer-to-peer car sharing program for the return of the shared vehicle.

Sec. 30.17. At the time the owner of a motor vehicle registers as a shared vehicle owner through a peer-to-peer car sharing program and before the shared vehicle owner is permitted to make his or her vehicle available for car sharing through a peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer to peer car sharing program, including, without limitation, use without insurance coverage for physical damage, may violate the terms of the contract with the lienholder.

Sec. 30.2. 1. An authorized insurer that writes motor vehicle liability insurance in this State may exclude any and all coverage for and any duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, without limitation:

(a) Liability coverage for bodily injury and property damage;

(b) Personal injury protection coverage;

(c) Uninsured and underinsured motorist coverage;

(d) Medical payments coverage;

(e) Comprehensive physical damage coverage; and

(f) Collision physical damage coverage.

2. Nothing in this section shall be construed to:

(a) Invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including, without limitation, any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing or hire or for any business use.

(b) Invalidate, limit or restrict an insurer's ability to underwrite an insurance policy or to cancel or decline to renew a policy.

3. As used in this section, "authorized insurer" has the meaning ascribed to it in NRS 679A.030.

Sec. 30.23. 1. A peer-to-peer car sharing program shall collect and maintain the following records relating to the sharing of a shared vehicle through the peer-to-peer car sharing program in such format as the Director may prescribe:

(a) The exact car sharing start time and car sharing termination time, plus the exact start and end time of any car sharing delivery period;

(b) The pick-up and drop-off locations for each car sharing period;

(c) The amount of any fees paid by the shared vehicle driver for each car sharing period;

(d) The amount of any revenues received by the shared vehicle owner for each car sharing period; and

(e) Such other records as the Director may require by regulation.

2. The peer-to-peer car sharing program shall maintain the peer-to-peer car sharing records required pursuant to subsection 1 for a period of not less than 6 years after the record is created.

3. Upon request, the peer-to-peer car sharing program shall provide copies of the peer-to-peer car sharing records maintained pursuant to this section and section 30.57 of this act to the shared vehicle owner, shared vehicle driver, insurer of the shared vehicle owner or shared vehicle driver or a claimant alleging damages related to the use of the shared vehicle to facilitate a claim coverage investigation or the settlement, negotiation or litigation of a claim.

4. Upon request, each peer-to-peer car sharing record maintained pursuant to this section and section 30.57 of this act must be made available for inspection by a shared vehicle owner, shared vehicle driver, the insurer of a shared vehicle owner or shared vehicle driver or the Department or its designee at any time during regular business hours, subject to the provisions of any applicable data security or data privacy law.

5. A peer-to-peer car sharing program that keeps outside of this State any books, papers and records maintained pursuant to this section and section 30.57 of this act shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he or she is absent from his or her regular place of employment to examine those documents.

6. The Director shall adopt such regulations as the Director determines are necessary to carry out the provisions of this section.

Sec. 30.27. The provisions of this chapter shall not be construed to impose liability which is inconsistent with the provisions of 49 U.S.C. § 30106.

Sec. 30.3. A motor vehicle insurer that defends or indemnifies a claim arising from the use of a shared vehicle shall have the right to seek recovery against the motor vehicle insurer of the peer-to-peer car sharing program if the claim is:

1. Made against the shared vehicle owner or shared vehicle driver for loss or injury that occurs during the car sharing period; and

2. Excluded under the terms of the motor vehicle liability insurance policy of the motor vehicle insurer who is not the motor vehicle insurer of the peer-to-peer car sharing program.

Sec. 30.33. 1. Notwithstanding any other provision of law, a peer-to-peer car sharing program shall be deemed to have an insurable interest in a shared vehicle during the car sharing period.

2. A peer-to-peer car sharing program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provides coverage for:

(a) Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement;

(b) Any liability of a shared vehicle owner;

(c) Any liability of a shared vehicle driver; or

(d) Damage or loss to a shared motor vehicle.

3. Nothing in this section shall be construed to require a peer-to-peer car sharing program to obtain or maintain the motor vehicle liability insurance policy necessary to satisfy the requirements of subsection 4 of section 30.13 of this act or to impose any liability on the peer-to-peer car sharing program which does not obtain or maintain such a policy.

Sec. 30.37. 1. A peer-to-peer car sharing program shall not engage in business in this State unless the person who operates the peer-to-peer car sharing program holds a valid license issued by the Department pursuant to this chapter.

2. A person who desires to operate a peer-to-peer car sharing program in this State must:

(a) Submit to the Department an application for the issuance of a license to operate a peer-to-peer car sharing program in such form and including such information and documentation as the Director may require by regulation.

(b) Provide evidence of insurance coverage to satisfy any liability that accrues to a peer-to-peer car sharing program for damage that arises from the failure of the peer-to-peer car sharing program to comply with the provisions of this chapter in an amount established by the Director by regulation, which is separate from any insurance coverage a peer-to-peer car sharing program may use to satisfy the liability which may accrue to a peer-to-peer car sharing program pursuant to section 30.13 of this act or which may be used to satisfy the requirements of subsection 4 of section 30.13 of this act, or file a bond or make a deposit pursuant to section 30.5 of this act.

(c) Pay a fee of $125.

3. Licenses issued pursuant to subsection 2 expire on December 31 of each year. Before December 31 of each year, licensees shall submit to the Department an application for renewal of the license in such form and including such information and documentation as the Director may require by regulation accompanied by an annual renewal fee of $50.

Sec. 30.4. The Department may refuse to issue or suspend or revoke a license as a peer-to-peer car sharing program upon any of the following grounds:

1. Material misstatement in the application for a license.

2. Willful failure to comply with any provision of this chapter or regulations adopted pursuant thereto. If the Department notifies a peer-to-- violated the provisions of this chapter or the regulations adopted pursuant thereto and the peer-to-peer car sharing program fails to take corrective action within 10 days after having received the notice or continues to violate the provisions of this chapter or the regulations adopted pursuant thereto, the failure to take corrective action or the continuing violation, as applicable, shall be deemed prima facie evidence of willful failure to comply with the provisions of this chapter or the regulations adopted pursuant thereto.

3. Failure or refusal to furnish and keep in force any bond or maintain insurance in an amount established by the Director in regulations adopted pursuant to section 30.37 of this act to satisfy any liability that accrues to a peer-to-peer car sharing program for damage that arises from the failure of the peer-to-peer car sharing program to comply with the provisions of this chapter.

4. Failure or refusal to pay or otherwise discharge any final judgment entered against the licensee arising out of a violation of this chapter.

Sec. 30.43. 1. An applicant or licensee may, within 30 days after receipt of the notice of denial, suspension or revocation, petition the Director in writing for a hearing.

2. Except as otherwise provided in subsection 3, the Director shall make written findings of fact and conclusions and grant or finally deny the application or suspend or revoke the license within 15 days after the hearing unless, by interim order, the Director extends the time to 30 days after the hearing. If the license has been temporarily suspended, the suspension expires not later than 15 days after the hearing.

3. If the Director finds that the action is necessary in the public interest, upon notice to the licensee, the Director may temporarily suspend or refuse to renew the license issued to a peer-to-peer car sharing program for a period not to exceed 30 days. A hearing must be held, and a final decision rendered, within 30 days after notice of the temporary suspension.

4. The Director may issue subpoenas for the attendance of witnesses and the production of evidence.

Sec. 30.47. Upon judicial review of the denial or revocation of a license, the court for good cause shown may order a trial de novo.

Sec. 30.5. 1. In lieu of insurance coverage to satisfy any liability that accrues to a peer-to-peer car sharing program for damage that arises from the failure of the peer-to-peer car sharing program to comply with the provisions of this chapter, a peer-to-peer car sharing program may:

(a) File with the Department a bond of a surety company authorized to transact business in this State in an amount not less than $5,000 conditioned that the peer-to-peer car sharing program will comply with the provisions of this chapter in the operation of the peer-to-peer car sharing program.

(b) Deposit with the Department, under such terms as the Director may prescribe, a like amount of lawful money of the United States or a savings certificate of a bank, credit union, savings and loan association or savings bank situated in Nevada, which must state that the amount is unavailable for withdrawal except upon order of the Director. Interest earned on the amount accrues to the account of the licensee or applicant.

2. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that a shared vehicle owner or shared vehicle driver injured by the failure of the licensee to provide the disclosures required by section 30.53 of this act or to otherwise comply with the provisions of this chapter may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and an opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. A deposit made pursuant to paragraph (b) of subsection 1 may be disbursed by the Director, for good cause shown and after notice and an opportunity for hearing, in an amount determined by the Director to compensate a shared vehicle owner or shared vehicle driver for an injury incurred due to the failure of the licensee to provide the disclosures required by section 30.53 of this act or to otherwise comply with the provisions of this chapter, or released upon receipt of:

(a) A court order requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the licensee requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

5. When a deposit is made pursuant to paragraph (b) of subsection 1, liability under the deposit must be in the amount prescribed by the Department. If the amount of the deposit is reduced or if there is an outstanding court judgment for which the licensee is liable under the deposit, the license as a peer-to-peer car sharing program is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which the licensee is liable under the deposit.

6. A deposit made pursuant to paragraph (b) of subsection 1 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

Sec. 30.53. Each car sharing program agreement entered into between a peer-to-peer car sharing program and a shared vehicle driver or shared vehicle owner shall disclose:

1. Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

2. That a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program.

3. That the insurance coverage of the peer-to-peer car sharing program on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and shared vehicle owner may not have insurance coverage.

4. The daily rate, fees and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver.

5. That the motor vehicle liability insurance of the shared vehicle owner may not provide coverage for a shared vehicle.

6. An emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries.

7. If there are conditions under which a shared vehicle driver must maintain a personal motor vehicle liability insurance policy with certain applicable coverage limits on a primary basis in order to book a shared motor vehicle.

Sec. 30.57. 1. A peer-to-peer car sharing program may not enter into a car sharing program agreement with a person to be a shared vehicle driver unless the person:

(a) Possesses a valid driver's license issued by the Department that authorizes the person to operate vehicles of the class of the shared vehicle; or

(b) Is exempt from the requirement to obtain a Nevada driver's license pursuant to subsection 3 of NRS 483.240 and possesses a valid driver's license

issued to the person in his or her home state or country that authorizes the person to operate vehicles of the class of the shared vehicle in that home state or country.

2. A peer-to-peer car sharing program shall keep a record of:

(a) The name and address of each shared vehicle driver;

(b) The number of the driver's license of each shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

(c) The place of issuance of each driver's license described in paragraph (b).

Sec. 30.6. A peer-to-peer car sharing program shall have sole responsibility for any equipment, such as a GPS system or other special equipment, that is put in or on the shared vehicle to monitor or facilitate the car sharing transaction and shall indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the car sharing period not caused by the shared vehicle owner. A peer-to-peer car sharing program may enter into an agreement with a shared vehicle driver wherein the shared vehicle driver agrees to indemnify the peer-to-peer car sharing program for any loss or damage to such equipment that occurs during the car sharing period.

Sec. 30.63. 1. At the time a motor vehicle owner registers as a shared vehicle owner through a peer-to-peer car sharing program and before being permitted to make a shared vehicle available for car sharing through the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(a) Verify that the shared vehicle is not subject to any safety recalls on the vehicle for which the repairs have not been made; and

(b) Notify the shared vehicle owner of the requirements of subsections 2, 3 and 4.

2. If a shared vehicle owner has received an actual notice of a safety recall on the vehicle, the shared vehicle owner may not make the vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

3. If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available through a peer-to-peer car sharing program, the shared vehicle owner shall remove the shared vehicle from being made available through the peer-to-peer car sharing program as soon as possible after receiving the notice of the safety recall and until the safety recall repair has been made.

4. If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is in the possession of a shared vehicle driver, the shared vehicle owner shall notify the peer-to-peer car sharing program as soon as possible after receiving the notice of the safety recall so that the shared vehicle owner may address the safety recall repair.

Sec. 30.67. 1. Except as otherwise provided in subsection 2 and NRS 244A.810 and 244A.860, a local governmental entity shall not:

(a) Impose any tax or fee on:

(1) Any peer-to-peer car sharing program operating within the scope of a valid license issued pursuant to section 30.37 of this act;

(2) Any shared vehicle driver;

(3) Any shared vehicle owner; or

(4) Any shared vehicle.

(b) Require:

(1) A peer-to-peer car sharing program operating within the scope of a valid license issued pursuant to section 30.37 of this act to obtain from the local government any certificate, license or permit to operate as a peer-to-peer car sharing program; or

(2) A shared vehicle owner who makes a shared vehicle available through a peer-to-peer car sharing program to obtain from the local government any certificate, license or permit to make the shared vehicle available through a peer-to-peer car sharing program.

(c) Impose any other requirement on a peer-to-peer car sharing program, shared vehicle owner or shared vehicle driver which is not of general applicability to all similarly situated persons or entities within the jurisdiction of the local government.

2. Nothing in this section shall be construed to:

(a) Prohibit a local government from requiring a peer-to-peer car sharing program, or a shared vehicle owner operating as a corporation, limited partnership or limited-liability company through which the shared vehicle owner shares a vehicle using a peer-to-peer car sharing program, to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government.

(b) Prohibit an airport or its governing body from requiring a peer-to-peer car sharing program or shared vehicle owner to:

(1) Obtain a permit or certification to operate at the airport;

(2) Pay a fee to operate at the airport; or

(3) Comply with any other requirement to operate at the airport.

(c) Exempt a shared vehicle from any tax imposed pursuant to NRS 354.705, 371.043 or 371.045.

3. Nothing in this section shall be construed to exempt a peer-to-peer car sharing program from the requirement to obtain a state business license pursuant to chapter 76 of NRS.

Sec. 30.7. NRS 482.053 is hereby amended to read as follows:

482.053 For the purposes of regulation under this chapter and of imposing tort liability under NRS 41.440, and for no other purpose:

1. "Lease" means a contract by which the lienholder or owner of a vehicle transfers to another person, for compensation, the right to use such vehicle ~~[.]~~ *but does not include the sharing of a vehicle through a peer-to-peer car sharing program pursuant to sections 2 to 30.67, inclusive, of this act.*

2. "Long-term lessee" means a person who has leased a vehicle from another person for a fixed period of more than 31 days.

3. "Long-term lessor" means a person who has leased a vehicle to another person for a fixed period of more than 31 days.

4. "Short-term lessee" means a person who has leased a vehicle from another person for a period of 31 days or less, or by the day, or by the trip.

5. "Short-term lessor" means a person who has leased a vehicle to another person for a period of 31 days or less, or by the day, or by the trip.

Sec. 31. NRS 482.300 is hereby amended to read as follows:

482.300 *1.* It *[Except as otherwise provided in section 11.3 of this act, it]* is unlawful for any person to engage in the activities of a short-term lessor unless such person has been licensed pursuant to NRS 482.363.

2. A peer-to-peer car sharing program licensed pursuant to section 30.37 of this act and a shared vehicle owner, as defined by section 11of *this act, shall not be deemed to be engaged in the activities of a short-term lessor.*

Sec. 31.1. ~~[NRS 482.313 is hereby amended to read as follows:~~

~~482.313 1. Except as otherwise provided in subsection 8 [,] *and section 11.3 of this act,* upon the lease of a passenger car by a short-term lessor in this State, the short-term lessor shall charge and collect from the short-term lessee:~~

~~(a) A governmental services fee of 10 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity and the items described in subsection 7; and~~

~~(b) Any fee required pursuant to NRS 244A.810 or 244A.860.~~

~~The amount of each fee charged pursuant to this subsection must be indicated in the lease agreement.~~

~~2. The fees due from a short-term lessor to the Department of Taxation pursuant to subsection 1 are due on the last day of each calendar quarter. On or before the last day of the month following each calendar quarter, the short-term lessor shall:~~

~~(a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of each of the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter; and~~

~~(b) Remit to the Department of Taxation the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter.~~

~~3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit all money received from short-term lessors pursuant to the provisions of subsection 1 with the State Treasurer for credit to the State General Fund.~~

~~4. To ensure compliance with this section, the Department of Taxation may audit the records of a short-term lessor.~~

~~5. The provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of this chapter.~~

~~6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a short-term lessor that the Department of Taxation considers necessary to collect the fees described in subsection 1.~~

~~7. For the purposes of charging and collecting the governmental services fee described in paragraph (a) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:~~

~~(a) The amount of any fee charged and collected pursuant to paragraph (b) of subsection 1;~~

~~(b) The amount of any charge for fuel used to operate the passenger car;~~

~~(c) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;~~

~~(d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; and~~

~~(e) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible.~~

~~8. The fee required pursuant to subsection 1 does not apply with respect to any passenger car leased by or on behalf of this State, its unincorporated agencies and instrumentalities or any county, city, district or other political subdivision of this State.~~

~~9. The Executive Director of the Department of Taxation shall:~~

~~(a) Adopt such regulations as the Executive Director determines are necessary to carry out the provisions of this section; and~~

~~(b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.~~] (Deleted by amendment.)

Sec. 31.13. NRS 244A.810 is hereby amended to read as follows:

244A.810 1. Except as otherwise provided in subsection 2, the board of county commissioners of a county whose population is 100,000 or more but less than 700,000 may by ordinance impose a fee upon the lease of a passenger car by a short-term lessor in the county in the amount of not more than 2 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity. *If the board of county commissioners has imposed a fee pursuant to this section, the board of county commissioners shall by ordinance require such a fee to be charged and collected, in the manner required by section 11.3 of this act, when a shared vehicle* that is a passenger car *is shared through a peer-to-peer car sharing program in the county.*

2. The fee imposed pursuant to subsection 1 must not apply to replacement vehicles. As used in this subsection, "replacement vehicle" means a vehicle that is:

(a) Rented temporarily by or on behalf of a person or leased to a person by a facility that repairs motor vehicles or a motor vehicle dealer; and

(b) Used by the person in place of a motor vehicle owned by the person that is unavailable for use because of mechanical breakdown, repair, service, damage or loss as defined in the owner's policy of liability insurance for the motor vehicle.

3. Any proceeds of a fee imposed pursuant to this section which are received by a county must be used solely to pay the costs to acquire, lease, improve, equip, operate and maintain within the county a minor league baseball stadium project, or to pay the principal of, interest on or other payments due with respect to bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof.

4. The board of county commissioners shall not repeal or amend or otherwise directly or indirectly modify an ordinance imposing a fee pursuant to subsection 1 in such a manner as to impair any outstanding bonds issued by or other obligations incurred by the county until all obligations for which revenue from the ordinance have been pledged or otherwise made payable from such revenue have been discharged in full or provision for full payment and redemption has been made.

5. As used in this section, the words and terms defined in NRS 482.053 and 482.087 *and sections 8 and 9 of this act* have the meanings ascribed to them in those sections.

Sec. 31.15. NRS 244A.860 is hereby amended to read as follows:

244A.860 1. Except as otherwise provided in subsection 2, the board of county commissioners of a county whose population is 700,000 or more may by ordinance impose a fee upon the lease of a passenger car by a short-term lessor in the county in the amount of not more than 2 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity. *If the board of county commissioners has imposed a fee pursuant to this section, the board of county commissioners shall by ordinance require such a fee to be charged and collected, in the manner required by section 11.3 of this act, when a shared vehicle that is a passenger car is shared through a peer-to-peer car sharing program in the county.*

2. The fee imposed pursuant to subsection 1 must not apply to replacement vehicles. As used in this subsection, "replacement vehicle" means a vehicle that is:

(a) Rented temporarily by or on behalf of a person or leased to a person by a facility that repairs motor vehicles or a motor vehicle dealer; and

(b) Used by the person in place of a motor vehicle owned by the person that is unavailable for use because of mechanical breakdown, repair, service, damage or loss as defined in the owner's policy of liability insurance for the motor vehicle.

3. After reimbursement of the Department pursuant to paragraph (a) of subsection 1 of NRS 244A.870 for its expense in collecting and administering

a fee imposed pursuant to this section, the remaining proceeds of the fee which are received by a county must be used to pay the costs to acquire, improve, equip, operate and maintain within the county a performing arts center, or to pay the principal of, interest on or other payments due with respect to bonds issued to pay those costs, including bonds issued to refund bonds issued to pay those costs, or any combination thereof.

4. The board of county commissioners of a county that imposes the fee authorized by subsection 1 may enter into a cooperative agreement with another governmental entity in which the other governmental entity agrees to receive the proceeds of the fee from the county if the cooperative agreement includes a provision that requires the other governmental entity to assume all responsibility for the operation of the performing arts center and to use the proceeds of the fee it receives from the county to pay the costs to acquire, improve, equip, operate and maintain within the county a performing arts center, and to pay the principal of, interest on or other payments due with respect to bonds issued to pay those costs, including bonds issued to refund bonds issued to pay those costs, or any combination thereof. A governmental entity that enters into a cooperative agreement with the board of county commissioners pursuant to this subsection may delegate to a nonprofit organization one or more of the responsibilities that the governmental entity assumed pursuant to the cooperative agreement, including, without limitation, the acquisition, design, construction, improvement, equipment, operation and maintenance of the center.

5. The board of county commissioners shall not repeal or amend or otherwise directly or indirectly modify an ordinance imposing a fee pursuant to subsection 1 in such a manner as to impair any outstanding bonds issued by or other obligations incurred by the county until all obligations for which revenue from the ordinance have been pledged or otherwise made payable from such revenue have been discharged in full or provision for full payment and redemption has been made.

6. A performing arts center to be acquired, improved, equipped, operated and maintained pursuant to this section may, regardless of the estimated cost of the center, be designed and constructed pursuant to a contract with a design-build team in accordance with NRS 338.1711 to 338.1727, inclusive.

7. As used in this section, the words and terms defined in NRS 482.053 and 482.087 *and sections 8 and 9 of this act* have the meanings ascribed to them in those sections.

Sec. 31.2. NRS 360.236 is hereby amended to read as follows:

360.236 Notwithstanding any specific statute to the contrary, if the Department determines that any taxpayer or other person has overpaid any tax or fee administered by the Department pursuant to this title or NRS 444A.090 or 482.313, *or section 11.3 or 11.5 of this act* the amount of the overpayment must be credited against any other such tax or fee then due from the taxpayer or other person before any portion of the overpayment may be refunded.

Sec. 31.25. NRS 360.291 is hereby amended to read as follows:

360.291 1. The Legislature hereby declares that each taxpayer has the right:

(a) To be treated by officers and employees of the Department with courtesy, fairness, uniformity, consistency and common sense.

(b) To a prompt response from the Department to each communication from the taxpayer.

(c) To provide the minimum documentation and other information as may reasonably be required by the Department to carry out its duties.

(d) To written explanations of common errors, oversights and violations that taxpayers experience and instructions on how to avoid such problems.

(e) To be notified, in writing, by the Department whenever its officer, employee or agent determines that the taxpayer is entitled to an exemption or has been taxed or assessed more than is required by law.

(f) To written instructions indicating how the taxpayer may petition for:

(1) An adjustment of an assessment;

(2) A refund or credit for overpayment of taxes, interest or penalties; or

(3) A reduction in or the release of a bond or other form of security required to be furnished pursuant to the provisions of this title that are administered by the Department.

(g) Except as otherwise provided in NRS 360.236 and 361.485, to recover an overpayment of taxes promptly upon the final determination of such an overpayment.

(h) To obtain specific advice from the Department concerning taxes imposed by the State.

(i) In any meeting with the Department, including an audit, conference, interview or hearing:

(1) To an explanation by an officer, agent or employee of the Department that describes the procedures to be followed and the taxpayer's rights thereunder;

(2) To be represented by himself or herself or anyone who is otherwise authorized by law to represent the taxpayer before the Department;

(3) To make an audio recording using the taxpayer's own equipment and at the taxpayer's own expense; and

(4) To receive a copy of any document or audio recording made by or in the possession of the Department relating to the determination or collection of any tax for which the taxpayer is assessed, upon payment of the actual cost to the Department of making the copy.

(j) To a full explanation of the Department's authority to assess a tax or to collect delinquent taxes, including the procedures and notices for review and appeal that are required for the protection of the taxpayer. An explanation which meets the requirements of this section must also be included with each notice to a taxpayer that an audit will be conducted by the Department.

(k) To the immediate release of any lien which the Department has placed on real or personal property for the nonpayment of any tax when:

(1) The tax is paid;

(2) The period of limitation for collecting the tax expires;

(3) The lien is the result of an error by the Department;

(4) The Department determines that the taxes, interest and penalties are secured sufficiently by a lien on other property;

(5) The release or subordination of the lien will not jeopardize the collection of the taxes, interest and penalties;

(6) The release of the lien will facilitate the collection of the taxes, interest and penalties; or

(7) The Department determines that the lien is creating an economic hardship.

(l) To the release or reduction of a bond or other form of security required to be furnished pursuant to the provisions of this title by the Department in accordance with applicable statutes and regulations.

(m) To be free from investigation and surveillance by an officer, agent or employee of the Department for any purpose that is not directly related to the administration of the taxes administered by the Department.

(n) To be free from harassment and intimidation by an officer, agent or employee of the Department for any reason.

(o) To have statutes imposing taxes and any regulations adopted pursuant thereto construed in favor of the taxpayer if those statutes or regulations are of doubtful validity or effect, unless there is a specific statutory provision that is applicable.

2. The provisions of this title and title 57 of NRS and NRS 244A.820, 244A.870, 482.313 and 482.315 *, and ~~[section]~~ sections 11.3 and 11.5 of this act* governing the administration and collection of taxes by the Department must not be construed in such a manner as to interfere or conflict with the provisions of this section or any applicable regulations.

3. The provisions of this section apply to any tax administered, regulated and collected by the Department pursuant to the provisions of this title and title 57 of NRS and NRS 244A.820, 244A.870, 482.313 and 482.315 *, and ~~[section]~~ sections 11.3 and 11.5 of this act* and any regulations adopted by the Department relating thereto.

Sec. 31.3. NRS 360.2937 is hereby amended to read as follows:

360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C or 377D of NRS, any of the taxes provided for in NRS 372A.290, any fee provided for in NRS 444A.090 or 482.313, *or ~~[section]~~ sections 11.3 and 11.5 of this act,* or any assessment provided for in NRS 585.497, at the rate of 0.25 percent per month from the last day of the calendar month following the period for which the overpayment was made.

2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.

3. The interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.

Sec. 31.35. NRS 360.297 is hereby amended to read as follows:

360.297 1. A responsible person who willfully fails to collect or pay to the Department any tax or fee required to be paid to the Department pursuant to this title, NRS 444A.090 or 482.313, or chapter 680B of NRS, *or ~~[section]~~ sections 11.3 and 11.5 of this act,* or who attempts to evade the payment of any such tax or fee, is jointly and severally liable with any other person who is required to pay such a tax or fee for the tax or fee owed plus interest and all applicable penalties. The responsible person shall pay the tax or fee upon notice from the Department that it is due.

2. As used in this section, "responsible person" includes:

(a) An officer or employee of a corporation; and

(b) A member or employee of a partnership or limited-liability company,

➥ whose job or duty it is to collect, account for or pay to the Department any tax or fee required to be paid to the Department pursuant to this title, NRS 444A.090 or 482.313, or chapter 680B of NRS ~~[.]~~ *or ~~[section]~~ sections 11.3 and 11.5 of this act.*

Sec. 31.4. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 360B, 362, 363A, 363B, 363C, 369, 370, 372, 372A, 372B, 374, 377, 377A, 377C, 377D or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, *or ~~[section]~~ sections 11.3 or 11.5 of this act,* as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

(a) The facts contained in the return;

(b) Any information within its possession or that may come into its possession; or

(c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.

3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due,

calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.

4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

Sec. 31.45. NRS 360.412 is hereby amended to read as follows:

360.412 If the Department believes that the collection of any amount of sales or use tax, business tax or other excise due pursuant to this title, NRS 482.313 or chapter 585 of NRS *or section 11.3 or 11.5 of this act* will be jeopardized by delay, it shall make a determination of the amount required to be collected and serve notice of the determination upon the person against whom it is made.

Sec. 31.5. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C, 377D, 444A or 585 of NRS, any of the taxes provided for in NRS 372A.290, or any fee provided for in NRS 482.313 ~~[,]~~ *or section 11.3 or 11.5 of this act,* and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 0.75 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 31.55. NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of any tax or fee required to be paid to the Department pursuant to this title or NRS 482.313 *or section 11.3 or 11.5 of this act* is the result of circumstances beyond his or her control and occurred despite the exercise of ordinary care and without intent, the Department may relieve the person of all or part of any interest or penalty, or both.

2. A person seeking relief must file with the Department a statement under oath setting forth the facts upon which the person bases his or her claim.

3. The Department shall disclose, upon the request of any person:

(a) The name of the person to whom relief was granted; and

(b) The amount of the relief.

4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.

Sec. 31.6. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against the person which remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed,

➥ give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his or her possession or under his or her control at the time the person received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his or her possession, under his or her control or owing by that person within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him or her, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him or her to continue to transmit payments to the Department or that his or her duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, that person is liable to the State for any indebtedness due pursuant to this chapter, chapter 360B, 362, 363A, 363B, 363C, 369, 370, 372, 372A, 372B, 374, 377, 377A, 377C, 377D or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS *or section 11.3 or 11.5 of this act* from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 31.65. NRS 360.530 is hereby amended to read as follows:

360.530 1. At any time within 3 years after any person has become delinquent in the payment of any amount of sales or use tax or other excise due pursuant to this title, NRS 482.313 or chapter 585 of NRS, *or section 11.3 or 11.5 of this act,* the Department may seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due, together with any interest or penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

2. Any seizure made to collect a tax due may be only of the property of the person not exempt from execution under the provisions of law.

Sec. 31.7. 1. There is hereby appropriated from the State General Fund to the Department of Taxation for personnel, operating, equipment and computer programming costs to carry out the provisions of this act the following sums:

For the Fiscal Year 2021-2022 ..... $374,871

For the Fiscal Year 2022-2023 ..... $406,699

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2022, and September 15, 2023, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2022, and September 15, 2023, respectively.

Sec. 32. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on

Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Sec. 33. 1. This section and section 32 of this act become effective upon passage and approval.

2. Sections 1 to 31.65, inclusive, of this act become effective:

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

(b) On October 1, 2021, for all other purposes.

3. Section 31.7 of this act becomes effective on July 1, 2021.

Senator Neal moved the adoption of the amendment.

Remarks by Senator Neal.

Amendment No. 703 to Senate Bill No. 389 revises or creates various sections in the bill relating to the peer-to-peer car sharing programs. The bill creates sections 4.3, 4.7, 7.1, 7.3, 7.7 and 11.1 to define certain terms related to peer-to-peer car sharing programs. It revises section 11.5 to require the collection and remittance of certain taxes and provides that a peer-to-peer car-sharing program is not liable for the failure to collect and remit sales and use taxes if the program can provide proof that it made reasonable efforts to obtain information to remit taxes.

It creates section 30.1 to require the Department of Taxation to adopt regulations to carry out provisions of the bill. It creates sections 30.13, 30.17 and 30.2 and sets forth the tort liability and motor-vehicle liability policy insurance requirements for peer-to-peer car sharing programs. It creates section 30.23 to require the peer-to-peer car-sharing program to collect and maintain certain records relating to the sharing of a shared vehicle. It creates section 30.37 that requires the person operating the shared vehicle program to obtain a license from DMV prior to operating a peer-to-peer car-sharing program in the State. It establishes provisions governing the issuance, renewal, suspension and revocation of such a license to operate the peer-to-peer car-sharing program. It creates section 30.67 that prohibits a local governmental entity from imposing additional taxes, fees or licensing requirements on a peer-to-peer car-sharing program, shared vehicle owner, shared vehicle driver or shared vehicle, other than those that are applicable to all businesses. It adds section 31.7 to provide General Fund appropriations of $374,871 in Fiscal Year 2022 and $406,699 in Fiscal Year 2023 to the Department of Taxation for personnel, operating and equipment and computer programming costs to implement the provisions of the bill.

Amendment adopted.

Bill read third time.

Remarks by Senator Neal.

Senate Bill No. 389 establishes provisions governing the licensing and operation of a peer-to-peer car-sharing program, which is a platform operated by a business that connects shared vehicle owners with shared vehicle drivers to enable the sharing of vehicles in exchange for money. The bill requires the charging and collecting of certain fees when a vehicle is shared through a peer-to-peer car-sharing program and the remittance of such fees to the Department of Taxation, along with a quarterly report. The bill also requires a person to obtain a license from DMV before operating a peer-to-peer car-sharing program and establishes provisions governing the issuance, renewal, suspension and revocation of a license by the Department. Senate Bill No. 389 further prohibits a peer-to-peer car-sharing program from operating in the State under certain circumstances and defines certain terms relating to peer-to-peer car-sharing programs.

Senate Bill No. 389 provides General Fund appropriations of $374,871 in Fiscal Year 2022 and $406,699 in Fiscal Year 2023 to the Department of Taxation for personnel, operating and equipment and computer programming costs to implement the provisions of the bill.

Roll call on Senate Bill No. 389:

YEAS—21.

NAYS—None.

Senate Bill No. 389 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 440.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 440 provides an exemption from sales and use taxes on purchases of tangible personal property by members of the Nevada National Guard who are on active status and who are residents of this State and certain relatives of such members, if the purchase occurs on the date on which Nevada Day is observed or the immediately following Saturday or Sunday.

The bill also revises the eligibility requirements for the current exemption authorized for members of the Nevada National Guard called into active service to provide that this exemption is available to these members and certain relatives, if the member has been called into active duty for a period of more than 30 days outside of the United States.

Roll call on Senate Bill No. 440:

YEAS—21.

NAYS—None.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 451.

Bill read third time.

Remarks by Senator Seevers Gansert.

Senate Bill No. 451 establishes the State's monthly contribution amounts for health insurance benefits provided to active employee and retiree participants in the Public Employee's Benefits Program for the 2021-2023 biennium. For active participants, the State's contribution towards the total monthly cost is $727.00 per month in Fiscal Year 2022 and $755.00 per month in Fiscal Year 2023. For retiree participants not eligible for Medicare, the base State monthly contribution is $471.50 in Fiscal Year 2022 and $498.00 in Fiscal Year 2023. For Medicare eligible retiree participants enrolled in the PEBP-sponsored individual Medicare market exchange, the base State contribution is $13.00 per month for 15 years of State service, which equates to $195.00 per month. Senate Bill No. 451 is a budget implementation bill.

Roll call on Senate Bill No. 451:

YEAS—21.

NAYS—None.

Senate Bill No. 451 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 452.

Bill read third time.

Remarks by Senators Cannizzaro, Donate, Hansen, Buck, Neal, Ohrenschall and Spearman.

SENATOR CANNIZZARO:

Senate Bill No. 452 prohibits a person from carrying or possessing a firearm on the premises of any real property containing a licensed gaming establishment owned or operated by a person who holds a nonrestricted license if the owner or operator of the property elects to prohibit such and fulfills requirements set forth in the bill. These requirements include notifying the appropriate law-enforcement agency of the decision and adopting certain policies and procedures including training security guards in de-escalation techniques, cultural diversity competency and implicit bias.

The provisions of the bill do not apply to a peace officer, an owner of a residential unit within the property who adheres to certain requirements, a guest of the property who purchases a firearm at a trade show and follows all applicable laws concerning the firearm or a person who has written consent from the owner or operator to carry or possess a firearm on the premises.

The bill requires that signs are posted on the premises regarding the policy, which must include a reference to the controlling chapter of NRS and that information on the policy must be posted to the establishment's website. A peace officer must identify himself or herself and provide a person believed to have violated the policy an opportunity to comply with the policy before being arrested.

An owner or operator is required to report to the Nevada Gaming Control Board information concerning any incident wherein law enforcement is called to respond. In turn, the Gaming Control Board is to transmit such reports annually to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

This bill, like so many others we have discussed about gun violence and how to address it, raises many passions. Many people care about gun violence in Nevada for a plethora of reasons, most notably because no one in this State should have to live under the fear of being shot. Currently, there is a significant danger to individuals who work in casinos and individuals who are visiting those premises due to more guns showing up. Enforcement can take place in a vacuum. We are seeing this escalate into shootings, homicides, robberies and assaults with a deadly weapon, and these are just the examples provided during the last couple of months during the hearings on this bill. We heard testimony that there have been 25 different incidences involving guns on the Strip in the last 30 days. Even within the timeframe since this bill was presented and has been working its way to the Floor, there was yet another incident where someone shot themselves on a casino floor. At some point, it has to be enough. At some point, the response to gun violence has to be that we are going to allow for some enforcement provisions. I know saying enforcement provisions gives a lot of heartburn to folks, and rightfully so. We have talked a lot about that kind of policy this Legislative Session and have discussed how to address this. How do we ensure when law enforcement is responding to an incident such as a domestic violence call, an argument between neighbors, a traffic stop, a robbery, a theft or another type of incident, that those law-enforcement officers are going to do the job we have entrusted them to do for the community and ensure their safety?

We have talked much about policy on this Floor, about implicit bias training, about use-of-force policy, about making sure people can feel safe when law enforcement responds. The idea we should never allow law enforcement to respond when we are talking about gun violence is just not something that sits well with me. There have been good discussions related to this bill and how the policy can be enacted properly. You are seeing that reflected in the amended language that allows for someone to comply, for the data collection pieces and to ensure any employees who interact with an individual who shows up with a gun on premises when it is not allowed, to have training in de-escalation techniques, cultural diversity, cultural competency, implicit bias and all of those things we should be doing.

What this bill is not, is an opportunity to engage in racial profiling. It is not a stop-and-frisk policy. This is a response to an on-going issue of gun violence that I cannot sit and continue to ignore when it is happening the day after a presentation of a bill to help address the issue. This Session we voted for a ghost gun bill that says if a person has a firearm for which they are buying unserialized pieces, it is not something we want to allow. We have provided for law-enforcement response and enforcement of those provisions because untraceable guns are a problem. We have voted for bills to ensure that when people who are a danger to themselves and others and who have a firearm, if they present that danger, the Court can step in and law enforcement can respond to

make sure that person does not hurt themselves or others as a result. We have said that individuals who want to purchase firearms but who have convictions or who are domestic abusers should not have them because we want to make sure those situations are safe. We have said guns should not be on school premises, that government buildings should not have guns on their premises, that libraries should not have guns on their premises, and that when and if someone decides to bring a gun to one of those places, there is an enforcement mechanism to ensure the safety of the people there. Right now, there is a safety issue for our workers and people who are visiting our State. It is one that demands a response from this Body to say that if guns are not permitted on those premises, or if a property elects to not permit guns on their property, they should be able to ensure that safety exists before a shooting, robbery, assault with a deadly weapon, domestic violence incident or homicide occurs. There is no reason to have a gun in a casino.

We have an obligation to do this. That is what this bill is getting at. It is not getting at some of the other problems we have, but it is addressing this. We do not look at one piece of legislation in a vacuum; we look at it as a whole. This is common sense, gun-violence-prevention legislation. How many more incidents do we need to wait for where someone is shot, injured or killed before we say, "That was the one, now we can take some action." I am ready to vote "yes" on this bill and urge my colleagues' support.

SENATOR DONATE:

I prepared remarks for this bill, but given the tragedy that has occurred this morning in San Jose, California, I am out of words at this time. "Thoughts and prayers" is the phrase used time and time again, and it is repeated every time this happens. If there is anything we have learned debating whether this policy is needed, we must remember the lives lost just a few short hours ago and the impacted families who have lost loved ones forever. Today, I stand firmly in support of Senate Bill No. 452 and the epidemic known as gun violence. The epidemic of gun violence is a public-health crisis, and we need to do everything we can to prevent acts of violence before a catastrophe occurs. After witnessing the horror and pain that resulted from the Route 91 Harvest Festival shooting, it is clear to me that more must be done to ensure that our visitors, casino workers and residents are protected. I am the proud son, grandson, nephew and cousin of casino workers, and this is personal to me. My district oversees parts of the Las Vegas Strip, which means my priority is to ensure the health and safety of my family members and my community. I know this bill will enhance the protections offered to our casino workers and will help begin the conversation on prevention. Enough is enough. The time for our thoughts and prayers has passed. Now is the time to act. I urge my colleagues to support this bill.

SENATOR HANSEN:

I oppose Senate Bill No. 452. This was one of the most interesting hearings I have seen in a long time. It was a joint hearing with the Assembly, and literally every group in strong opposition to this bill in Nevada, whether liberal or conservative, was there. The presentation began with the shooting at the MGM in October of 2017, and this event where 58 people were killed and almost 500 wounded was constantly rehashed. It was followed up by a big explanation that the casino workers in Nevada are facing eminent danger because of some sort of outbreak of gun violence that is apparently of epidemic proportions. What message are we sending to the 40-million visitors we are trying to attract to Nevada? Are we back to being the Wild West of Charles M. Russell where cowboys with guns are shooting up the place?

The first issue is what are the facts? One thing that was fascinating in the hearing, although we asked repeatedly for it, is there was no actual evidence of shootings on casino floors in Nevada. We learned there are 172 casino floors in Nevada and 40-million visitors per year. The number is less than one shooting per year in Nevada on casino floors. The safest place to work in Nevada right now is on a casino floor. The way they were talking, I was half expecting an amendment to be drafted to provide bulletproof vests for all Nevada casino workers. The shooting mentioned by the Majority Leader was somebody who was already illegally in possession of a firearm, and she shot herself in the leg. The idea that this is a huge problem in Nevada casinos and that Las Vegas is unsafe and not a place to go if you want to go, if you want to be safe, is the wrong message we should be sending. We have not had a major shooting since 2017.

I am a Carry Concealed Weapon (CCW) holder. When I go to the MGM after this bill is passed, I would see a notice on the door that I could not take my firearm into the casino. What would I do?

I could not take my firearm in there, so what would do I do with it? I would go back to my car and most likely put my gun in my glovebox. Talking to Metro, they had 788 gun thefts in Las Vegas, most of them from breaking into autos. If you are a smart thief and find out the MGM is not going to allow people like me to bring in firearms, you will target the parking lot of those types of casinos. It seems like whenever there is an arrest, it is a felon in possession of a firearm. These are not ghost guns; they were not bought through a trade show, gun show or gun show; they are black-market guns. They steal the guns out of people's cars for the black market. Having people lock guns in their cars and telling people where to get them is not the way to solve the problem.

Stop-and-frisk is another problem that came up with this bill. If I go into a casino and they think I may be carrying a firearm, of course, they are going to stop and question me. Since this could be done disproportionately to minority communities, that is where the civil rights issues have been strongly pushed about this bill. They are deeply afraid about that aspect of it.

I was shocked the proponents brought up schools as part of gun-free zones. We have had some of the worst shootings in America at gun-free schools, yet we act as if all we have to do is pass a law saying an area is a gun-free zone and we are safe. Chicago, Washington D.C., Baltimore, Detroit and New York City are all gun-free zones, yet they are the murder capitals of our Nation. The idea you pass a bill and everything goes away is absurd.

We recently saw a business leave Pahrump, Nevada, and go to Utah. They were a gun manufacturer. They said the climate in Nevada was becoming increasingly hostile to the Second Amendment. We have the SHOT Show, a $275-million convention business coming to Nevada along with Safari Club International, also a multi-million dollar business. How long are we, as a State, going to be able to take their dollars then spit in their faces when it comes to the Second Amendment? Nearly everyone who attends the SHOT show is a strong supporter of the Second Amendment and a CCW holder.

Whom does this bill really target? It targets CCW holders. There are almost 300,000 of them now in Nevada. That is 10 percent of our population. A holder of a CCW permit in Nevada has committed not one gun crime, yet these are the people we will be excluding from the casinos and, if they bring a gun in, they will be facing potentially serious charges that could cause them to lose their right to carry concealed.

The bill is based around the October shooting. In that shooting, the individual took 15 full-sized weapons into his hotel room plus thousands of rounds of ammunition. Security from MGM helped him, and he even used their security elevator. There is nothing in this law that did not exist in 2017. That casino dropped the ball and allowed this person to get through. I do not know if they were using $10-an-hour rent-a-cops or what, but that is scapegoating. The laws that existed at that time would have been sufficient if they had been paying attention and had quality security people. Someone should have caught that.

This bill does not create any responsibility for a major casino to have security details. If we want to ensure the safety of visitors to Nevada, the best thing we can do is to make sure that in Nevada State law, when there is a certain number of visitors and employees, there is also a certain number of security personnel onsite. Even if there is a shooting and Metro is called, they cannot respond that quickly. We should have passed a bill saying that places like the MGM and other big casinos, if they do not currently have proper security, do so in the future.

We need to be proud of our CCW holders. Law enforcement was originally against the program, but now they are one of the biggest proponents of it because the more CCW holders there are in a State, the lower the crime rate. Criminals do not know who does or does not have a firearm. That uncertainty is what prevents them from committing crimes. That is why, when there are CCW holders, crime declines. We are focusing on the wrong people in this bill. We are sending a message to the United States that Las Vegas is a dangerous place to be. The minute people start thinking about Las Vegas like the one in Chicago, those 40-million visitors will begin to drop so substantially that the tax revenues to this Body will also drop proportionately. We should be sending the message that the safest place in America to work is in a casino in Las Vegas. The occurrence that happened in October was an anomaly, a rarity. Nevada is the place to come, and Las Vegas is still a place to bring your family and have a good time. We respect the Second Amendment. We are happy Nevada has 300,000 CCW holders and that the crime rate has dropped accordingly. I urge my colleagues to consider all of these things when considering this bill. The things presented in the hearing were exaggerated, and this bill may create a climate that

does not exist in Las Vegas and Clark County Nevada. For the good of the casino industry and the State, vote "no" on Senate Bill No. 452.

SENATOR BUCK:

I have never known of a criminal who has followed a posted placard. As a law-abiding holder of a concealed-firearms permit, who conceal-carried in all of my school buildings, I deserve the right to protect myself.

SENATOR NEAL:

Every Session has a bill that divides our hearts and divides us legally, politically and philosophically. This is one of those bills. I regret having to rise in opposition to Senate Bill No. 452. I examined the constitutional principles when the Second Amendment is in conflict with the Fourth Amendment. I examined the Second Amendment when it is in conflict with the Title II Public Accommodation statute. I then examine whether or not this statute, and the bill being presented, had a conflict with Title II, Civil Rights Act and whether there was an application or valid exercise of legislative power under the commerce clause as applies to a place of public accommodation when it serves interstate travelers. I next examined the language to determine for myself whether the Second Amendment and the right to keep and bear arms is incorporated through the Fourteenth Amendment privilege and immunities clause. I then asked myself whether there was a due process clause conflict and whether an argument could be made that there was such a right or an implicit ordered liberty at stake that we were dealing with. Finally, I landed on hard questions and thought about the reality of my district, what was best for them and the emotional place they were in, and how I needed to vote in regards to the district I serve.

I have a unique district where it is felt they are overpoliced and that this bill added an extra piece where, when they visited they Strip, they would either experience racial biased or be placed in a position where they would not feel safe. I have heard the arguments and have to move in a position where I represent who I serve. Taking their thoughts and my legal thoughts, I came to the place where I would stand with my constituents who came to me feeling strongly about this bill and would vote "no." I respect my colleagues and their positions. I respect the families who work in casinos. When we talk about guns and what is perceived to be negative police interaction, it draws up serious emotion for a community that is majority minority on how they have encountered police. When out campaigning, my own team was stopped. Knowing this is the environment they are in, they felt this bill added to the level of emotion going on for the past two years around police interactions and negative interactions for those who have a weapon on their person. It could lead to an outcome that was not favorable to them. In that regard, I am voting "no," not because I do not respect my colleagues and the work and amendments they did on this bill, but because sometimes in good conscience, you cannot go against your constituents; you have to vote for your district, as is your place to do. I will be voting "no" on this bill.

SENATOR OHRENSCHALL:

I support this measure. I share many of the concerns mentioned by my colleague from District 4. When the bill was first introduced, I had more concerns. I appreciate the Majority Leader and proponents of the bill trying to address many of the concerns I had. I was concerned about the original felony penalty in the bill that has now been amended to a gross misdemeanor that matches the penalty for possession of a firearm on a school, university or community college property. The felony was removed. The bill includes a warning from a law-enforcement officer and the opportunity to come into compliance, which will be something unique in statute. I had a concern about that and appreciate this is in the amended version of the bill. Section 1, subsection 5, as to reporting of demographic data from stops under this law in a covered premises, will provide data to us in 2023. I hope this Body will work to either fix or repeal this law based on that data. We have not had this data before. I will be supporting this bill and appreciate the Majority Leader considering my proposed changes.

SENATOR SPEARMAN:

I wish I did not have to choose. Senate District 1 is adjacent to District 4. My constituents hold many of the same thoughts. I listen to my constituents who work in casinos, and they do not want to have to worry about someone coming in with a weapon. This is difficult for me.

Ninety-eight percent of those who wear the badge get up every day, go to work and are honest, hard-working public servants. That other 2 percent terrify me. That 2 percent not only terrifies me but also sicken my stomach. I was in the military police corps for almost 30 years and was proud to wear my crest, but that 2 percent made me sick to my stomach because they sully the badge. They do not deserve our loyalty, and they have no business calling themselves law-enforcement officers because they are not. They are a disgrace to our profession and bring shame upon us. That 2 percent also puts a target on the backs of the other 98 percent who are just trying to do their job.

Law-enforcement officers have killed 229 people since May 25, 2020. Most of those killed were black or brown. It is not a matter of safety, and I understand and agree with that. I would like all of my brothers and sisters in law enforcement to hear what I am about to say. We have a duty and obligation to clean up the ranks from that trash. They do not deserve to wear the badge; they do not. The issue is that when everything is said and done and the eye in the sky determines someone has a weapon, I do not know whether one of the 98 percent or one of the 2 percent will show up. If it is one of the 2 percent, someone is going to die. That is what the data shows. I am going to ask my brothers and sisters in law enforcement to start taking accountability for the people who mess up our name and who do not deserve our loyalty. I am going to ask them, "When you see something, say something," and not to let someone slide just because they are your riding partner. Do not let someone slide because they are the one who trained you in the academy. They do not deserve our loyalty. I want us to purge the ranks of those who do not deserve our loyalty.

Gun violence is very real to me. Some of you have heard me say on several occasions, as I have spoken about it almost every Session, my oldest and younger brothers both did not get a chance to live their lives because they were murdered. When you talk about gun violence, it is not something ethereal out there. This is personal to me, and I understand what it feels like. Reasonable people can disagree without being disagreeable. I appreciate the comments from my colleagues on both sides of this discussion. I wish I did not have to choose. The choice is, will one of the 98 percent show up and do the job they were trained to do. Will one of the 2 percent show up, and the only thing they see is an opportunity to kill someone who is in a BIPOC community? That is hard to hear. As a retired police officer, it is even harder to say. I have several thousand members of the Culinary Union in my district. I am conflicted, but I will vote for this bill. I ask my brothers and sisters in law enforcement to clean up our ranks. The 2 percent who disrespect the oath and the badge have no right whatsoever to call themselves enforcers of the law while they break the law. No right, none. You all help us clean it up, and then there is no confliction on my part. We all know there are 2 percent who does not deserve to be there.

Roll call on Senate Bill No. 452:

YEAS—11.

NAYS—Buck, Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Neal, Pickard, Seevers Gansert, Settelmeyer—10.

Senate Bill No. 452 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 456.

Bill read third time.

Remarks by Senator Ratti.

Senate Bill No. 456 transfers the duty to appoint the State Dental Health Officer from the Division of Public and Behavioral Health to the Division of Health Care Financing and Policy and removes the option for dentistry practiced under a restricted license to be under the general supervision of the State Dental Health Officer. Senate Bill No. 456 is a budget implementation bill.

Roll call on Senate Bill No. 456:

YEAS—21.

NAYS—None.

Senate Bill No. 456 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 458.

Bill read third time.

Remarks by Senators Dondero Loop, Denis, Kieckhefer, Hardy, Goicoechea, Seevers Gansert and Buck.

SENATOR DONDERO LOOP:

Senate Bill No. 458 provides K-12 public education funding for the 2021-2023 biennium. The total public support for school districts, public and charter schools and universities for profoundly gifted pupils is estimated to be $10,204 per pupil in Fiscal Year 2022 and $10,290 in Fiscal Year 2023.

Section 3 appropriates $1.4 billion in the first year and $1.2 billion in the second year of the 2021-2023 biennium from the State General Fund to the Pupil Centered Funding Plan Account in the State Education Fund. Section 4 authorizes other revenues of $3 billion in Fiscal Year 2022 and $3.2 billion in Fiscal Year 2023 to be received and expended for the State support of K-12 public education. These other revenues include, but are not limited to, in-State and out-of-State local schools support tax, public schools operating property tax, governmental services tax, an annual excise tax on slot machines, transfers from the Permanent School Fund, revenue from mineral leases on federal land, room tax revenue, recreational marijuana retail excise tax and transfers from the Cannabis Compliance Board.

Sections 5 and 6 require the department to transfer total funding of $201.3 million in Fiscal Year 2022 and $201.5 million in Fiscal Year 2023 to school districts for food services and transportation and total funding of $442.0 million in Fiscal Year 2022 and $442.4 million in Fiscal Year 2023 for local funding for pupils with disabilities. The statewide base per-pupil funding is $6,980 per pupil in Fiscal Year 2022 and $7,074 per pupil in Fiscal Year 2023. Enrollment is projected to slightly increase from 484,892 pupils in Fiscal Year 2022 and to 485,950 pupils in Fiscal Year 2023.

Sections 5 and 6 further provide additional weighted funding for each English learner, at-risk, gifted and talented pupil estimated to be enrolled in a public school, which is expressed as a multiplier or weight to the statewide base per-pupil funding. The multiplier for English learner pupils is .24 in Fiscal Year 2022 and .23 in Fiscal Year 2023 for total funding of $85 million and $85.1 million in Fiscal Year 2022 and Fiscal Year 2023 respectively. The multiplier for at-risk pupils is .03 each fiscal year for total funding of $60.3 million in Fiscal Year 2022 and $60.4 million in Fiscal Year 2023. The multiplier for Gifted and Talented is .12 each fiscal year for total funding of $6.7 million in Fiscal Year 2022 and $6.8 million in Fiscal Year 2023.

Section 7 provides General Fund appropriations of $224.7 million in Fiscal Year 2022 and $230.3 million in Fiscal Year 2023 for the State support of pupils with disabilities. In addition, revenues of $2 million in each year of the 2021-2023 biennium are authorized for expenditure to provide additional support for extraordinary high-cost pupils with disabilities.

Section 8 provides General Fund appropriations totaling $37.4 million in each year of the 2021-2023 biennium to the Other State Education Programs budget for categorical grant programs including, but not limited to, the Career and Technical Education, Jobs for America's Graduates programs.

Sections 9, 10 and 13 include total funding in the amount of $7.3 million in each year of the 2021-2023 biennium for the Professional Development Programs Account, which provides support for the three Regional Professional Development training programs and the Teacher of the Year program.

Section 11 provides General Fund appropriations of $100,000 in each year of the 2021-2023 biennium for transfers to the Statewide Council for the Coordination of the Regional Training Programs to provide additional training opportunities for education administrators in Nevada. Section 12 would transfer the responsibilities of the Council to the department if

Senate Bill No. 76 of the 81st Session, which abolishes the Council, is enacted by the Legislature and approved by the Governor.

Section 14 appropriates $459,849 in each year of the 2021-2023 biennium for the one-fifth Retirement Credit Purchase Program Account from the State General Fund.

Section 15 appropriates $2.4 million in each fiscal year and authorizes $4.0 million in Fiscal Year 2022 and $4.1 million in Fiscal Year 2023 to continue the Teach Nevada Scholarship program.

Section 16 clarifies the net proceeds of minerals in Fiscal Year 2021 is deemed as a revenue source for the State Education Fund in Fiscal Year 2022.

Section 17 requires any remaining balance from the Account for Programs for Innovation and the Prevention of Remediation, Teachers' School Supplies Assistance Account and the New Nevada Education Funding Plan to revert to the State Education Fund before July 1, 2021.

Section 18 revises the hold harmless provisions related to student enrollment.

Section 19 appropriates $50 million from the State General Fund to the Education Stabilization Account as a loan to the account to provide seed money for the account in order to make funds available for any future needed transfers from the account on or after July 1, 2021.

Section 20 provides the intent of the Legislature that school districts, charter schools, as a whole, and university schools for profoundly gifted pupils that may receive less money on a per-pupil basis under the Pupil-Centered Funding Plan to receive a reasonably similar level of funding it received on a per-pupil basis during the fiscal year ending on June 30, 2020.

Section 21 requires using a statewide multiplier for pupils with disabilities or providing an amount determined necessary to satisfy any applicable requirement for maintenance of effort under federal law.

Section 22 specifies the Commission on School Funding may meet only between July 1 of an odd-numbered year and September 30 of the subsequent even-numbered year.

Section 23 clarifies provisions related to transportation services and reimbursement of those costs for pupils who reside on an Indian reservation located in two or more counties.

Section 24 restores NRS 387.122 that is needed due to the implementation of the Pupil-Centered Funding Plan.

Section 25 creates a separate tier in the Pupil-Centered Funding Plan for local funding to support pupils with disabilities and requires applying an attendance area adjustment to the statewide base per-pupil funding amount to calculate the adjusted base per-pupil funding.

Section 26 requires applying an attendance area adjustment to the statewide base per-pupil funding for public schools, including charter schools that provides in-person instruction or university schools for profoundly gifted pupils located in areas with lower population density.

Sections 27-33 revise Senate Bill No. 439 of this Session to include local funding for pupils with disabilities as a separate tier in the Pupil-Centered Funding Plan.

Section 19 of the bill related to the General Fund loan to the Education Stabilization Account is effective upon passage and approval. Sections 24 to 33, inclusive, becomes effective on June 30, 2021. Sections 1 to 10, inclusive, 13 to 18, inclusive, and Sections 20 to 23 are effective on July 1, 2021.

Section 11 of the bill becomes effective on July 1, 2021, if and only if Senate Bill No. 76 of this Session is not enacted by the Legislature and approved by the Governor. Section 12 becomes effective on July 1, 2021, if and only if Senate Bill No. 76 of this Session is enacted by the Legislature and approved by the Governor.

As a former educator, I believe that ensuring every student receives an excellent education is the most important task we as educators can take on. This bill puts our money where our mouth is. Senate Bill No. 458 is the largest education budget in Nevada history and adds an additional $500 million to the base per-pupil spending. Coming into this Session, the Governor, Senate and Assembly all maintained that our top priority was to build Nevada back stronger in the wake of the COVID-19 pandemic. A critical piece of that task was getting our students, teachers and schools back on track by investing in them. This funding will ensure our kids have more resources than ever before as they return to the classroom following more than a year of distance learning. I encourage your support of Senate Bill No. 458.

SENATOR DENIS:

Over 30 years ago, I first stepped foot in a kindergarten classroom as a parent of a child who was just starting kindergarten. I realized then that we needed to do something to help kids, and I promised myself I would do everything I could to make education better for all students in Nevada. In my legislative career, I have worked hard to put forth policies to make education better and to figure out ways to help all of our students. Our former colleague, Senator Joyce Woodhouse and I decided to bring forth a bill voted on last Session that would create the Pupil-Centered Funding Plan. Today, we have the opportunity to fund the plan we voted on two years ago. This will fundamentally change education in Nevada by focusing on the child as opposed to how we have focused on education for the last 50 years or more. As we move forward, we will see great things happen in Nevada when we focus on the child. I urge your support of Senate Bill No. 458.

SENATOR KIECKHEFER:

I support Senate Bill No. 458 and want to pay my complements to our colleague from Senate District 2 and former Senator Woodhouse for the work they put in to create the bill we passed this time last Session to create the structure we are now using. Getting from that day to this was not a foregone conclusion. Even in the Governor's recommended budget, this was not a reality. The commitment of this Body and of our colleagues down the hallway to put the resources necessary into this plan to make it a reality is a testament to the commitment we all have to try to help educate the children in our State. This is not a perfect model as of yet. It still needs work, and that work will continue. That is why I feel confident moving forward with the Pupil-Centered Funding Plan as a recognition of this State's commitment to the education of our children in the future.

SENATOR HARDY:

Is this where the Teacher's Incentive Fund line item will be found?

SENATOR DENIS:

I talked with the Department of Education on this issue. When the Governor's budget was created, the Department assumed the funding would be there for that item and did not submit it. They thought it would automatically show up in the budget. It did not show up there, and that item is not there in this budget.

SENATOR HARDY:

Is there another budget coming that will have this item?

SENATOR DENIS:

I am not aware of another bill coming forward to do that. With the funding in the Pupil-Centered Funding Plan, there are opportunities for school districts to do things should they choose to do so. The opportunity to do this is there, but there is not a specific bill coming forward to address it.

SENATOR GOICOECHEA:

I rise in support of the bill. Although there are pieces of it that some of my districts are not in favor of, I think it is worth giving it a shot. I have an exception to section 8, subsection 10, where it references $13.5 million each fiscal year being granted to career and technical education for the award of grants for programs of career and technical education. The last sentence in this section says, "… not for the use of leadership and training activities and pupil organizations." I am concerned this will affect organizations like FFA, DECA, SKILLS, FBLA and others. I do not believe that was ever our intent, and I am hoping we can fix this on the other side. I support the bill, but I do not support that section, as these organizations can truly be a pathway to a career.

SENATOR SEEVERS GANSERT:

I rise in support of Senate Bill No. 458. I appreciate the work of all of my colleagues in bringing this bill forward and the work done to put together this new funding plan. It is important the money follow the child. We are working toward greater transparency, and when we come up with a basic support number that is substantial and truly reflects what we are investing, it is important for everyone to know. We were able to add back about half-a-billion dollars, which should provide enough money for some of the things just discussed. This money can help with the Read by

Grade 3 program. When that topic was brought up, we repeatedly heard that the requirements were still in statute, but we did not have money specifically allocated to it. Read by Grade 3 and class-size reduction funds are now available because we added back so much money. I appreciate this should be a more transparent process. We have another couple of years to look at this and make sure we have the accountability we desire. One thing we had with categorical funding was accountability directly applied to the different programs. We need to examine this in a couple of years to make sure it is working.

We also worked on the issue of treating all public schools equally. We wanted to make sure a regular public school and a charter public school in the same neighborhood would get the same funding. We are close and still working on that. All children need to have the best opportunity possible. If they choose to go to a charter school that is a public school, whether sponsored by the State Charter School Authority or a school district, they should be treated equitably. I rise in support of this bill and have high expectations it will help increase achievement in our schools.

SENATOR BUCK:

As an educator for the last 25 years, and a principal and executive director who always tried to do more with less, I am excited to vote on this. I am thankful to former Senator Woodhouse and Senator Denis for this legislation. Before I wanted to run for office, I can remember being in that principal's seat and thinking, "Who are these people making these laws and not sending us enough money to do what we need to do?" There is still a missing accountability piece that drives student achievement, but overall I am excited to vote on this as it supports students and the staff in our schools on the mission of growing student achievement.

Roll call on Senate Bill No. 458:

YEAS—21.

NAYS—None.

Senate Bill No. 458 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 121.

Bill read third time.

Remarks by Senator Lange.

Assembly Bill No. 121 requires the Secretary of State to allow a person with a disability to use the system of approved electronic transmission established for certain uniformed military and overseas voters to register to vote, to request an absentee ballot and to cast an absent ballot until the polls close on election day. The measure requires the system of approved electronic transmission to allow an elector or registered voter to provide his or her digital or electronic signature on any document or other material that is necessary for the elector to register to vote or for the registered voter to apply for and cast an absent ballot. Upon receipt of an application to register to vote or a ballot cast using a system of approved electronic transmission, the election official shall affix, mark or acknowledge receipt of that application or ballot with a time stamp.

The measure also revises the deadlines to register and vote within the federal Uniformed and Overseas Citizens Absentee Voting Act by allowing for same-day voter registration consistent with the deadlines for other voters in Nevada and authorizing receipt of ballots before close of the polls on the day of the election. Further, the Secretary of State is required to establish procedures local elections officials use in accepting, handling and counting absent ballots received from a registered voter with a disability using the system of approved electronic transmission. Assembly Bill No. 121 eliminates the requirement to cancel a person's voter registration when that person requests a change in political party affiliation. The bill allows such a change without having to complete a full reregistration of the voter.

Roll call on Assembly Bill No. 121:

YEAS—21.

NAYS—None.

Assembly Bill No. 121 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 191.

Bill read third time.

Remarks by Senator Ratti.

Assembly Bill No. 191 requires the Director of DHSS to include in the State Plan for Medicaid coverage for the services of a community health worker who provides services under the supervision of a physician, physician's assistant or advanced practice registered nurse.

Roll call on Assembly Bill No. 191:

YEAS—21.

NAYS—None.

Assembly Bill No. 191 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 192.

Bill read third time.

Remarks by Senator Harris.

Assembly Bill No. 192 requires a physician or other person who attends to a pregnant woman to examine, test and treat the woman for certain sexually transmitted infections unless the woman opts out for any reason. The bill also expands the requirement to test a pregnant woman for syphilis by requiring certain nonhospital medical facilities, emergency departments or labor and delivery units in a hospital evaluating or treating a pregnant woman to test her for syphilis under certain circumstances.

Additionally, the bill authorizes a pregnant woman to refuse testing for syphilis for any reason and revises the times at which a pregnant woman must be tested. It replaces the misdemeanor violation for violating syphilis-testing requirements with a civil penalty and authorizes the imposition of a civil penalty against a person who violates the requirements concerning testing for certain sexually transmitted infections. It requires a report of a pregnant woman who has syphilis to include certain information relating to the treatment provided, if any. It requires the person or facility performing the testing to provide treatment or refer the woman for treatment if she consents. It requires the State Board of Health to designate syphilis as a communicable disease.

Assembly Bill No. 192 also requires certain public and private-health insurers to provide coverage without prior authorization for an examination and testing of a pregnant woman for certain sexually transmitted diseases and authorizes the Commissioner of Insurance to take certain action against a health insurer who fails to comply with the requirements set forth by this bill.

Roll call on Assembly Bill No. 192:

YEAS—21.

NAYS—None.

Assembly Bill No. 192 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 216.

Bill read third time.

Remarks by Senator Hardy.

Assembly Bill No. 216 requires the Director of the DHSS to include in the State Plan for Medicaid coverage for cognitive assessment and care planning services for individuals who experience signs or symptoms of cognitive impairment.

Roll call on Assembly Bill No. 216:

YEAS—21.

NAYS—None.

Assembly Bill No. 216 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 404.

Bill read third time.

Remarks by Senator Scheible.

Assembly Bill No. 404 establishes provisions relating to the proper venue for filing an application for an order for protection against domestic violence to include the county where the applicant and adverse party resides, a temporary location away from his or her county to avoid threat of domestic violence and the county where the act of domestic violence occurred. The measure revises provisions relating to information included in an application for an order for protection against domestic violence. If the applicant reasonably believes that including his or her address and contact information on an application would jeopardize his or her safety, the applicant may decline to disclose that information.

Roll call on Assembly Bill No. 404:

YEAS—21.

NAYS—None.

Assembly Bill No. 404 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 393, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MELANIE SCHEIBLE, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 457.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 766.

SUMMARY—Revises provisions governing the State Highway Fund. (BDR ~~[S-1163)]~~ 35-1163)

AN ACT relating to the State Highway Fund; ~~[reenacting and extending an increase in]~~ temporarily increasing the maximum amount of certain proceeds deposited in the State Highway Fund that may be used for the costs of administering the collection of those proceeds; ~~[providing for ratification of~~

~~certain actions and retroactive application;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, all the proceeds from the imposition of any license or registration fee and other charges regarding the operation of a motor vehicle on any public highway, road or street in Nevada, except for the costs of administering the collection of those proceeds, are required to be deposited in the State Highway Fund and used exclusively for the construction, maintenance and repair of the State's public highways. (Nev. Const. Art. 9, § 5; NRS 408.235) ~~[In 2015, section 5 of Senate Bill No. 502 (S.B. 502) amended NRS 408.235 and increased the maximum amount of those proceeds that may be used for the costs of administration from 22 percent to 27 percent. (Chapter 394, Statutes of Nevada 2015, at page 2212) In addition, section 7 of S.B. 502 included a sunset provision which provided that the amendment to NRS 408.235 expired on June 30, 2020. (Chapter 394, Statutes of Nevada 2015, at page 2213) However, in 2019, section 1 of Senate Bill No. 542 (S.B. 542) extended the existing sunset provision for the amendment to NRS 408.235 from June 30, 2020, until June 30, 2022. (Chapter 400, Statutes of Nevada 2019, at page 2502)~~

~~On May 13, 2021, the Nevada Supreme Court invalidated S.B. 542 because the bill also extended the existing sunset provision from June 30, 2020, until June 30, 2022, for the collection of a technology fee imposed by the Department of Motor Vehicles under NRS 481.064. The Nevada Supreme Court determined that by extending the existing sunset provision for the collection of the technology fee, S.B. 542 created, generated or increased public revenue and, therefore, was not passed in compliance with Article 4, Section 18 of the Nevada Constitution, which requires a two-thirds majority vote of the members of each House of the Legislature to pass a bill which "creates, generates, or increases any public revenue in any form." (Nev. Const. Art. 4, § 18; Legislature v. Settelmeyer, 137 Nev. Adv. Op. 21, --- P.3d --- (2021))~~

~~As a general rule, the Legislature may cure constitutional defects in a prior legislative act by reenacting or amending its provisions in a subsequent legislative act in a manner that remedies the constitutional defects. (McCormick v. Sixth Jud. Dist. Ct., 69 Nev. 214, 221 (1952) (citing State v. Silver Bow Ref. Co., 252 P. 301, 304 (Mont. 1926)); County of Clark v. City of Las Vegas, 97 Nev. 260, 263 (1981)) In addition, the Legislature may, by a subsequent legislative act, ratify actions taken by the executive branch or a local governmental entity under a prior legislative act declared to be invalid and thereby give such actions retroactive validity. (Swayne & Hoyt, Ltd. v. United States, 300 U.S. 297, 299-303 (1937); Hodges v. Snyder, 261 U.S. 600, 601-04 (1923); Charlotte Harbor & N. Ry. v. Welles, 260 U.S. 8, 9-12 (1922); Rafferty v. Smith, Bell & Co., 257 U.S. 226, 231-32 (1921); United States v. Heinszen, 206 U.S. 370, 382-91 (1907))~~

~~Sections 1-3 of this bill reenact and extend until June 30, 2026, the provisions relating to the increase in~~] The maximum amount of such proceeds that may be used for the costs of administration is 22 percent. (NRS 408.235) This bill temporarily increases the maximum amount of the proceeds that may be used for the costs of administration from 22 percent to 27 percent [~~. Section 4 of this bill provides for the ratification of any actions taken by the Department of Motor Vehicles or any other agency, officer or employee of the State of Nevada from and after June 30, 2020, to carry out the provisions relating to the increase in the maximum amount of the proceeds that may be used for the costs of administration from 22 percent to 27 percent, and section 4 also provides that such ratification applies retroactively from and after June 30, 2020. Finally, section 5 of this bill provides that this bill becomes effective upon passage and approval and applies retroactively from and after June 30, 2020.~~] for the period commencing on July 1, 2021, and ending on June 30, 2026.

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

Section 1. ~~[Chapter 394, Statutes of Nevada 2015, at page 2211, is hereby amended by adding thereto a new section to be designated as section 7.7, immediately following section 7, to read as follows:~~

~~*Sec. 7.7. 1. This section becomes effective and applies retroactively from and after June 30, 2020.*~~

~~*2. Section 5 of this act is hereby reenacted and applies retroactively from and after June 30, 2020, and expires by limitation on June 30, 2026.]~~ (Deleted by amendment.)

Sec. 2. ~~[Section 5 of chapter 394, Statutes of Nevada 2015, at page 2212, is hereby reenacted to read as follows:~~

~~Sec. 5. NRS 408.235 is hereby amended to read as follows:~~

~~408.235 1. There is hereby created the State Highway Fund.~~

~~2. Except as otherwise provided by a specific statute, the proceeds from the imposition of any:~~

~~(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and~~

~~(b) Excise tax on gasoline or other motor vehicle fuel,~~

~~→ must be deposited in the State Highway Fund and must, except for costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.~~

~~3. The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.~~

~~4. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed [22] 27 percent of the total proceeds so collected.~~

~~5. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.~~

~~6. All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his or her warrant therefor upon the State Treasurer.~~

~~7. The money deposited in the State Highway Fund pursuant to NRS 244A.637 and 354.59815 must be maintained in a separate account for the county from which the money was received. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:~~

~~(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways in that county as provided for in this chapter;~~

~~(b) Must not be used to reduce or supplant the amount or percentage of any money which would otherwise be made available from the State Highway Fund for projects in that county; and~~

~~(c) Must not be used for any costs of administration or to purchase any equipment.~~

~~8. The money deposited in the State Highway Fund pursuant to NRS 482.313 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:~~

~~(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and~~

~~(b) Must not be used for any costs of administration or to purchase any equipment.~~] (Deleted by amendment.)

Sec. 3. ~~[Section 7 of chapter 394, Statutes of Nevada 2015, at page 2213, is hereby amended to read as follows:~~

~~Sec. 7.~~ [This] *Except as otherwise provided in section 7.7 of this act or any other specific statute, this* act becomes effective on July 1, 2015, and ~~expires by limitation on June 30, 2020.~~] (Deleted by amendment.)

Sec. 4. ~~[Any actions taken by the Department of Motor Vehicles or any other agency, officer or employee of the State of Nevada from and after June 30, 2020, to carry out the provisions of section 5 of chapter 394, Statutes of Nevada 2015, at page 2212, including, without limitation, any actions relating to the costs of administration for the collection of the proceeds~~

~~deposited in the State Highway Fund pursuant to that section, are hereby authorized, validated and ratified, and such authorization, validation and ratification applies retroactively from and after June 30, 2020.]~~ (Deleted by amendment.)

Sec. 4.5. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,

➥ must be deposited in the State Highway Fund and must, except for costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

4. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed ~~[22]~~ *27* percent of the total proceeds so collected.

5. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

6. All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his or her warrant therefor upon the State Treasurer.

7. The money deposited in the State Highway Fund pursuant to NRS244A.637 and 354.59815 must be maintained in a separate account for the county from which the money was received. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways in that county as provided for in this chapter;

(b) Must not be used to reduce or supplant the amount or percentage of any money which would otherwise be made available from the State Highway Fund for projects in that county; and

(c) Must not be used for any costs of administration or to purchase any equipment.

8. The money deposited in the State Highway Fund pursuant to NRS 482.313 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and

(b) Must not be used for any costs of administration or to purchase any equipment.

Sec. 5. ~~[This]~~

1. This section and sections 1 to 4, inclusive, of this act become effective upon passage and approval.

2. Section 4.5 of this act becomes effective ~~[upon passage and approval and applies retroactively from and after June 30, 2020.]~~ on July 1, 2021, and expires by limitation on June 30, 2026.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Amendment No. 766 to Senate Bill No. 457 increases the maximum amount of Highway Fund proceeds that may be used by DMV for its cost of administration from 22 percent to 27 percent beginning in Fiscal Year 2022 and lasting through 2026.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 393.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 775.

SUMMARY—Makes various changes relating to criminal justice. (BDR 14-484)

AN ACT relating to criminal justice; requiring the Executive Director of the Department of Sentencing Policy to assist the Nevada Sentencing Commission in carrying out certain duties; revising provisions relating to certain reports prepared by the Commission; authorizing the Commission to adopt qualifications for members of the Nevada Local Justice Reinvestment Coordinating Council; revising provisions concerning reports of presentence investigations; revising provisions relating to parolees and probationers; removing and replacing certain obsolete terminology; revising provisions concerning the embezzlement of a vehicle and certain marijuana-related offenses; authorizing the Attorney General to investigate and prosecute any criminal offense committed by a city officer or employee in certain circumstances; repealing provisions relating to inquiries to determine probable cause when a probationer is in custody for a violation of a condition of

probation; repealing provisions requiring the Chief Parole and Probation Officer of the Division of Parole and Probation of the Department of Public Safety to adopt standards to assist in formulating a recommendation concerning the granting of probation or the revocation of parole or probation; providing penalties; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Nevada Sentencing Commission (hereinafter "Commission") to develop a formula to calculate the amount of costs avoided by the State each fiscal year as a result of the enactment of Assembly Bill No. 236 of the 2019 Legislative Session, which made various changes to criminal law and criminal procedure. Existing law requires the Commission to: (1) use the formula each fiscal year to calculate the costs avoided by the State during the immediately preceding fiscal year; and (2) prepare a biennial report containing the projected amount of costs avoided for the next biennium and recommendations for the reinvestment of the amount of those costs. (NRS 176.01347) Section 1 of this bill requires the Executive Director of the Department of Sentencing Policy to assist the Commission in carrying out such requirements relating to the use of the formula and the preparation of a biennial report. Section 5 of this bill makes a conforming change to require the Commission to carry out such duties with the assistance of the Department of Sentencing Policy (hereinafter "Department").

Existing law imposes various duties on the Commission, including a requirement that the Commission, with the assistance of the Department, prepare a biennial report that includes the Commission's recommended changes pertaining to sentencing, its findings and any recommendations for proposed legislation and submit the report to the Governor and the Legislature. (NRS 176.0134) Existing law also requires the Commission to prepare and submit a biennial report to the Governor, the Legislature and the Chief Justice of the Nevada Supreme Court that includes recommendations for improvements, changes and budgetary adjustments. The Commission is also authorized to include in the report additional recommendations for future legislation and policy options to enhance public safety and control corrections costs. (NRS 176.01343) Section 2 of this bill combines such requirements so the Commission is required to prepare one biennial report that is submitted to the Governor, the Legislature and the Chief Justice of the Nevada Supreme Court. Section 2 establishes the information to be included in such a report, and section 4 of this bill makes a conforming change to remove the language referencing the additional report.

Existing law establishes the Nevada Local Justice Reinvestment Coordinating Council (hereinafter "Council"), consisting of members appointed by the governing bodies of counties. (NRS 176.014) Section 6 of this bill authorizes the Commission to adopt any qualifications that a person must meet before being appointed as a member of the Council and requires each member of the Council to meet any such qualifications.

Existing law provides that a defendant convicted of a sexual offense and sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision if, among other criteria, the offender has been determined to be not likely to pose a threat to the safety of others. (NRS 176.0931) Existing law requires such a determination to be made by a person professionally qualified to conduct psychosexual evaluations who meets certain statutory requirements, including being licensed in this State. (NRS 176.0931, 176.133) Section 6.5 of this bill allows such a determination to be made by any licensed, clinical professional who has received training in the treatment of sexual offenders.

Existing law requires that reports of presentence investigations include certain specific information and any other information the court requires. (NRS 176.145) Section 7 of this bill removes the provision concerning other information the court requires to provide uniformity in the information contained in reports of presentence investigations.

Existing law requires the Chief Parole and Probation Officer of the Division of Parole and Probation of the Department of Public Safety (hereinafter "Chief") to adopt standards to assist in formulating a recommendation concerning the granting of probation to an eligible convicted person or the revocation of parole or probation of a convicted person. (NRS 213.10988) Existing law also requires a court to consider such standards and the recommendation of the Chief in determining whether to grant probation to an eligible convicted person. (NRS 176A.100) Section 35 of this bill repeals the provision requiring the Chief to adopt such standards, and sections 9 and 15 of this bill accordingly remove the requirement that a court consider such standards when determining whether to grant probation to an eligible convicted person.

Existing law requires an inquiry to determine probable cause to be conducted before a probationer who is in custody for a violation of a condition of probation is returned to court for the violation and establishes provisions relating to such an inquiry. (NRS 176A.580-176A.610) Existing law authorizes the Chief to order such a probationer to be placed in residential confinement instead of detention in a county jail pending such an inquiry. (NRS 176A.530) Section 35 repeals such provisions, and sections 13, 14 and 20 of this bill make conforming changes to remove references to such an inquiry.

Existing law requires the Division of Parole and Probation of the Department of Public Safety (hereinafter "Division") to adopt a written system of graduated sanctions for parole and probation officers to use when a parolee or probationer commits a technical violation of parole or probation, as applicable. (NRS 176A.510) Section 12 of this bill removes references to parole and parolees from such provisions to make the provisions applicable only to probation and probationers, and section 21 of this bill establishes a new section that applies only to parole and parolees. Sections 22 and 27 of this bill make conforming changes to indicate the placement of section 21 within the

Nevada Revised Statutes. Existing law also generally requires the Division to administer a risk and needs assessment to each parolee and probationer under the supervision of the Division for the purpose of establishing a level of supervision and develop an individualized case plan for each parolee and probationer. (NRS 213.1078) Section 23 of this bill removes references to probation and probationers from such provisions to make the provisions applicable only to parole and parolees, and section 8 of this bill establishes a new section that applies only to probation and probationers.

Sections 3, 10, 11, 13, 16-18, 24-26 and 28-31 of this bill remove the use of the obsolete terms "intensive supervision" and "strict supervision" in the Nevada Revised Statutes with regard to the supervision of probationers and parolees and replace such terms with the term "enhanced supervision."

Existing law provides that there is a reasonable inference that a person has embezzled a vehicle if the person leased or rented the vehicle and willfully and intentionally failed to return the vehicle to its owner within 72 hours after the lease or rental agreement expired. (NRS 205.312) Existing law provides that a person who is guilty of embezzlement is punished in the manner prescribed by law for the stealing or larceny of property of the kind and name of the money, goods, property or effects taken, converted, stolen used or appropriated. (NRS 205.300) Existing law also provides that a person who commits an offense involving a stolen vehicle is guilty of a category C felony and is additionally required to pay restitution. (NRS 205.273) Section 19 of this bill specifies that a person who is convicted of embezzling a vehicle is also guilty of a category C felony and is additionally required to pay restitution.

Existing law generally provides that a person who is convicted of the possession of 1 ounce or less of marijuana is guilty of a misdemeanor for the first or second offense, a gross misdemeanor for the third offense and a category E felony for the fourth or subsequent offense, and a person who knowingly or intentionally sells, manufactures, delivers or brings into this State, or who is knowingly or intentionally in actual or constructive possession of, 50 pounds or more, but less than 1,000 pounds, of marijuana or 1 pound or more, but less than 20 pounds, of concentrated cannabis is guilty of a category C felony. (NRS 453.336, 453.339) Existing law exempts a person who is 21 years of age or older from state prosecution for the possession, delivery of production of 1 ounce or less of usable cannabis or one-eighth of an ounce of concentrated cannabis. (NRS 678D.200) Section 32 of this bill generally provides that a person who is convicted of the possession of more than 1 ounce, but less than 50 pounds, of marijuana or more than one-eighth of an ounce, but less than one pound, of concentrated cannabis, is guilty of a category E felony.

Existing law authorizes the Attorney General to investigate and prosecute any criminal offense committed by a county officer or employee in the course of his or her duties or arising out of circumstances related to his or her position in certain circumstances when the district attorney of the county does not act in the matter. (NRS 228.177) Section 31.5 of this bill authorizes the Attorney General to investigate and prosecute any criminal offense committed by a

county officer or employee or a city officer or employee in the course of his or her duties or arising out of circumstances related to his or her position in certain circumstances when the district attorney of the county or the city attorney, as applicable, does not act in the matter.

Section 33 of this bill provides that the amendatory provisions of sections 19 and 32 apply to an offense committed: (1) on or after July 1, 2021; and (2) before July 1, 2021, if the person is sentenced on or after July 1, 2021. Section 33 also provides that the amendatory provisions of section 31.5 apply to an offense committed: (1) on or after the effective date of section 31.5; and (2) before the effective date of section 31.5 if the applicable statute of limitations has not expired on the effective date of section 31.5.

Section 32.5 of this bill makes an appropriation to the Department of Sentencing Policy for personnel costs related to data management.

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

Section 1. NRS 176.01327 is hereby amended to read as follows:

176.01327 The Executive Director appointed pursuant to NRS 176.01323 shall:

1. Oversee all of the functions of the Department.

2. Serve as Executive Secretary of the Sentencing Commission without additional compensation.

3. Report to the Sentencing Commission on sentencing and related issues regarding the functions of the Department and provide such information to the Sentencing Commission as requested.

4. Assist the Sentencing Commission in determining necessary and appropriate recommendations to assist in carrying out the responsibilities of the Department.

5. Establish the budget for the Department.

6. Facilitate the collection and aggregation of data from the courts, Department of Corrections, Division of Parole and Probation of the Department of Public Safety and any other agency of criminal justice.

7. Identify variables or sets of data concerning criminal justice that are not currently collected or shared across agencies of criminal justice within this State.

8. Assist in preparing and submitting the comprehensive report required to be prepared by the Sentencing Commission pursuant to subsection 11 of NRS 176.0134.

9. *Assist the Sentencing Commission in carrying out its duties pursuant to subsections 2 and 3 of NRS 176.01347 relating to the calculation of the costs avoided by this State for the immediately preceding fiscal year because of the enactment of chapter 633, Statutes of Nevada 2019, and the preparation of a report containing the projected amount of such costs for the next biennium and recommendations for the reinvestment of the amount of the costs.*

10. Take any other actions necessary to carry out the powers and duties of the Sentencing Commission pursuant to NRS 176.0131 to 176.014, inclusive.

Sec. 2. NRS 176.0134 is hereby amended to read as follows:

176.0134 The Sentencing Commission shall:

1. Advise the Legislature on proposed legislation and make recommendations with respect to all matters relating to the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, without limitation, the use of plea bargaining, probation, programs of ~~[intensive]~~ supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, without limitation, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. Facilitate the development and maintenance of a statewide sentencing database in collaboration with state and local agencies, using existing databases or resources where appropriate.

5. Provide training regarding sentencing and related issues, policies and practices, and act as a sentencing policy resource for this State.

6. Evaluate the impact of pretrial, sentencing diversion, incarceration and postrelease supervision programs.

7. Identify potential areas of sentencing disparity related to race, gender and economic status.

8. Propose and recommend statutory sentencing guidelines, based on reasonable offense and offender characteristics which aim to preserve judicial discretion and provide for individualized sentencing, for the use of the district courts. If such guidelines are enacted by the Legislature, the Sentencing Commission shall review and propose any recommended changes.

9. Evaluate whether sentencing guidelines recommended pursuant to subsection 8 should be mandatory and if judicial findings should be required for any departures from the sentencing guidelines.

10. Provide recommendations and advice to the Executive Director concerning the administration of the Department, including, without limitation:

(a) Receiving reports from the Executive Director and providing advice to the Executive Director concerning measures to be taken by the Department to ensure compliance with the duties of the Sentencing Commission.

(b) Reviewing information from the Department regarding sentencing of offenders in this State.

(c) Requesting any audit, investigation or review the Sentencing Commission deems necessary to carry out the duties of the Sentencing Commission.

(d) Coordinating with the Executive Director regarding the procedures for the identification and collection of data concerning the sentencing of offenders in this State.

(e) Advising the Executive Director concerning any required reports and reviewing drafts of such reports.

(f) Making recommendations to the Executive Director concerning the budget for the Department, improvements to the criminal justice system and legislation related to the duties of the Sentencing Commission.

(g) Providing advice and recommendations to the Executive Director on any other matter.

11. For each regular session of the Legislature, with the assistance of the Department, prepare a comprehensive report including ~~[:]~~ *the Sentencing Commission's:*

(a) ~~[The Sentencing Commission's recommended]~~ *Recommended* changes pertaining to sentencing; ~~[and]~~

(b) ~~[The Sentencing Commission's findings and any recommendations]~~ *Findings;*

(c) Recommendations for proposed legislation ~~[.]~~ *;*

(d) Identification of outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, that were tracked and assessed as required pursuant to paragraphs (a), (b) and (c) of subsection 1 of NRS 176.01343;

(e) Identification of trends observed after the enactment of chapter 633, Statutes of Nevada 2019, that were tracked and assessed as required pursuant to paragraph (d) of subsection 1 of NRS 176.01343;

(f) Identification of gaps in the State's data tracking capabilities related to the criminal justice system and recommendations for filling any such gaps as required pursuant to paragraph (e) of subsection 1 of NRS 176.01343;

(g) Recommendations for improvements, changes and budgetary adjustments; and

(h) Additional recommendations for future legislation and policy options to enhance public safety and control corrections costs.

12. Submit the report prepared pursuant to subsection 11 *not later than January 15 of each odd-numbered year* to:

(a) The Office of the Governor; ~~[and]~~

(b) The Director of the Legislative Counsel Bureau for distribution to the Legislature ~~[not later than January 1 of each odd-numbered year.]~~ *; and*

(c) The Chief Justice of the Nevada Supreme Court.

Sec. 3. NRS 176.0134 is hereby amended to read as follows:

176.0134 The Sentencing Commission shall:

1. Advise the Legislature on proposed legislation and make recommendations with respect to all matters relating to the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, without limitation, the use of plea bargaining, probation, programs of *enhanced* supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, without limitation, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. Facilitate the development and maintenance of a statewide sentencing database in collaboration with state and local agencies, using existing databases or resources where appropriate.

5. Provide training regarding sentencing and related issues, policies and practices, and act as a sentencing policy resource for this State.

6. Evaluate the impact of pretrial, sentencing diversion, incarceration and postrelease supervision programs.

7. Identify potential areas of sentencing disparity related to race, gender and economic status.

8. Propose and recommend statutory sentencing guidelines, based on reasonable offense and offender characteristics which aim to preserve judicial discretion and provide for individualized sentencing, for the use of the district courts. If such guidelines are enacted by the Legislature, the Sentencing Commission shall review and propose any recommended changes.

9. Evaluate whether sentencing guidelines recommended pursuant to subsection 8 should be mandatory and if judicial findings should be required for any departures from the sentencing guidelines.

10. Provide recommendations and advice to the Executive Director concerning the administration of the Department, including, without limitation:

(a) Receiving reports from the Executive Director and providing advice to the Executive Director concerning measures to be taken by the Department to ensure compliance with the duties of the Sentencing Commission.

(b) Reviewing information from the Department regarding sentencing of offenders in this State.

(c) Requesting any audit, investigation or review the Sentencing Commission deems necessary to carry out the duties of the Sentencing Commission.

(d) Coordinating with the Executive Director regarding the procedures for the identification and collection of data concerning the sentencing of offenders in this State.

(e) Advising the Executive Director concerning any required reports and reviewing drafts of such reports.

(f) Making recommendations to the Executive Director concerning the budget for the Department, improvements to the criminal justice system and legislation related to the duties of the Sentencing Commission.

(g) Providing advice and recommendations to the Executive Director on any other matter.

11. For each regular session of the Legislature, with the assistance of the Department, prepare a comprehensive report including the Sentencing Commission's:

(a) Recommended changes pertaining to sentencing;

(b) Findings;

(c) Recommendations for proposed legislation;

(d) Identification of outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, that were tracked and assessed as required pursuant to paragraphs (a), (b) and (c) of subsection 1 of NRS 176.01343;

(e) Identification of trends observed after the enactment of chapter 633, Statutes of Nevada 2019, that were tracked and assessed as required pursuant to paragraph (d) of subsection 1 of NRS 176.01343;

(f) Identification of gaps in the State's data tracking capabilities related to the criminal justice system and recommendations for filling any such gaps as required pursuant to paragraph (e) of subsection 1 of NRS 176.01343;

(g) Recommendations for improvements, changes and budgetary adjustments; and

(h) Additional recommendations for future legislation and policy options to enhance public safety and control corrections costs.

12. Submit the report prepared pursuant to subsection 11 not later than January 15 of each odd-numbered year to:

(a) The Office of the Governor;

(b) The Director of the Legislative Counsel Bureau for distribution to the Legislature; and

(c) The Chief Justice of the Nevada Supreme Court.

Sec. 4. NRS 176.01343 is hereby amended to read as follows:

176.01343 1. The Sentencing Commission shall:

(a) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, including, without limitation, the following data from the Department of Corrections:

(1) With respect to prison admissions:

(I) The total number of persons admitted to prison by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age and, if measured upon intake, risk score;

(II) The average minimum and maximum sentence term by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score; and

(III) The number of persons who received a clinical assessment identifying a mental health or substance use disorder upon intake.

(2) With respect to parole and release from prison:

(I) The average length of stay in prison for each type of release by type of offense, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The total number of persons released from prison each year by type of release, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(III) The recidivism rate of persons released from prison by type of release; and

(IV) The total number of persons released from prison each year who return to prison within 36 months by type of admission, type of release, type of return to prison, including, without limitation, whether such a subsequent prison admission was the result of a new felony conviction or a revocation of parole due to a technical violation, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score.

(3) With respect to the number of persons in prison:

(I) The total number of persons held in prison on December 31 of each year, not including those persons released from a term of prison who reside in a parole housing unit, by type of offense, type of admission, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The total number of persons held in prison on December 31 of each year who have been granted parole by the State Board of Parole Commissioners but remain in custody, and the reasons therefor;

(III) The total number of persons held in prison on December 31 of each year who are serving a sentence of life with or without the possibility of parole or who have been sentenced to death; and

(IV) The total number of persons as of December 31 of each year who have started a treatment program while in prison, have completed a treatment program while in prison and are awaiting a treatment program while in prison, by type of treatment program and type of offense.

(b) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, with respect to the following data, which the Division shall collect and report to the Sentencing Commission:

(1) With respect to the number of persons on probation or parole:

(I) The total number of supervision intakes by type of offense, felony category, prior criminal history, gender identity or expression, race, ethnicity, sexual orientation, age, mental health status and, if measured upon intake, risk score;

(II) The average term of probation imposed for persons on probation by type of offense;

(III) The average time served by persons on probation or parole by type of discharge, felony category and type of offense;

(IV) The average time credited to a person's term of probation or parole as a result of successful compliance with supervision;

(V) The total number of supervision discharges by type of discharge, including, without limitation, honorable discharges and dishonorable discharges, and cases resulting in a return to prison;

(VI) The recidivism rate of persons discharged from supervision by type of discharge, according to the Division's internal definition of recidivism;

(VII) The number of persons identified as having a mental health issue or a substance use disorder; and

(VIII) The total number of persons on probation or parole who are located within this State on December 31 of each year, not including those persons who are under the custody of the Department of Corrections.

(2) With respect to persons on probation or parole who violate a condition of supervision or commit a new offense:

(I) The total number of revocations and the reasons therefor, including, without limitation, whether the revocation was the result of a mental health issue or substance use disorder;

(II) The average amount of time credited to a person's suspended sentence or the remainder of the person's sentence from time spent on supervision;

(III) The total number of persons receiving administrative or jail sanctions, by type of offense and felony category; and

(IV) The median number of administrative sanctions issued by the Division to persons on supervision, by type of offense and felony category.

(c) Track and assess outcomes resulting from the enactment of chapter 633, Statutes of Nevada 2019, with respect to savings and reinvestment, including, without limitation:

(1) The total amount of annual savings resulting from the enactment of any legislation relating to the criminal justice system;

(2) The total annual costs avoided by this State because of the enactment of chapter 633, Statutes of Nevada 2019, as calculated pursuant to NRS 176.01347; and

(3) The entities that received reinvestment funds, the total amount directed to each such entity and a description of how the funds were used.

(d) Track and assess trends observed after the enactment of chapter 633, Statutes of Nevada 2019, including, without limitation, the following data, which the Central Repository for Nevada Records of Criminal History shall collect and report to the Sentencing Commission as reported to the Federal Bureau of Investigation:

(1) The uniform crime rates for this State and each county in this State by index crimes and type of crime; and

(2) The percentage changes in uniform crime rates for this State and each county in this State over time by index crimes and type of crime.

(e) Identify gaps in this State's data tracking capabilities related to the criminal justice system and make recommendations for filling any such gaps.

(f) ~~[Prepare and submit a report not later than the first day of the second full week of each regular session of the Legislature to the Governor, the Director of the Legislative Counsel Bureau for transmittal to the Legislature and the Chief Justice of the Nevada Supreme Court. The report must include recommendations for improvements, changes and budgetary adjustments and may also present additional recommendations for future legislation and policy options to enhance public safety and control corrections costs.~~

~~(g)]~~ Employ and retain other professional staff as necessary to coordinate performance and outcome measurement and develop the report required pursuant to this section.

2. As used in this section:

(a) "Technical violation" has the meaning ascribed to it in NRS 176A.510.

(b) "Type of admission" means the manner in which a person entered into the custody of the Department of Corrections, according to the internal definitions used by the Department of Corrections.

(c) "Type of offense" means an offense categorized by the Department of Corrections as a violent offense, sex offense, drug offense, property offense, DUI offense or other offense, consistent with the internal data systems used by the Department of Corrections.

Sec. 5. NRS 176.01347 is hereby amended to read as follows:

176.01347 1. The Sentencing Commission shall develop a formula to calculate for each fiscal year the amount of costs avoided by this State because of the enactment of chapter 633, Statutes of Nevada 2019. The formula must include, without limitation, a comparison of:

(a) The annual projection of the number of persons who will be in a facility or institution of the Department of Corrections which was created by the Office of Finance pursuant to NRS 176.0129 for calendar year 2018; and

(b) The actual number of persons who are in a facility or institution of the Department of Corrections during each year.

2. Not later than December 1 of each fiscal year, the Sentencing Commission shall *, with the assistance of the Department,* use the formula developed pursuant to subsection 1 to calculate the costs avoided by this State

for the immediately preceding fiscal year because of the enactment of chapter 633, Statutes of Nevada 2019, and submit a statement of the amount of the costs avoided to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.

3. Not later than August 1 of each even-numbered year, the Sentencing Commission shall *, with the assistance of the Department,* prepare a report containing the projected amount of costs avoided by this State for the next biennium because of the enactment of chapter 633, Statutes of Nevada 2019, and recommendations for the reinvestment of the amount of those costs to provide financial support to programs and services that address the behavioral health needs of persons involved in the criminal justice system in order to reduce recidivism. In preparing the report, the Sentencing Commission shall prioritize providing financial support to:

(a) The Department of Corrections for programs for reentry of offenders and parolees into the community, programs for vocational training and employment of offenders, educational programs for offenders and transitional work programs for offenders;

(b) The Division for services for offenders reentering the community, the supervision of probationers and parolees and programs of treatment for probationers and parolees that are proven by scientific research to reduce recidivism;

(c) Any behavioral health field response grant program developed and implemented pursuant to NRS 289.675;

(d) The Housing Division of the Department of Business and Industry to create or provide transitional housing for probationers and parolees and offenders reentering the community; and

(e) The Nevada Local Justice Reinvestment Coordinating Council created by NRS 176.014 for the purpose of making grants to counties for programs and treatment that reduce recidivism of persons involved in the criminal justice system.

4. Not later than August 1 of each even-numbered year, the Sentencing Commission shall submit the report prepared pursuant to subsection 3 to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 6. NRS 176.014 is hereby amended to read as follows:

176.014 1. The Nevada Local Justice Reinvestment Coordinating Council is hereby created. The Council consists of:

(a) One member from each county in this State whose population is less than 100,000; and

(b) Two members from each county in this State whose population is 100,000 or more.

2. Each member of the Council must be appointed by the governing body of the applicable county ~~[.]~~ *and must meet any qualifications adopted by the Sentencing Commission pursuant to subsection 7.* The Chair of the Sentencing

Commission shall appoint the Chair of the Council from among the members of the Council.

3. The Council shall:

(a) Advise the Sentencing Commission on matters related to any legislation, regulations, rules, budgetary changes and all other actions needed to implement the provisions of Chapter 633, Statutes of Nevada 2019, as they relate to local governments;

(b) Identify county-level programming and treatment needs for persons involved in the criminal justice system for the purpose of reducing recidivism;

(c) Make recommendations to the Sentencing Commission regarding grants to local governments and nonprofit organizations from the State General Fund;

(d) Oversee the implementation of local grants;

(e) Create performance measures to assess the effectiveness of the grants; and

(f) Identify opportunities for collaboration with the Department of Health and Human Services at the state and county level for treatment services and funding.

4. Each member of the Council serves a term of 2 years. Members may be reappointed for additional terms of 2 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Council must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

5. While engaged in the business of the Council, to the extent of legislative appropriation, each member of the Council is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. To the extent of legislative appropriation, the Sentencing Commission shall provide the Council with such staff as is necessary to carry out the duties of the Council pursuant to this section.

7. The Sentencing Commission may adopt any qualifications that a person must meet before being appointed as a member of the Council.

Sec. 6.5. NRS 176.0931 is hereby amended to read as follows:

176.0931 1. If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision.

2. The special sentence of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.

3. A person sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision. The sentencing court or the Board shall grant a petition for release from a special sentence of lifetime supervision if:

(a) The person has complied with the requirements of the provisions of NRS 179D.010 to 179D.550, inclusive;

(b) The person has not been convicted of an offense that poses a threat to the safety or well-being of others for an interval of at least 10 consecutive years after the person's last conviction or release from incarceration, whichever occurs later; and

(c) The person is not likely to pose a threat to the safety of others, as determined by a ~~[person professionally qualified to conduct psychosexual evaluations,]~~ *licensed, clinical professional who has received training in the treatment of sexual offenders,* if released from lifetime supervision.

4. A person who is released from lifetime supervision pursuant to the provisions of subsection 3 remains subject to the provisions for registration as a sex offender and to the provisions for community notification, unless the person is otherwise relieved from the operation of those provisions pursuant to the provisions of NRS 179D.010 to 179D.550, inclusive.

5. As used in this section:

(a) "Offense that poses a threat to the safety or well-being of others" includes, without limitation:

(1) An offense that involves:

(I) A victim less than 18 years of age;

(II) A crime against a child as defined in NRS 179D.0357;

(III) A sexual offense as defined in NRS 179D.097;

(IV) A deadly weapon, explosives or a firearm;

(V) The use or threatened use of force or violence;

(VI) Physical or mental abuse;

(VII) Death or bodily injury;

(VIII) An act of domestic violence;

(IX) Harassment, stalking, threats of any kind or other similar acts;

(X) The forcible or unlawful entry of a home, building, structure, vehicle or other real or personal property; or

(XI) The infliction or threatened infliction of damage or injury, in whole or in part, to real or personal property.

(2) Any offense listed in subparagraph (1) that is committed in this State or another jurisdiction, including, without limitation, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(b) ~~[~~"Person professionally qualified to conduct psychosexual evaluations" has the meaning ascribed to it in NRS 176.133.

~~(c)]~~ "Sexual offense" means:

(1) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, 201.230, 201.450, 201.540 or 201.550 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(2) An attempt to commit an offense listed in subparagraph (1); or

(3) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if

the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

Sec. 7. NRS 176.145 is hereby amended to read as follows:

176.145 1. The report of any presentence investigation must contain:

(a) Any:

(1) Prior criminal convictions of the defendant;

(2) Unresolved criminal cases involving the defendant;

(3) Incidents in which the defendant has failed to appear in court when his or her presence was required;

(4) Arrests during the 10 years immediately preceding the date of the offense for which the report is being prepared; and

(5) Participation in any program in a specialty court or any diversionary program, including whether the defendant successfully completed the program;

(b) Information concerning the characteristics of the defendant, the defendant's financial condition, including whether the information pertaining to the defendant's financial condition has been verified, the circumstances affecting the defendant's behavior and the circumstances of the defendant's offense that may be helpful in imposing sentence, in granting probation or in the correctional treatment of the defendant;

(c) Information concerning the effect that the offense committed by the defendant has had upon the victim, including, without limitation, any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources, but the provisions of this paragraph do not require any particular examination or testing of the victim, and the extent of any investigation or examination is solely at the discretion of the court or the Division and the extent of the information to be included in the report is solely at the discretion of the Division;

(d) Information concerning whether the defendant has an obligation for the support of a child, and if so, whether the defendant is in arrears in payment on that obligation;

(e) Data or information concerning reports and investigations thereof made pursuant to chapter 432B of NRS and NRS 392.275 to 392.365, inclusive, that relate to the defendant and are made available pursuant to NRS 432B.290 or NRS 392.317 to 392.337, inclusive, as applicable;

(f) The results of any evaluation or assessment of the defendant conducted pursuant to NRS 176A.240, 176A.260, 176A.280 or 484C.300; *and*

(g) If a psychosexual evaluation of the defendant is required pursuant to NRS 176.139, a written report of the results of the psychosexual evaluation of the defendant and all information that is necessary to carry out the provisions of NRS 176A.110 . ~~[; and~~

~~(h) Such other information as may be required by the court.]~~

2. The Division shall include in the report the source of any information, as stated in the report, related to the defendant's offense, including, without limitation, information from:

(a) A police report;

(b) An investigative report filed with law enforcement; or

(c) Any other source available to the Division.

3. The Division may include in the report any additional information that it believes may be helpful in imposing a sentence, in granting probation or in correctional treatment.

Sec. 8. Chapter 176A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, the Division shall administer a risk and needs assessment to each probationer under the Division's supervision. The results of the risk and needs assessment must be used to set a level of supervision for each probationer and to develop individualized case plans pursuant to subsection 4. The risk and needs assessment must be administered and scored by a person trained in the administration of the tool.

2. Except as otherwise provided in subsection 3, on a schedule determined by the Nevada Risk Assessment System, or its successor risk assessment tool, or more often if necessary, the Division shall administer a subsequent risk and needs assessment to each probationer. The results of the risk and needs assessment conducted in accordance with this section must be used to determine whether a change in the level of supervision is necessary. The Division shall document the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the probationer of the change.

3. The provisions of subsections 1 and 2 are not applicable if:

(a) The level of supervision for the probationer is set by the court or by law; or

(b) The probationer is ordered to participate in a program of probation secured by a security bond pursuant to NRS 176A.300 to 176A.370, inclusive.

4. The Division shall develop an individualized case plan for each probationer. The case plan must include a plan for addressing the criminogenic risk factors identified on the risk and needs assessment, if applicable, and the list of responsivity factors that will need to be considered and addressed for each probationer.

5. Upon a finding that a term or condition of probation ordered pursuant to subsection 1 of NRS 176A.400 or the level of supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or 2, the supervising officer shall seek a modification of the terms and conditions from the court pursuant to subsection 1 of NRS 176A.450.

6. The risk and needs assessment required under this section must undergo periodic validation studies in accordance with the timeline established by the

developer of the assessment. The Division shall establish quality assurance procedures to ensure proper and consistent scoring of the risk and needs assessment.

Sec. 9. NRS 176A.100 is hereby amended to read as follows:

176A.100 1. Except as otherwise provided in this section and NRS 176A.110 and 176A.120, if a person is found guilty in a district court upon verdict or plea of:

(a) Murder of the first or second degree, kidnapping in the first degree, sexual assault, attempted sexual assault of a child who is less than 16 years of age, lewdness with a child pursuant to NRS 201.230, an offense for which the suspension of sentence or the granting of probation is expressly forbidden, or if the person is found to be a habitual criminal pursuant to NRS 207.010, a habitually fraudulent felon pursuant to NRS 207.014 or a habitual felon pursuant to NRS 207.012, the court shall not suspend the execution of the sentence imposed or grant probation to the person.

(b) A category E felony, except as otherwise provided in this paragraph, the court shall suspend the execution of the sentence imposed and grant probation to the person. The court may, as it deems advisable, decide not to suspend the execution of the sentence imposed and grant probation to the person if, at the time of sentencing, it is established that the person had previously been two times convicted, whether in this State or elsewhere, of a crime that under the laws of the situs of the crime or of this State would amount to a felony. If the person denies the existence of a previous conviction, the court shall determine the issue of the previous conviction after hearing all relevant evidence presented on the issue by the prosecution and the person. At such a hearing, the person may not challenge the validity of a previous conviction. For the purposes of this paragraph, a certified copy of a felony conviction is prima facie evidence of conviction of a prior felony.

(c) Another felony, a gross misdemeanor or a misdemeanor, the court may suspend the execution of the sentence imposed and grant probation as the court deems advisable.

2. In determining whether to grant probation to a person, the court shall not consider whether the person has the financial ability to participate in a program of probation secured by a surety bond established pursuant to NRS 176A.300 to 176A.370, inclusive.

3. ~~[The court shall consider the standards adopted pursuant to NRS 213.10988 and the recommendation of the Chief Parole and Probation Officer, if any, in determining whether to grant probation to a person.~~

~~4.]~~ If the court determines that a person is otherwise eligible for probation but requires more supervision than would normally be provided to a person granted probation, the court may, in lieu of sentencing the person to a term of imprisonment, grant probation pursuant to the Program of ~~[Intensive]~~ *Enhanced* Supervision established pursuant to NRS 176A.440.

~~[5.]~~ *4.* Except as otherwise provided in this subsection, if a person is convicted of a felony and the Division is required to make a presentence

investigation and report to the court pursuant to NRS 176.135, the court shall not grant probation to the person until the court receives the report of the presentence investigation from the Chief Parole and Probation Officer. The Chief Parole and Probation Officer shall submit the report of the presentence investigation to the court not later than 45 days after receiving a request for a presentence investigation from the county clerk. If the report of the presentence investigation is not submitted by the Chief Parole and Probation Officer within 45 days, the court may grant probation without the report.

~~[6.]~~ *5.* If the court determines that a person is otherwise eligible for probation, the court shall, when determining the conditions of that probation, consider the imposition of such conditions as would facilitate timely payments by the person of an obligation, if any, for the support of a child and the payment of any such obligation which is in arrears.

Sec. 10. NRS 176A.310 is hereby amended to read as follows:

176A.310 1. The court shall set the conditions of a program of probation secured by a surety bond. The conditions must be appended to and made part of the bond. The conditions may include, but are not limited to, any one or more of the following:

(a) Submission to periodic tests to determine whether the probationer is using any controlled substance or alcohol.

(b) Participation in a program for the treatment of the use of a controlled substance or alcohol or a program for the treatment of any other impairment.

(c) Participation in a program of professional counseling, including, but not limited to, counseling for the family of the probationer.

(d) Restrictions or a prohibition on contact or communication with witnesses or victims of the crime committed by the probationer.

(e) A requirement to obtain and keep employment.

(f) Submission to a Program of ~~[Intensive]~~ *Enhanced* Supervision.

(g) Restrictions on travel by the probationer outside the jurisdiction of the court.

(h) Payment of restitution.

(i) Payment of fines and court costs.

(j) Supervised community service.

(k) Participation in educational courses.

2. A surety shall:

(a) Provide the facilities or equipment necessary to:

(1) Perform tests to determine whether the probationer is using any controlled substance or alcohol, if the court requires such tests as a condition of probation;

(2) Carry out a Program of ~~[Intensive]~~ *Enhanced* Supervision, if the court requires such a Program as a condition of probation; and

(3) Enable the probationer to report regularly to the surety.

(b) Notify the court within 24 hours after the surety has knowledge of a violation of or a failure to fulfill a condition of the program of probation.

3. A probationer participating in a program of probation secured by a surety bond shall:

(a) Report regularly to the surety; and

(b) Pay the fee charged by the surety for the execution of the bond.

Sec. 11. NRS 176A.440 is hereby amended to read as follows:

176A.440 1. The Chief Parole and Probation Officer shall develop a program for the ~~[intensive]~~ *enhanced* supervision of a person granted probation pursuant to subsection ~~[4]~~ *3* of NRS 176A.100.

2. The Program of ~~[Intensive]~~ *Enhanced* Supervision must include an initial period of electronic supervision of the probationer with an electronic device approved by the Division. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the probationer's location, including, but not limited to, the transmission of still visual images which do not concern the probationer's activities, and producing, upon request, reports or records of the probationer's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the probationer's activities,

➥ must not be used.

Sec. 12. NRS 176A.510 is hereby amended to read as follows:

176A.510 1. The Division shall adopt a written system of graduated sanctions for parole and probation officers to use when responding to a technical violation of the conditions of probation . ~~[or parole.]~~ The system must:

(a) Set forth a menu of presumptive sanctions for the most common violations, including, without limitation, failure to report, willful failure to pay fines and fees, failure to participate in a required program or service, failure to complete community service and failure to refrain from the use of alcohol or controlled substances.

(b) Take into account factors such as responsivity factors impacting a person's ability to successfully complete any conditions of supervision, the severity of the current violation, the person's previous criminal record, the number and severity of any previous violations and the extent to which graduated sanctions were imposed for previous violations.

2. The Division shall establish and maintain a program of initial and ongoing training for parole and probation officers regarding the system of graduated sanctions.

3. Notwithstanding any rule or law to the contrary, a parole and probation officer shall use graduated sanctions established pursuant to this section when responding to a technical violation.

4. A parole and probation officer intending to impose a graduated sanction shall provide the supervised person with notice of the intended sanction. The

notice must inform the person of any alleged violation and the date thereof and the graduated sanction to be imposed.

5. The failure of a supervised person to comply with a sanction may constitute a technical violation of the conditions of probation . ~~[or parole.]~~

6. The Division may not seek revocation of probation ~~[or parole]~~ for a technical violation of the conditions of probation ~~[or parole]~~ until all graduated sanctions have been exhausted. If the Division determines that all graduated sanctions have been exhausted, the Division shall submit a report to the court or Board outlining the reasons for the recommendation of revocation and the steps taken by the Division to change the supervised person's behavior while in the community, including, without limitation, any graduated sanctions imposed before recommending revocation.

7. As used in this section:

(a) "Absconding" has the meaning ascribed to it in NRS 176A.630.

(b) "Responsivity factors" has the meaning ascribed to it in NRS 213.107.

(c) "Technical violation" means any alleged violation of the conditions of probation ~~[or parole]~~ that does not constitute absconding and is not the commission of a:

(1) New felony or gross misdemeanor;

(2) Battery which constitutes domestic violence pursuant to NRS 200.485;

(3) Violation of NRS 484C.110 or 484C.120;

(4) Crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor;

(5) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;

(6) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or

(7) Violation of a stay away order involving a natural person who is the victim of the crime for which the supervised person is being supervised.

➥ The term does not include termination from a specialty court program.

Sec. 13. NRS 176A.540 is hereby amended to read as follows:

176A.540 1. ~~[The]~~ *Except as otherwise provided in subsection 4, the* Chief Parole and Probation Officer may order the residential confinement of a probationer if the Chief Parole and Probation Officer believes that the probationer poses no danger to the community and will appear at a scheduled ~~[inquiry or]~~ court hearing.

2. In ordering the residential confinement of a probationer, the Chief Parole and Probation Officer shall:

(a) Require the probationer to be confined to the probationer's residence during the time the probationer is away from any employment, community service or other activity authorized by the Division; and

(b) Require ~~[intensive]~~ *enhanced* supervision of the probationer, including, without limitation, unannounced visits to the probationer's residence or other locations where the probationer is expected to be to determine whether the probationer is complying with the terms of confinement.

3. An electronic device approved by the Division may be used to supervise a probationer who is ordered to be placed in residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the probationer's location, including, but not limited to, the transmission of still visual images which do not concern the probationer's activities, and producing, upon request, reports or records of the probationer's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the probationer's activities,

➥ must not be used.

4. The Chief Parole and Probation Officer shall not order a probationer to be placed in residential confinement unless the probationer agrees to the order.

5. Any residential confinement must not extend beyond the unexpired maximum term of the original sentence.

Sec. 14. NRS 176A.560 is hereby amended to read as follows:

176A.560 1. The Chief Parole and Probation Officer may terminate the residential confinement of a probationer and order the detention of the probationer in a county jail pending ~~[an inquiry or]~~ *a* court hearing if:

(a) The probationer violates the terms or conditions of the residential confinement; or

(b) The Chief Parole and Probation Officer, in his or her discretion, determines that the probationer poses a danger to the community or that there is a reasonable doubt that the probationer will appear at the ~~[inquiry or]~~ hearing.

2. A probationer has no right to dispute a decision to terminate the residential confinement.

Sec. 15. NRS 176A.630 is hereby amended to read as follows:

176A.630 1. If the probationer is arrested, by or without warrant, in another judicial district of this state, the court which granted the probation may assign the case to the district court of that district, with the consent of that court. The court retaining or thus acquiring jurisdiction shall cause the defendant to be brought before it ~~[,]~~ *and* consider the ~~[standards adopted pursuant to NRS 213.10988 and]~~ system of graduated sanctions adopted pursuant to NRS 176A.510, ~~[as]~~ *if* applicable . ~~[, and the recommendation, if any, of the Chief Parole and Probation Officer.]~~ Upon determining that the

probationer has violated a condition of probation, the court shall, if practicable, order the probationer to make restitution for any necessary expenses incurred by a governmental entity in returning the probationer to the court for violation of the probation. If the court finds that the probationer committed a violation of a condition of probation by committing a new felony or gross misdemeanor, battery which constitutes domestic violence pursuant to NRS 200.485, violation of NRS 484C.110 or 484C.120, crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor, harassment pursuant to NRS 200.571, stalking or aggravated stalking pursuant to NRS 200.575, violation of a stay away order involving a natural person who is the victim of the crime for which the probationer is being supervised, violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378 or by absconding, the court may:

(a) Continue or revoke the probation or suspension of sentence;

(b) Order the probationer to a term of residential confinement pursuant to NRS 176A.660;

(c) Order the probationer to undergo a program of regimental discipline pursuant to NRS 176A.780;

(d) Cause the sentence imposed to be executed; or

(e) Modify the original sentence imposed by reducing the term of imprisonment and cause the modified sentence to be executed. The court shall not make the term of imprisonment less than the minimum term of imprisonment prescribed by the applicable penal statute. If the Chief Parole and Probation Officer recommends that the sentence of a probationer be modified and the modified sentence be executed, the Chief Parole and Probation Officer shall provide notice of the recommendation to any victim of the crime for which the probationer was convicted who has requested in writing to be notified and who has provided a current address to the Division. The notice must inform the victim that he or she has the right to submit documents to the court and to be present and heard at the hearing to determine whether the sentence of a probationer who has violated a condition of probation should be modified. The court shall not modify the sentence of a probationer and cause the sentence to be executed until it has confirmed that the Chief Parole and Probation Officer has complied with the provisions of this paragraph. The Chief Parole and Probation Officer must not be held responsible when such notification is not received by the victim if the victim has not provided a current address. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division pursuant to this paragraph is confidential.

2. If the court finds that the probationer committed one or more technical violations of the conditions of probation, the court may:

(a) Continue the probation or suspension of sentence;

(b) Order the probationer to a term of residential confinement pursuant to NRS 176A.660;

(c) Temporarily revoke the probation or suspension of sentence and impose a term of imprisonment of not more than:

(1) Thirty days for the first temporary revocation;

(2) Ninety days for the second temporary revocation; or

(3) One hundred and eighty days for the third temporary revocation; or

(d) Fully revoke the probation or suspension of sentence and impose imprisonment for the remainder of the sentence for a fourth or subsequent revocation.

3. Notwithstanding any other provision of law, a probationer who is arrested and detained for committing a technical violation of the conditions of probation must be brought before the court not later than 15 calendar days after the date of arrest and detention. If the person is not brought before the court within 15 calendar days, the probationer must be released from detention and returned to probation status. Following a probationer's release from detention, the court may subsequently hold a hearing to determine if a technical violation has occurred. If the court finds that such a technical violation occurred, the court may:

(a) Continue probation and modify the terms and conditions of probation; or

(b) Fully or temporarily revoke probation in accordance with the provisions of subsection 2.

4. The commission of one of the following acts by a probationer must not, by itself, be used as the only basis for the revocation of probation:

(a) Consuming any alcoholic beverage.

(b) Testing positive on a drug or alcohol test.

(c) Failing to abide by the requirements of a mental health or substance use treatment program.

(d) Failing to seek and maintain employment.

(e) Failing to pay any required fines or fees.

(f) Failing to report any changes in residence.

5. As used in this section:

(a) "Absconding" means that a person is actively avoiding supervision by making his or her whereabouts unknown to the Division for a continuous period of 60 days or more.

(b) "Technical violation" means any alleged violation of the conditions of probation that does not constitute absconding and is not the commission of a:

(1) New felony or gross misdemeanor;

(2) Battery which constitutes domestic violence pursuant to NRS 200.485;

(3) Violation of NRS 484C.110 or 484C.120;

(4) Crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor;

(5) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;

(6) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or

(7) Violation of a stay away order involving a natural person who is the victim of the crime for which the probationer is being supervised.

➥ The term does not include termination from a specialty court program.

Sec. 16. NRS 176A.660 is hereby amended to read as follows:

176A.660 1. ~~[If]~~ *Except as otherwise provided in subsection 4, if* a person who has been placed on probation violates a condition of probation, the court may order the person to a term of residential confinement in lieu of causing the sentence imposed to be executed. In making this determination, the court shall consider the criminal record of the person and the seriousness of the crime committed.

2. In ordering the person to a term of residential confinement, the court shall:

(a) Direct that the person be placed under the supervision of the Division and require:

(1) The person to be confined to the person's residence during the time the person is away from any employment, community service or other activity authorized by the Division; and

(2) ~~[Intensive]~~ *Enhanced* supervision of the person, including, without limitation, unannounced visits to the person's residence or other locations where the person is expected to be in order to determine whether the person is complying with the terms of confinement; or

(b) If the person was placed on probation for a felony conviction, direct that the person be placed under the supervision of the Department of Corrections and require the person to be confined to a facility or institution of the Department for a period not to exceed 6 months. The Department may select the facility or institution in which to place the person.

3. An electronic device approved by the Division may be used to supervise a person ordered to a term of residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the person's location, including, but not limited to, the transmission of still visual images which do not concern the person's activities, and producing, upon request, reports or records of the person's presence near

or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the person's activities,

➥ must not be used.

4. The court shall not order a person to a term of residential confinement unless the person agrees to the order.

5. A term of residential confinement may not be longer than the unexpired maximum term of a sentence imposed by the court.

6. As used in this section:

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

Sec. 17. NRS 4.3762 is hereby amended to read as follows:

4.3762 1. Except as otherwise provided in subsection 7, in lieu of imposing any punishment other than a minimum sentence required by statute, a justice of the peace may sentence a person convicted of a misdemeanor to a term of residential confinement. In making this determination, the justice of the peace shall consider the criminal record of the convicted person and the seriousness of the crime committed.

2. In sentencing a convicted person to a term of residential confinement, the justice of the peace shall:

(a) Require the convicted person to be confined to his or her residence during the time the convicted person is away from his or her employment, public service or other activity authorized by the justice of the peace; and

(b) Require ~~[intensive]~~ *enhanced* supervision of the convicted person, including, without limitation, electronic surveillance and unannounced visits to his or her residence or other locations where the convicted person is expected to be to determine whether the convicted person is complying with the terms of his or her sentence.

3. In sentencing a convicted person to a term of residential confinement, the justice of the peace may, when the circumstances warrant, require the convicted person to submit to:

(a) A search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(b) Periodic tests to determine whether the offender is using a controlled substance or consuming alcohol.

4. Except as otherwise provided in subsection 5, an electronic device may be used to supervise a convicted person sentenced to a term of residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the location of the person, including, but not limited to, the transmission of still visual images which do not concern

the activities of the person, and producing, upon request, reports or records of the person's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the person,

➥ must not be used.

5. An electronic device must be used in the manner set forth in subsection 4 to supervise a person who is sentenced pursuant to paragraph (b) of subsection 1 of NRS 484C.400 for a second violation within 7 years of driving under the influence of intoxicating liquor or a controlled substance.

6. A term of residential confinement, together with the term of any minimum sentence required by statute, may not exceed the maximum sentence which otherwise could have been imposed for the offense.

7. The justice of the peace shall not sentence a person convicted of committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement in lieu of imprisonment unless the justice of the peace makes a finding that the person is not likely to pose a threat to the victim of the battery.

8. The justice of the peace may issue a warrant for the arrest of a convicted person who violates or fails to fulfill a condition of residential confinement.

Sec. 18. NRS 5.076 is hereby amended to read as follows:

5.076 1. Except as otherwise provided in subsection 7, in lieu of imposing any punishment other than a minimum sentence required by statute, a municipal judge may sentence a person convicted of a misdemeanor to a term of residential confinement. In making this determination, the municipal judge shall consider the criminal record of the convicted person and the seriousness of the crime committed.

2. In sentencing a convicted person to a term of residential confinement, the municipal judge shall:

(a) Require the convicted person to be confined to his or her residence during the time the convicted person is away from his or her employment, public service or other activity authorized by the municipal judge; and

(b) Require ~~[intensive]~~ *enhanced* supervision of the convicted person, including, without limitation, electronic surveillance and unannounced visits to his or her residence or other locations where the convicted person is expected to be in order to determine whether the convicted person is complying with the terms of his or her sentence.

3. In sentencing a convicted person to a term of residential confinement, the municipal judge may, when the circumstances warrant, require the convicted person to submit to:

(a) A search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(b) Periodic tests to determine whether the offender is using a controlled substance or consuming alcohol.

4. Except as otherwise provided in subsection 5, an electronic device may be used to supervise a convicted person sentenced to a term of residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the location of the person, including, but not limited to, the transmission of still visual images which do not concern the activities of the person, and producing, upon request, reports or records of the person's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the person,

➥ must not be used.

5. An electronic device must be used in the manner set forth in subsection 4 to supervise a person who is sentenced pursuant to paragraph (b) of subsection 1 of NRS 484C.400 for a second violation within 7 years of driving under the influence of intoxicating liquor or a controlled substance.

6. A term of residential confinement, together with the term of any minimum sentence required by statute, may not exceed the maximum sentence which otherwise could have been imposed for the offense.

7. The municipal judge shall not sentence a person convicted of committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement in lieu of imprisonment unless the municipal judge makes a finding that the person is not likely to pose a threat to the victim of the battery.

8. The municipal judge may issue a warrant for the arrest of a convicted person who violates or fails to fulfill a condition of residential confinement.

Sec. 19. NRS 205.312 is hereby amended to read as follows:

205.312 *1.* Whenever any person who has leased or rented a vehicle willfully and intentionally fails to return the vehicle to its owner within 72 hours after the lease or rental agreement has expired, that person may reasonably be inferred to have embezzled the vehicle.

2. A person who is convicted of embezzling a vehicle pursuant to subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 20. NRS 209.432 is hereby amended to read as follows:

209.432 As used in NRS 209.432 to 209.453, inclusive, unless the context otherwise requires:

1. "Offender" includes:

(a) A person who is convicted of a felony under the laws of this State and sentenced, ordered or otherwise assigned to serve a term of residential confinement.

(b) A person who is convicted of a felony under the laws of this State and assigned to the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888.

2. "Residential confinement" means the confinement of a person convicted of a felony to his or her place of residence under the terms and conditions established pursuant to specific statute. The term does not include any confinement ordered pursuant to NRS ~~[176A.530]~~ *176A.540* to 176A.560, inclusive, 176A.660 to 176A.690, inclusive, 213.15105, 213.15193 or 213.152 to 213.1528, inclusive.

Sec. 21. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Division shall adopt a written system of graduated sanctions for parole and probation officers to use when responding to a technical violation of the conditions of parole. The system must:

(a) Set forth a menu of presumptive sanctions for the most common violations, including, without limitation, failure to report, willful failure to pay fines and fees, failure to participate in a required program or service, failure to complete community service and failure to refrain from the use of alcohol or controlled substances.

(b) Take into account factors such as responsivity factors impacting a person's ability to successfully complete any conditions of supervision, the severity of the current violation, the person's previous criminal record, the number and severity of any previous violations and the extent to which graduated sanctions were imposed for previous violations.

2. The Division shall establish and maintain a program of initial and ongoing training for parole and probation officers regarding the system of graduated sanctions.

3. Notwithstanding any rule or law to the contrary, a parole and probation officer shall use graduated sanctions established pursuant to this section when responding to a technical violation.

4. A parole and probation officer intending to impose a graduated sanction shall provide the supervised person with notice of the intended sanction. The notice must inform the person of any alleged violation and the date thereof and the graduated sanction to be imposed.

5. The failure of a supervised person to comply with a sanction may constitute a technical violation of the conditions of parole.

6. The Division may not seek revocation of parole for a technical violation of the conditions of parole until all graduated sanctions have been exhausted. If the Division determines that all graduated sanctions have been exhausted, the Division shall submit a report to the Board outlining the reasons for the recommendation of revocation and the steps taken by the Division to change the supervised person's behavior while in the community, including, without

limitation, any graduated sanctions imposed before recommending revocation.

7. As used in this section:

(a) "Absconding" has the meaning ascribed to it in NRS 176A.630.

(b) "Technical violation" means any alleged violation of the conditions of parole that does not constitute absconding and is not the commission of a:

(1) New felony or gross misdemeanor;

(2) Battery which constitutes domestic violence pursuant to NRS 200.485;

(3) Violation of NRS 484C.110 or 484C.120;

(4) Crime of violence as defined in NRS 200.408 that is punishable as a misdemeanor;

(5) Harassment pursuant to NRS 200.571 or stalking or aggravated stalking pursuant to NRS 200.575;

(6) Violation of a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 or a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or

(7) Violation of a stay away order involving a natural person who is the victim of the crime for which the supervised person is being supervised.

➥ *The term does not include termination from a specialty court program.*

Sec. 22. NRS 213.107 is hereby amended to read as follows:

213.107 As used in NRS 213.107 to 213.157, inclusive, *and section 21 of this act,* unless the context otherwise requires:

1. "Board" means the State Board of Parole Commissioners.

2. "Chief" means the Chief Parole and Probation Officer.

3. "Division" means the Division of Parole and Probation of the Department of Public Safety.

4. "Residential confinement" means the confinement of a person convicted of a crime to his or her place of residence under the terms and conditions established by the Board.

5. "Responsivity factors" means characteristics of a person that affect his or her ability to respond favorably or unfavorably to any treatment goals.

6. "Risk and needs assessment" means a validated, standardized actuarial tool that identifies risk factors that increase the likelihood of a person reoffending and factors that, when properly addressed, can reduce the likelihood of a person reoffending.

7. "Sex offender" means any person who has been or is convicted of a sexual offense.

8. "Sexual offense" means:

(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, 201.230, 201.450, 201.540 or 201.550 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(b) An attempt to commit any offense listed in paragraph (a); or

(c) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

9. "Standards" means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.

Sec. 23. NRS 213.1078 is hereby amended to read as follows:

213.1078 1. Except as otherwise provided in ~~[subsections]~~ *subsection* 3, ~~[and 5,]~~ the Division shall administer a risk and needs assessment to each ~~[probationer and]~~ parolee under the Division's supervision. The results of the risk and needs assessment must be used to set a level of supervision for each ~~[probationer and]~~ parolee and to develop individualized case plans pursuant to subsection ~~[6.]~~ *4*. The risk and needs assessment must be administered and scored by a person trained in the administration of the tool.

2. ~~[Except as otherwise provided in subsection 3, on a schedule determined by the Nevada Risk Assessment System, or its successor risk assessment tool, or more often if necessary, the Division shall administer a subsequent risk and needs assessment to each probationer. The results of the risk and needs assessment conducted in accordance with this section must be used to determine whether a change in the level of supervision is necessary. The Division shall document the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the probationer of the change.~~

~~3. The provisions of subsections 1 and 2 are not applicable if:~~

~~(a) The level of supervision for the probationer is set by the court or by law; or~~

~~(b) The probationer is ordered to participate in a program of probation secured by a security bond pursuant to NRS 176A.300 to 176A.370, inclusive.~~

~~4.]~~ Except as otherwise provided in subsection ~~[5,]~~ *3,* on a schedule determined by the Nevada Risk Assessment System, or its successor risk assessment tool, or more often if necessary, the Division shall administer a subsequent risk and needs assessment to each parolee. The results of the risk and needs assessment conducted in accordance with this subsection must be used to determine whether a change in the level of supervision is necessary. The Division shall document the reasons for maintaining or changing the level of supervision. If the Division changes the level of supervision, the Division shall notify the parolee of the change.

~~[5.]~~ *3.* The provisions of subsections 1 and ~~[4]~~ *2* are not applicable if the level of supervision for the parolee is set by the Board or by law.

~~[6.]~~ *4.* The Division shall develop an individualized case plan for each ~~[probationer and]~~ parolee. The case plan must include a plan for addressing the criminogenic risk factors identified on the risk and needs assessment, if applicable, and the list of responsivity factors that will need to be considered and addressed for each ~~[probationer or]~~ parolee.

~~[7. Upon a finding that a term or condition of probation ordered pursuant to subsection 1 of NRS 176A.400 or the level of supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or 2, the supervising officer shall seek a modification of the terms and conditions from the court pursuant to subsection 1 of NRS 176A.450.~~

~~8.]~~ *5.* Upon a finding that a condition of parole or the level of parole supervision set pursuant to this section does not align with the results of a risk and needs assessment administered pursuant to subsection 1 or ~~[4,]~~ *2,* the supervising officer shall submit a request to the Board to modify the condition or level of supervision set by the Board. The Division shall provide written notification to the parolee of any modification.

~~[9.]~~ *6.* The risk and needs assessment required under this section must undergo periodic validation studies in accordance with the timeline established by the developer of the assessment. The Division shall establish quality assurance procedures to ensure proper and consistent scoring of the risk and needs assessment.

Sec. 24. NRS 213.1215 is hereby amended to read as follows:

213.1215 1. Except as otherwise provided in this section and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

➥ the prisoner must be released on parole 12 months before the end of his or her maximum term or maximum aggregate term, as applicable, as reduced by any credits the prisoner has earned to reduce his or her sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that the prisoner committed the offense for which the prisoner was imprisoned must, if the prisoner still has a consecutive sentence to be served, be granted parole from his or her current term of imprisonment to his or her subsequent term of imprisonment or must, if the prisoner does not still have a consecutive sentence to be served, be released on parole, if:

(a) The prisoner has served the minimum term or the minimum aggregate term of imprisonment imposed by the court, as applicable;

(b) The prisoner has completed a program of general education or an industrial or vocational training program;

(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and

(d) The prisoner has not, within the immediately preceding 24 months:

(1) Committed a major violation of the regulations of the Department of Corrections; or

(2) Been housed in disciplinary segregation.

3. If a prisoner who meets the criteria set forth in subsection 2 is determined to be a high risk to reoffend in a sexual manner pursuant to NRS 213.1214, the Board is not required to release the prisoner on parole pursuant to this section. If the prisoner is not granted parole, a rehearing date must be scheduled pursuant to NRS 213.142.

4. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his or her release.

5. Each parolee so released must be supervised closely by the Division, in accordance with the plan for *enhanced* supervision developed by the Chief pursuant to NRS 213.122.

6. If a prisoner meets the criteria set forth in subsection 1 and there are no current requests for notification of hearings made in accordance with subsection 4 of NRS 213.131 or, if the Board is not required to provide notification of hearings pursuant to NRS 213.10915, the Board has not been notified by the automated victim notification system that a victim of the prisoner has registered with the system to receive notification of hearings, the Board may grant parole to the prisoner without a meeting. If the Board finds that there is a reasonable probability that a prisoner considered for release on parole pursuant to subsection 1 will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his or her sentence and not grant the parole. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1, the Board shall provide to the prisoner a written statement of its reasons for denying parole.

7. If the Board finds that there is a reasonable probability that a prisoner considered for release on parole pursuant to subsection 2 will be a danger to public safety while on parole, the Board is not required to grant the parole and shall schedule a rehearing pursuant to NRS 213.142. Except as otherwise provided in subsection 3 of NRS 213.1519, if a prisoner is not granted parole pursuant to this subsection, the criteria set forth in subsection 2 must be applied at each subsequent hearing until the prisoner is granted parole or expires his or her sentence. If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 2, the Board shall provide to the prisoner a written statement of its reasons for denying parole, along with specific recommendations of the Board, if any, to improve the possibility of granting parole the next time the prisoner may be considered for parole.

8. If the prisoner is the subject of a lawful request from another law enforcement agency that the prisoner be held or detained for release to that

agency, the prisoner must not be released on parole, but released to that agency.

9. If the Division has not completed its establishment of a program for the prisoner's activities during his or her parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

10. For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits the prisoner may have earned to reduce his or her sentence had the prisoner not been paroled.

Sec. 25. NRS 213.122 is hereby amended to read as follows:

213.122 The Chief shall develop a statewide plan for the ~~[strict]~~ *enhanced* supervision of parolees released pursuant to NRS 213.1215. In addition to such other provisions as the Chief deems appropriate, the plan must provide for the supervision of such parolees by assistant parole and probation officers whose caseload allows for enhanced supervision of the parolees under their charge unless, because of the remoteness of the community to which the parolee is released, enhanced supervision is impractical.

Sec. 26. NRS 213.124 is hereby amended to read as follows:

213.124 1. Upon the granting of parole to a prisoner, the Board may require the parolee to submit to a program of ~~[intensive]~~ *enhanced* supervision as a condition of his or her parole.

2. The Chief shall develop a program for the ~~[intensive]~~ *enhanced* supervision of parolees required to submit to such a program pursuant to subsection 1. The program must include an initial period of electronic supervision of the parolee with an electronic device approved by the Division. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the parolee's location, including, but not limited to, the transmission of still visual images which do not concern the parolee's activities, and producing, upon request, reports or records of the parolee's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the parolee's activities,

➥ must not be used.

Sec. 27. NRS 213.150 is hereby amended to read as follows:

213.150 The Board may:

1. Make and enforce regulations covering the conduct of paroled prisoners.

2. Retake or cause to be retaken and imprisoned any prisoner so upon parole, subject to the procedures prescribed in NRS 213.151 to 213.1519, inclusive ~~[.]~~ *, and section 21 of this act.*

Sec. 28. NRS 213.15193 is hereby amended to read as follows:

213.15193 1. Except as otherwise provided in ~~[subsection]~~ *subsections 4 and* 6, the Chief may order the residential confinement of a parolee if the Chief believes that the parolee does not pose a danger to the community and will appear at a scheduled ~~[inquiry or]~~ hearing.

2. In ordering the residential confinement of a parolee, the Chief shall:

(a) Require the parolee to be confined to his or her residence during the time the parolee is away from his or her employment, community service or other activity authorized by the Division; and

(b) Require ~~[intensive]~~ *enhanced* supervision of the parolee, including, without limitation, unannounced visits to his or her residence or other locations where the parolee is expected to be to determine whether the parolee is complying with the terms of his or her confinement.

3. An electronic device approved by the Division may be used to supervise a parolee who is ordered to be placed in residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the location of the parolee, including, without limitation, the transmission of still visual images which do not concern the activities of the parolee, and producing, upon request, reports or records of the parolee's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee,

➥ must not be used.

4. The Chief shall not order a parolee to be placed in residential confinement unless the parolee agrees to the order.

5. Any residential confinement must not extend beyond the unexpired maximum term of the original sentence of the parolee.

6. The Chief shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to be placed in residential confinement unless the Chief makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

Sec. 29. NRS 213.152 is hereby amended to read as follows:

213.152 1. Except as otherwise provided in ~~[subsection]~~ *subsections 5 and* 7, if a parolee violates a condition of his or her parole, the Board may order the parolee to a term of residential confinement in lieu of suspending his or her parole and returning the parolee to confinement. In making this determination, the Board shall consider the criminal record of the parolee and the seriousness of the crime committed.

2. In ordering the parolee to a term of residential confinement, the Board shall:

(a) Require:

(1) The parolee to be confined to his or her residence during the time the parolee is away from his or her employment, community service or other activity authorized by the Division; and

(2) ~~[Intensive]~~ *Enhanced* supervision of the parolee, including, without limitation, unannounced visits to his or her residence or other locations where the parolee is expected to be in order to determine whether the parolee is complying with the terms of his or her confinement; or

(b) Require the parolee to be confined to a facility or institution of the Department of Corrections for a period not to exceed 6 months. The Department may select the facility or institution in which to place the parolee.

3. An electronic device approved by the Division may be used to supervise a parolee ordered to a term of residential confinement. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the location of the parolee, including, but not limited to, the transmission of still visual images which do not concern the activities of the parolee, and producing, upon request, reports or records of the parolee's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the parolee,

➥ must not be used.

4. A parolee who is confined to a facility or institution of the Department of Corrections pursuant to paragraph (b) of subsection 2:

(a) May earn credits to reduce his or her sentence pursuant to chapter 209 of NRS; and

(b) Shall not be deemed to be released on parole for purposes of NRS 209.447 or 209.4475 during the period of that confinement.

5. The Board shall not order a parolee to a term of residential confinement unless the parolee agrees to the order.

6. A term of residential confinement may not be longer than the unexpired maximum term of the original sentence of the parolee.

7. The Board shall not order a parolee who is serving a sentence for committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement unless the Board makes a finding that the parolee is not likely to pose a threat to the victim of the battery.

8. As used in this section:

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

Sec. 30. NRS 213.1528 is hereby amended to read as follows:

213.1528 The Board shall establish procedures to administer a program of *enhanced* supervision for parolees who are ordered to a term of residential confinement pursuant to NRS 213.152.

Sec. 31. NRS 213.380 is hereby amended to read as follows:

213.380 1. The Division shall establish procedures for the residential confinement of offenders.

2. The Division may establish, and at any time modify, the terms and conditions of the residential confinement, except that the Division shall:

(a) Require the offender to participate in regular sessions of education, counseling and any other necessary or desirable treatment in the community, unless the offender is assigned to the custody of the Division pursuant to NRS 209.3923 or 209.3925;

(b) Require the offender to be confined to his or her residence during the time the offender is not:

(1) Engaged in employment or an activity listed in paragraph (a) that is authorized by the Division;

(2) Receiving medical treatment that is authorized by the Division; or

(3) Engaged in any other activity that is authorized by the Division; and

(c) Require ~~[intensive]~~ *enhanced* supervision of the offender, including unannounced visits to his or her residence or other locations where the offender is expected to be in order to determine whether the offender is complying with the terms and conditions of his or her confinement.

3. An electronic device approved by the Division may be used to supervise an offender. The device may be capable of using the Global Positioning System, but must be minimally intrusive and limited in capability to recording or transmitting information concerning the offender's location, including, but not limited to, the transmission of still visual images which do not concern the offender's activities, and producing, upon request, reports or records of the offender's presence near or within a crime scene or prohibited area or his or her departure from a specified geographic location. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the offender's activities,

➥ must not be used.

Sec. 31.5. NRS 228.177 is hereby amended to read as follows:

228.177 1. As used in this section ~~["county]~~ :

(a) "City officer or employee" means an elected officer of a city or any city officer or employee who is compensated from a city treasury.

(b) "County officer or employee" means an elected officer of a county or any county officer or employee who is compensated from a county treasury.

2. The Attorney General may investigate and prosecute any criminal offense committed by a county officer or employee *or a city officer or employee* in the course of his or her duties or arising out of circumstances related to his or her position, if:

(a) The district attorney of the county *or the city attorney, as applicable,* has stated in writing to the Attorney General that he or she does not intend to act in the matter; or

(b) The Attorney General has inquired in writing of the district attorney *or the city attorney, as applicable,* whether he or she intends to act in the matter and:

(1) The Attorney General has not received a written response within 30 days after the district attorney *or the city attorney, as applicable,* received the inquiry; or

(2) The district attorney *or the city attorney, as applicable,* responds in writing that he or she intends to act in the matter, but an ~~[information or]~~ indictment *is not found or an information or complaint* is not filed *, as applicable,* within 90 days after the response.

3. When he or she is acting pursuant to this section, the Attorney General may commence his or her investigation and file a criminal action with leave of court, and the Attorney General has exclusive charge of the conduct of the prosecution.

4. An ~~[information or]~~ indictment *, information or complaint* may not be dismissed on the ground that the district attorney *or the city attorney, as applicable,* or *the* Attorney General has not complied with this section.

Sec. 32. NRS 453.336 is hereby amended to read as follows:

453.336 1. Except as otherwise provided in subsection ~~[5,]~~ *6,* a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practice registered nurse or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 *,* ~~[and]~~ 4 *and 5* and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385 or 453.339, a person who violates this section:

(a) For a first or second offense, if the controlled substance is listed in schedule I or II and the quantity possessed is less than 14 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is less than 28 grams, is guilty of possession of a controlled substance and shall be punished for a category E felony as provided in NRS 193.130. In accordance with NRS 176.211, the court shall defer judgment upon the consent of the person.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I or II and the quantity possessed is less than 14 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is less than 28 grams, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, is guilty of possession of a controlled substance and shall be punished for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than $20,000.

(c) If the controlled substance is listed in schedule I or II and the quantity possessed is 14 grams or more, but less than 28 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is 28 grams or more, but less than 200 grams, is guilty of low-level possession of a controlled substance and shall be punished for a category C felony as provided in NRS 193.130.

(d) If the controlled substance is listed in schedule I or II and the quantity possessed is 28 grams or more, but less than 42 grams, or if the controlled substance is listed in schedule III, IV or V and the quantity possessed is 200 grams or more, is guilty of mid-level possession of a controlled substance and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and by a fine of not more than $50,000.

(e) If the controlled substance is listed in schedule I or II and the quantity possessed is 42 grams or more, but less than 100 grams, is guilty of high-level possession of a controlled substance and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years and by a fine of not more than $50,000.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than $600; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 176A.230 if the court determines that the person is eligible to participate in such a program.

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than $1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 176A.230 if the court determines that the person is eligible to participate in such a program.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. *Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of more than 1 ounce, but less than 50 pounds, of marijuana or more than one-eighth of an ounce, but less than*

one pound, of concentrated cannabis is guilty of a category E felony and shall be punished as provided in NRS 193.130.

6. It is not a violation of this section if a person possesses a trace amount of a controlled substance and that trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to NRS 439.985 to 439.994, inclusive.

~~[6.]~~ *7.* The court may grant probation to or suspend the sentence of a person convicted of violating this section.

~~[7.]~~ *8.* As used in this section:

(a) "Controlled substance" includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(b) "Marijuana" does not include concentrated cannabis.

(c) "Sterile hypodermic device program" has the meaning ascribed to it in NRS 439.986.

Sec. 32.5. 1. There is hereby appropriated from the State General Fund to the Department of Sentencing Policy for personnel costs related to data management the following sums:

For the Fiscal Year 2021-2022 ..... $75,345

For the Fiscal Year 2022-2023 ..... $96,987

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2022, and September 15, 2023, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2022, and September 15, 2023, respectively.

Sec. 33. The amendatory provisions of ~~[sections]~~ :

1. Sections 19 and 32 of this act apply to an offense committed:

~~[1.]~~ (a) On or after July 1, 2021; and

~~[2.]~~ (b) Before July 1, 2021, if the person is sentenced on or after July 1, 2021.

2. Section 31.5 of this act apply to an offense committed:

(a) On or after the effective date of section 31.5 of this act; and

(b) Before the effective date of section 31.5 of this act if the applicable statute of limitations has commenced but has not yet expired on the effective date of section 31.5 of this act.

Sec. 34. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 35. NRS 176A.530, 176A.580, 176A.590, 176A.600, 176A.610 and 213.10988 are hereby repealed.

Sec. 36. 1. This section and sections 1, 2, 4 to 6.5, inclusive, 31.5, 33 and 34 of this act become effective upon passage and approval.

2. Sections 3, 7 to ~~[32.5,]~~ 31, inclusive, 32, 32.5 and 35 of this act become effective on July 1, 2021.

LEADLINES OF REPEALED SECTIONS

176A.530 Authority of Chief Parole and Probation Officer to order.

176A.580 Inquiry required before alleged violation considered by court; qualifications of inquiring officer; time and place of inquiry; exceptions; subpoenas.

176A.590 Enforcement of subpoena issued by inquiring officer; contempt.

176A.600 Notice to probationer; rights of probationer at inquiry.

176A.610 Duties of inquiring officer; determination; detention or residential confinement of probationer upon finding probable cause.

213.10988 Chief to adopt standards for recommendations regarding parole or probation.

Senator Scheible moved the adoption of the amendment.

Remarks by Senator Scheible.

Amendment No. 775 to Assembly Bill No. 393 adds a city officer or employee to the list of persons the Attorney General may investigate and prosecute for committing any criminal offense in the course of his or her duties or arising out of circumstances related to his or her position when the District Attorney or City Attorney do not act in the matter. It revises the effective dates of the bill to provide that the newly added sections on city officers and employees are effective on passage and approval and that they apply to an offense committed on or after July 1, 2021, and before the effective date of the bill if the statute of limitations has not yet expired by July 1, 2021.

Amendment adopted.

Senator Brooks moved that the bill be taken from the General File and re-referred to the Committee on Finance, upon return from reprint.

Motion carried.

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

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

Motion carried.

Senate in recess at 4:19 p.m.

SENATE IN SESSION

At 7:48 p.m.

President Marshall presiding.

Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 357, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN DONDERO LOOP, *Chair*

Madam President:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 365, 441, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which was referred Senate Concurrent Resolution No. 13, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

JAMES OHRENSCHALL, *Chair*

Madam President:

Your Committee on Revenue and Economic Development, to which was referred Senate Bill No. 441, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DINA NEAL, *Chair*

MESSAGES FROM ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 26, 2021

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 156, 165, 477, 484, 485, 487, 489.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 40, 189, 196, 220, 247, 270, 349, 371, 411, 422, 482.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 13.

Resolution read.

Senator Ohrenschall moved the adoption of the resolution.

Remarks by Senators Cannizzaro and Seevers Gansert.

SENATOR CANNIZZARO:

Senate Concurrent Resolution No. 13 creates an interim committee to investigate matters relating to reapportionment and redistricting in conjunction with the data from the decennial census of 2020. The study committee composed of at least three members of the Assembly and at least three members of the Senate must examine data from the United State Census Bureau and monitor any redistricting systems established or recommended for use by the Nevada Legislature, including the requirements for computer equipment, computer software and the training of personnel. Relevant case law and the programs of other states relating to redistricting must be reviewed. Possible procedures for use by the Nevada Legislature to ensure that members of the public are involved in the redistricting process must also be considered. Finally, the committee may examine any other matter relating to reapportionment and redistricting that it determines may benefit the Nevada Legislature.

SENATOR SEEVERS GANSERT:

I oppose Senate Concurrent Resolution No. 13. While we were able to have a hearing today, something that is different about this bill from others we have seen about reapportionment and redistricting is that the Majority Leader and the Speaker will be appointing all members even though some will be members of the of the Minority Party. In listening to testimony and checking with the Research Department, formerly the individuals who would participate on this type of committee would have gone through the Legislative Commission. I am not sure we have another example of where the Majority Party appoints both the majority and minority members to a committee. The voice of the Minority Party is important, and we should be able to select our own representatives.

Senators Settelmeyer, Hardy and Hammond requested a roll call vote on Senator Ohrenschall's motion.

Roll call on Senator Ohrenschall's motion:
YEAS—11.
NAYS—Buck, Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Neal, Pickard, Seevers Gansert, Settelmeyer—10.

Resolution adopted.
Resolution ordered transmitted to the Assembly.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 40.
Senator Ratti moved that the bill be referred to the Committee on Natural Resources.
Motion carried.

Assembly Bill No. 156.
Senator Ratti moved that the bill be referred to the Committee on Education.
Motion carried.

Assembly Bill No. 165.
Senator Ratti moved that the bill be referred to the Committee on Education.
Motion carried.

Assembly Bill No. 189.
Senator Ratti moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Finance.
Motion carried.

Assembly Bill No. 196.
Senator Ratti moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Finance.
Motion carried.

Assembly Bill No. 220.
Senator Ratti moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 247.
Senator Ratti moved that the bill be referred to the Committee on Education.
Motion carried.

Assembly Bill No. 270.
Senator Ratti moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 349.

Senator Ratti moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 371.

Senator Ratti moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 411.

Senator Ratti moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 422.

Senator Ratti moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 477.

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

Motion carried.

Assembly Bill No. 482.

Senator Ratti moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 484.

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

Motion carried.

Assembly Bill No. 485.

Senator Ratti moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 487.

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

Motion carried.

Assembly Bill No. 489.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 441.

Bill read second time.

The following amendment was proposed by the Committee on Revenue and Economic Development:

Amendment No. 758.

SUMMARY—Revises provisions governing the issuance and renewal of a seller's permit. (BDR 32-1077)

AN ACT relating to taxation; requiring a seller's permit issued by the Department of Taxation to be renewed annually; revising provisions governing the issuance of permits ~~[pursuant to the City-County Relief Tax Law;]~~ for sellers of tangible personal property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires every person who desires to engage in or conduct business as a seller of tangible personal property in this State to: (1) register with the Department of Taxation or file an application with the Department; and (2) pay a fee of $5 for a permit for each place of business. (NRS 372.125, 372.130, 374.130) Sections 5.5-10 and 21 of this bill move the provisions of law governing the issuance, renewal, suspension and revocation of a seller's permit from the Sales and Use Tax Act and the Local School Support Tax Law, which are currently placed in chapters 372 and 374 of the Nevada Revised Statutes, and places those provisions in a single location in chapter 360 of the Nevada Revised Statutes. Section 5.5 of this bill defines terms relating to seller's permits. Sections ~~[1-4]~~ 7-10 of this bill: (1) provide that a permit issued to a seller expires on December 31 of each year; and (2) ~~[authorize a seller who has been issued a permit to renew the permit by filing]~~ require a person who files an application for a seller's permit or for the renewal ~~[with the Department and paying]~~ of a seller's permit to pay an annual ~~[renewal]~~ fee of ~~[$5.]~~ $15 for each place of business. If ~~[the]~~ an application and fee for renewal are not received by the Department on or before January 31 of each year, the Department is authorized to revoke the permit.

~~[Existing law requires the board of county commissioners of a county to enact an ordinance imposing a city-county relief tax on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in a county. The ordinance must contain provisions substantially identical to those of the Local School Support Tax Law. (NRS 377.030, 377.040) Sections 6-10 of this bill provide for the issuance, renewal, suspension and revocation of a seller's permit under the City-County Relief Tax Law in the same manner as under the Local School Support Tax Law.]~~

Sections 7 and 9 of this bill provide for the disposition of the fees collected for the issuance and renewal of seller's permits in the same manner as the existing fees are distributed.

Sections 11-19 of this bill make conforming changes to reflect the movement of the provisions of law governing the issuance of seller's permits to chapter 360 of the Nevada Revised Statutes.

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

Section 1. ~~[NRS 372.130 is hereby amended to read as follows:~~

~~372.130 At the time of making an application for a permit pursuant to NRS 372.125 [,] *or an application for the renewal of a permit pursuant to NRS 372.135*, the applicant must pay to the Department a fee of $5 for each permit.]~~ (Deleted by amendment.)

Sec. 2. ~~[NRS 372.135 is hereby amended to read as follows:~~

~~372.135 1. Except as otherwise provided in NRS 360.205 and 372.145, after compliance with NRS 372.125, 372.130 and 372.510 by an applicant for a permit, the Department shall:~~

~~(a) Grant and issue to the applicant a separate permit for each place of business within the State.~~

~~(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:~~

~~(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:~~

~~(I) An explanation of the circumstances under which a service provided by the applicant is taxable;~~

~~(II) The procedures for administering exemptions; and~~

~~(III) The circumstances under which charges for freight are taxable.~~

~~(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.~~

~~2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated on it. It must at all times be conspicuously displayed at the place for which it is issued.~~

~~*3. A permit issued pursuant to this section expires on December 31 of each year. A person who is required to hold a seller's permit may renew the permit by filing an application for renewal with the Department in such form and including such information and documentation as the Department may require by regulation. The application for renewal must be accompanied by the fee required by NRS 372.130. If the application and fee for renewal of a permit are not received by the Department on or before January 31 of each year, the Department may revoke the permit pursuant to NRS 372.145.]*~~ (Deleted by amendment.)

Sec. 3. ~~[NRS 374.135 is hereby amended to read as follows:~~

~~374.135 At the time of making an application for a permit pursuant to NRS 374.130 [,] *or an application for the renewal of a permit pursuant to NRS 374.140*, the applicant shall pay to the Department a fee of $5 for each permit.]~~ (Deleted by amendment.)

Sec. 4. ~~[NRS 374.140 is hereby amended to read as follows:~~

~~374.140 1. Except as otherwise provided in NRS 360.205 and 374.150, after compliance with NRS 374.130, 374.135 and 374.515 by an applicant for a permit, the Department shall:~~

~~(a) Grant and issue to the applicant a separate permit for each place of business within the county.~~

~~(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:~~

~~(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation, and when appropriate:~~

~~(I) An explanation of the circumstances under which a service provided by the applicant is taxable;~~

~~(II) The procedures for administering exemptions; and~~

~~(III) The circumstances under which charges for freight are taxable.~~

~~(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.~~

~~2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. A permit must at all times be conspicuously displayed at the place for which it is issued.~~

~~*3. A permit issued pursuant to this section expires on December 31 of each year. A person who is required to hold a seller's permit may renew the permit by filing an application for renewal with the Department in such form and including such information and documentation as the Department may require by regulation. The application for renewal must be accompanied by the fee required by NRS 374.135. If the application and fee for renewal of a permit are not received by the Department on or before January 31 of each year, the Department may revoke the permit pursuant to NRS 374.150.]*~~

(Deleted by amendment.)

Sec. 5. Chapter ~~[377]~~ 360 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[6]~~ 5.5 to 10, inclusive, of this act.

Sec. 5.5. As used in sections 5.5 to 10, inclusive, of this act, unless the context otherwise requires:

1. "Business" includes any activity engaged in by any person or caused to be engaged in by any person with the object of gain, benefit or advantage, either direct or indirect.

2. "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee or any other group or combination acting as a unit, but shall not include the United States, this State or any agency thereof, or any city, county, district or other political subdivision of this State.

3. "Retail sale" has the meaning ascribed to it in NRS 372.050.

4. "Seller" includes every person engaged in the business of selling tangible personal property of any kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax imposed by NRS 372.105 or 372.185 or an ordinance enacted pursuant to NRS 377.030.

5. "Tangible personal property" has the meaning ascribed to it in NRS 372.085.

Sec. 6. *1. Every person desiring to engage in or conduct business as a seller within this State must:*

(a) Register with the Department pursuant to NRS 360B.200; or

(b) File with the Department an application for a permit for each place of business.

2. Every application for a permit must:

(a) Be made upon a form prescribed by the Department.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of the applicant's place or places of business.

(c) Set forth any other information which the Department may require.

(d) Be signed by:

(1) The owner if he or she is a natural person;

(2) A member or partner if the seller is an association or partnership; or

(3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

Sec. 7. *1. At the time of making an application for a permit pursuant to section 6 of this act or an application for the renewal of a permit pursuant to section 8 of this act, the applicant must pay to the Department a fee of ~~[$51~~ $15 for each permit or renewal thereof .*

2. From each fee collected pursuant to subsection 1:

(a) Five dollars of the fee shall be distributed in the same manner as fees are distributed pursuant to NRS 372.780;

(b) Five dollars of the fee shall be distributed in the same manner as fees are distributed pursuant to NRS 374.785; and

(c) Five dollars of the fee shall be distributed in the same manner as fees which derive from the basic city-county relief tax collected in the same county in which the fee pursuant to subsection 1 was collected, as provided in NRS 377.050, 377.055 and 377.057.

Sec. 8. *1. Except as otherwise provided in NRS 360.205 and section 10 of this act, after compliance with sections 6 and 7 of this act and NRS 372.510 and 374.515 by an applicant for a permit, the Department shall:*

(a) Grant and issue to the applicant a separate permit for each place of business within the county.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by ~~[this chapter.]~~ chapters 372, 374 and 377 of NRS. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation, and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and

(III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. A permit must at all times be conspicuously displayed at the place for which it is issued.

3. A permit issued pursuant to this section expires on December 31 of each year. A person who is required to hold a seller's permit may renew the permit by filing an application for renewal with the Department in such form and including such information and documentation as the Department may require by regulation. The application for renewal must be accompanied by the fee required by section 7 of this act. If the application and fee for renewal of a permit are not received by the Department on or before January 31 of each year, the Department may revoke the permit pursuant to section 10 of this act.

Sec. 9. *A seller whose permit has been previously suspended or revoked shall pay the Department a fee of ~~[$5]~~ $15 for the renewal or issuance of a permit. This fee shall be distributed in the same manner as the fees collected pursuant to section 7 of this act.*

Sec. 10. *1. Whenever any person fails to comply with any provision of ~~[this]~~ chapter 372, 374 or 377 of NRS relating to the taxes imposed by ~~[this chapter]~~ those chapters or any regulation of the Department relating to the taxes imposed by ~~[this chapter,]~~ chapters 372, 374 and 377 of NRS, the Department, after a hearing of which the person was given prior notice of at least 10 days in writing specifying the time and place of the hearing and requiring the person to show cause as to why his or her permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person.*

2. The Department shall give to the person written notice of the suspension or revocation of any of his or her permits.

3. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

4. The Department shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of ~~[this chapter]~~ chapters 372, 374 and 377 of NRS relating to the taxes imposed by ~~[this chapter]~~ those chapters and the regulations of the Department.

Sec. 11. NRS 372.123 is hereby amended to read as follows:

372.123 1. If the State or a political subdivision of the State enters into a contract pursuant to chapter 332 or 333 of NRS on or after June 5, 2001, with a person who:

(a) Sells tangible personal property in this State; and

(b) Has not obtained a permit pursuant to ~~[NRS 372.125]~~ *section 6 of this act* or registered pursuant to NRS 360B.200,

➥ the contract must include a provision requiring the person to obtain a permit pursuant to ~~[NRS 372.125]~~ *section 6 of this act* or to register pursuant to NR 360B.200, and to collect and pay the taxes imposed pursuant to this chapter on the sale of tangible personal property in this State. For the purposes of a permit obtained pursuant to ~~[NRS 372.125,]~~ *section 6 of this act,* the person shall be deemed to have a single place of business in this State.

2. The Department may require a state agency or local government to submit such documentation as is necessary to ensure compliance with this section.

Sec. 12. NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to ~~[NRS 372.135;]~~ *section 8 of this act;* and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 13. NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to ~~[NRS 372.135;]~~ *section 8 of this act;* and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 14. NRS 372.740 is hereby amended to read as follows:

372.740 1. The Department, or any person authorized in writing by it, may examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

2. Any person selling or purchasing tangible personal property in this State who:

(a) Is required to:

(1) Obtain a permit pursuant to ~~[NRS 372.125]~~ *section 6 of this act* or register pursuant to NRS 360B.200; or

(2) File a return pursuant to subsection 2 of NRS 372.360; and

(b) Keeps outside of this State his or her records, receipts, invoices and other documents relating to sales the person has made or the use tax due this State,

➥ shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he or she is absent from his or her regular place of employment to examine those documents.

Sec. 15. NRS 372.751 is hereby amended to read as follows:

372.751 1. Except as otherwise provided in this section and NRS 372.752, the provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, apply to a marketplace facilitator during a calendar year in which or during a calendar year immediately following any calendar year in which:

(a) The cumulative gross receipts from retail sales made or facilitated by the marketplace facilitator on its own behalf or for one or more marketplace sellers to customers in this State exceed $100,000; or

(b) The marketplace facilitator makes or facilitates 200 or more separate retail sales transactions on his or her own behalf or for one or more marketplace sellers to customers in this State.

2. The provisions of this chapter relating to the imposition, collection and remittance of sales tax and the collection and remittance of use tax do not apply to a marketplace facilitator described in subsection 1 if:

(a) The marketplace facilitator and the marketplace seller have entered into a written agreement whereby the marketplace seller assumes responsibility for the collection and remittance of the sales tax, and the collection and remittance of the use tax, for retail sales made by the marketplace seller through the marketplace facilitator; and

(b) The marketplace seller has obtained a permit pursuant to ~~[NRS 372.125]~~ *section 6 of this act* or registered pursuant to NRS 360B.200.

➥ Upon request of the Department, a marketplace facilitator shall provide to the Department a report containing the name of each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection and such other information as the Department determines is necessary to ensure that each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection has obtained a permit pursuant to ~~[NRS 372.125]~~ *section 6 of this act* or registered pursuant to NRS 360B.200.

3. Except as otherwise provided in this section and NRS 372.752, the provisions of subsection 1 apply regardless of whether:

(a) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale would not have been required to collect and remit the sales tax or the use tax had the retail sale not been facilitated by the marketplace facilitator;

(b) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale was required to register with the Department pursuant to NRS 360B.200 or obtain a permit pursuant to ~~[NRS 372.125;]~~ *section 6 of this act;* or

(c) The amount of the sales price of a retail sale will ultimately accrue to or benefit the marketplace facilitator, the marketplace seller or any other person.

4. In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of this section.

Sec. 16. NRS 374.128 is hereby amended to read as follows:

374.128 1. If the State or a political subdivision of the State enters into a contract pursuant to chapter 332 or 333 of NRS on or after June 5, 2001, with a person who:

(a) Sells tangible personal property in this State; and

(b) Has not obtained a permit pursuant to ~~[NRS 374.130]~~ *section 6 of this act* or registered pursuant to NRS 360B.200,

➥ the contract must include a provision requiring the person to obtain a permit pursuant to ~~[NRS 374.130]~~ *section 6 of this act* or to register pursuant to NRS 360B.200, and to collect and pay the taxes imposed pursuant to this chapter on the sale of tangible personal property in any county in this State. For the purposes of a permit obtained pursuant to ~~[NRS 374.130,]~~ *section 6 of this act* the person shall be deemed to have a place of business in each county in this State, but shall pay the fee for a single permit.

2. The Department may require a state agency or local government to submit such documentation as is necessary to ensure compliance with this section.

Sec. 17. NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to ~~[NRS 374.140;]~~ *and section 8 of this act;* and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 18. NRS 374.230 is hereby amended to read as follows:

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to ~~[NRS 374.140;]~~ *section 8 of this act;* and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 19. NRS 374.756 is hereby amended to read as follows:

374.756 1. Except as otherwise provided in this section and NRS 374.757, the provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, apply to a marketplace facilitator during a calendar year in which, or during a calendar year immediately following any calendar year in which:

(a) The cumulative gross receipts from retail sales made or facilitated by the marketplace facilitator on his or her own behalf or for one or more marketplace sellers to customers in this State exceed $100,000; or

(b) The marketplace facilitator makes or facilitates 200 or more separate retail sales transactions on his or her own behalf or for one or more marketplace sellers to customers in this State.

2. The provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax do not apply to a marketplace facilitator described in subsection 1 if:

(a) The marketplace facilitator and the marketplace seller have entered into a written agreement whereby the marketplace seller assumes responsibility for the collection and remittance of the sales tax, and the collection and remittance of the use tax for retail sales made by the marketplace seller through the marketplace facilitator; and

(b) The marketplace seller has obtained a permit pursuant to ~~[NRS 374.130]~~ *section 6 of this act* or registered pursuant to NRS 360B.200.

➥ Upon request of the Department, a marketplace facilitator shall provide to the Department a report containing the name of each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection and such other information as the Department determines is necessary to ensure that each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection has

obtained a permit pursuant to ~~[NRS 374.130]~~ *section 6 of this act* or registered pursuant to NRS 360B.200.

3. Except as otherwise provided in this section and NRS 374.757, the provisions of subsection 1 apply regardless of whether:

(a) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale would not have been required to collect and remit the sales tax or use tax had the retail sale not been facilitated by the marketplace facilitator.

(b) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale was required to register with the Department pursuant to NRS 360B.200 or obtain a permit pursuant to ~~[NRS 374.130.]~~ *section 6 of this act.*

(c) The amount of the sales price of a retail sale will ultimately accrue to or benefit the marketplace facilitator, the marketplace seller or any other person.

4. In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of this section.

Sec. 20. A permit issued pursuant to NRS 372.135 or 374.140 before October 1, 2021, remains in effect following October 1, 2021, and expires on December 31, 2021.

Sec. 21. NRS 372.125, 372.130, 372.135, 372.140, 372.145, 374.130, 374.135, 374.140, 374.145 and 374.150 are hereby repealed.

Senator Neal moved the adoption of the amendment.

Remarks by Senator Neal.

Amendment No. 758 to Senate Bill No. 441 changes the structure of the bill. It deletes sections 1 through 4 and moves various provisions of current law governing the issuance, renewal, suspension and revocation of a $5 seller's permit from within NRS Chapters 372 and 374, which govern the Sales and Use Tax Act and the Local School Support Tax Law, to a single location in NRS Chapter 360, which includes provisions governing revenue and taxation generally.

The amendment also establishes provisions within NRS Chapter 360 to specify that a seller's permit expires on December 31 of each year and requires a person who files an application for a seller's permit, or an application for the renewal of a seller's permit, to pay an annual fee of $15. The amendment specifies that the distribution of the $15 initial and annual renewal fee must be distributed in the same manner as the existing initial seller's permit fees are distributed pursuant to NRS Chapters 372, 374 and 377.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 357.

Bill read second time and ordered to third reading.

Assembly Bill No. 365.

Bill read second time and ordered to third reading.

Assembly Bill No. 441.

Bill read second time and ordered to third reading.

Senate Bill No. 386.

Bill read third time.

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

Amendment No. 800.

SUMMARY—Revises provisions relating to certain businesses. (BDR 53-1010)

AN ACT relating to employment practices; requiring certain employers to provide certain employees with written notices containing certain information in the event of a layoff; requiring an employer to retain certain information relating to a laid-off employee; requiring an employer to offer certain job positions to a laid-off employee under certain circumstances; prohibiting an employer from taking certain adverse actions against certain persons; authorizing civil actions and actions by the Labor Commissioner to enforce certain provisions; providing for the severability of certain provisions by a court under certain circumstances; revising certain requirements for regulations relating to public accommodation facilities and SARS-CoV-2, which must be adopted by the Director of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

On January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency based on the threat caused by the novel coronavirus. Subsequently, the President of the United States and the World Health Organization issued a proclamation and announcement, respectively, regarding the COVID-19 threat. On March 12, 2020, the Governor of Nevada issued the Declaration of Emergency for COVID-19. Since the date of the Declaration of Emergency by the Governor, the Governor has issued numerous COVID-19 declaration of emergency directives, setting forth closures, safety precautions and capacity limitations for public accommodations, other businesses and governmental facilities. As a result of the pandemic, casino, hospitality, stadium and travel-related employers have discharged, laid off and furloughed workers.

Under existing law, and in the absence of collective bargaining agreements providing applicable protections, workers who were discharged, laid off or furloughed due to the pandemic are not required to be recalled to their previous positions of employment. This bill requires certain employers that discharged, laid off or furloughed employees to offer job positions to those employees under certain conditions.

Section 3 of this bill sets forth the Legislature's intent that certain employees have an opportunity to return to their jobs when circumstances permit.

Section 4 of this bill provides that the provisions of this bill constitute minimum labor standards and do not : (1) preempt or prevent standards which provide employees with greater protections or benefits ~~[.]~~ ; or (2) supersede an employee's right to recall pursuant to a collective bargaining agreement.

Sections 5-19 of this bill define certain terms applicable to the provisions of this bill.

Section 20 of this bill requires an employer, in the event of a layoff, to provide an employee who is to be laid off with a written notice containing certain information regarding the layoff and the employee's right to reemployment.

Section 21 of this bill requires an employer to retain certain information for 2 years if an employee is laid off.

Section 22 of this bill: (1) requires an employer to offer a laid-off employee certain job positions; (2) sets forth an order of preference for job offers if multiple eligible employees were laid off; (3) requires the employer to afford a laid-off employee not less than ~~[10 days]~~ 24 hours within which to accept or decline an offer; ~~[and]~~ (4) requires an employer to provide a laid-off employee with notice of the reasons for declining to recall the laid-off employee under certain circumstances ~~[.]~~ ; and (5) sets forth certain circumstances under which an employer is not required to extend additional offers of employment to a laid-off employee.

Section 23 of this bill prohibits an employer from taking certain adverse actions against certain persons for taking certain actions in relation to the provisions of this bill.

Section 24 of this bill: (1) authorizes the enforcement of the provisions of this bill by an aggrieved employee through the Labor Commissioner or in a civil action ; ~~[brought by certain persons;]~~ (2) establishes certain requirements which must be met before an aggrieved employee may file a complaint with the Labor Commissioner or file a civil action; (3) sets forth certain standards for establishing and rebutting certain presumptions concerning violations of the provisions of this bill in such an action; and ~~[(3)]~~ (4) authorizes the ~~[imposition]~~ granting of ~~[an injunction against violations and the issuance of orders of other appropriate affirmative action and]~~ certain awards to a prevailing plaintiff ~~[.]~~ and the imposition of certain penalties for violations of the provisions of this bill.

Section 25 of this bill: (1) imposes the requirements and duties of the provisions of this bill upon certain employers that conduct certain transactions, reorganizations or relocations of operations; and (2) extends the rights afforded by this bill to laid-off employees of such employers.

Section 26 of this bill makes the provisions of this bill applicable to all employees ~~[,]~~ other than laid-off employees who are parties to a valid severance agreement, regardless of whether the employees are represented for purposes of collective bargaining or are covered by a collective bargaining agreement.

Section 27 of this bill prohibits the provisions of this bill from being construed to invalidate or limit certain other rights, remedies or procedures available to an employee.

Section 28 of this bill provides for the severability of provisions of this bill by a court under certain circumstances.

Existing law requires the Director of the Department of Health and Human Services to adopt regulations requiring a public accommodation facility to establish standards for cleaning that are designed to reduce the transmission of SARS-CoV-2. (NRS 447.335) Section 28.1 of this bill revises those standards.

Existing law requires the Director to adopt regulations requiring each public accommodation facility to establish protocols to: (1) limit the transmission of SARS-CoV-2; and (2) train staff concerning the prevention and mitigation of SARS-CoV-2 transmission. (NRS 447.340) Section 28.2 of this bill eliminates the requirement to adopt certain protocols relating to social distancing.

Existing law requires the Director to adopt regulations requiring each public accommodation facility to establish, implement and maintain a written SARS-CoV-2 response plan that provides testing and time off for employees who have been exposed to SARS-CoV-2, are experiencing the symptoms of COVID-19 or have been diagnosed with COVID-19. (NRS 447.345) Section 28.3 of this bill: (1) eliminates from such response plans certain requirements relating to testing and screening for exposure to SARS-CoV-2; (2) revises provisions governing the circumstances under which an employee who is required to take time off due to COVID-19 must be paid for that time off; and (3) eliminates provisions which authorize an employer who operates a public accommodation facility to submit a request to the Director to increase or decrease the amount of days off required by these provisions.

Existing law authorizes the Secretary of State to suspend the business license of a person until the person complies, in good faith, with controlling health standards. Under existing law, these provisions expire by limitation on the later of July 1, 2023, or the date on which the Governor terminates the emergency described in the Declaration of Emergency for COVID-19 issued on March 12, 2020. (NRS 76.172) Section 28.4 of this bill eliminates the date of expiration so that the provisions do not expire.

Section 28.5 of this bill: (1) authorizes the Director to amend regulations, if necessary and within 5 business days after the effective date of this bill, to conform to the provisions of sections 28.1, 28.2 and 28.3 of this bill; (2) requires a district board of health of a health district to adopt regulations that are substantively identical to the regulations adopted by the Director within 10 days after the Director adopts such regulations; and (3) provides that any provisions of regulations adopted by the Director or a district board of health of a health district that are in conflict with the provisions of sections 28.1, 28.2 and 28.3 of this bill are unenforceable as of the effective date of this act.

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

Section 1. Chapter 613 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 28, inclusive, of this act.

Sec. 2. *Sections 2 to 28, inclusive, of this act may be cited as the Nevada Hospitality and Travel Workers Right to Return Act.*

Sec. 3. *The Legislature hereby finds that:*

1. COVID-19, also known as the "Coronavirus Disease," is a respiratory disease which has spread across the globe, with many thousands of cases in Nevada.

2. On January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency based on the threat caused by the novel coronavirus, and, thereafter, the President of the United States issued the Proclamation Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, beginning March 1, 2020.

3. The World Health Organization announced on March 11, 2020, that it had characterized COVID-19 as a pandemic.

4. On March 12, 2020, the Governor of Nevada issued the Declaration of Emergency for COVID-19, declaring the existence of an emergency in the State.

5. On March 13, 2020, the President declared a nationwide emergency pursuant to section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121 et seq.

6. Since the Governor's Declaration of Emergency for COVID-19 on March 12, 2020, the Governor has issued numerous COVID-19 declaration of emergency directives, setting forth closures, safety precautions and capacity limitations for public accommodations, other businesses and governmental facilities and removing such restrictions as appropriate.

7. Jobs in the leisure and hospitality sectors are central to this State's economy and to the well-being of this State as a whole. According to the Budget Division of the Office of Finance, leisure and hospitality jobs constituted a significant portion of total employment in this State during 2019.

8. Since the declaration of a national public health emergency on January 31, 2020, the COVID-19 pandemic has caused casino, hospitality, stadium and travel-related employers to discharge, lay off and furlough workers on a massive scale. As of December 2020, according to the Bureau of Labor Statistics of the United States Department of Labor, Nevada experienced a significant annual decrease in leisure and hospitality employment, the largest decline of any sector in Nevada.

9. Many thousands of casino, hospitality, stadium and travel-related workers have been separated from their jobs already during the pandemic . ~~[, and many thousands more are expected to face separation in the coming months.~~

~~*10. Federal, state and local programs and efforts by many of this State's nonprofit organizations have provided a modicum of support to casino, hospitality, stadium and travel-related workers in the short term. However, what these workers need most is the promise of a return to their previous jobs as the pandemic recedes and business returns.]*~~

~~*[11.]*~~ *10. It is in the public interest and beneficial to the public welfare to ensure that the State's casino, hospitality, stadium and travel-related employers honor their former employees' right to return to their former positions because doing so will speed the transition back to a functioning labor*

market and will lessen the damage to the State's economy. Recalling workers instead of searching for new employees could minimize the time necessary to match employees with jobs and reduce the unemployment rate more quickly.

~~*[12.]*~~ *11. It is in the public interest and beneficial to the public welfare to provide laid-off employees in the casino, hospitality, stadium and travel-related sectors with the economic security of knowing that they will have an opportunity to return to their jobs when business returns. In a typical recession, workers who are permanently laid off, without recall, often cycle through short-term jobs before finding a stable job, and many drop out of the labor market altogether. In addition, workers who believe that they are likely to be called back to a steady job are more likely to continue spending money. Ensuring a path to rehiring can relieve workers' anxiety, which can bolster morale and increase consumer spending, thereby supporting economic recovery.*

Sec. 4. *1. The purpose of sections 2 to 28, inclusive, of this act is to ensure minimum labor standards.*

2. The provisions of sections 2 to 28, inclusive, of this act do not ~~*[preempt]*~~ *:*

(a) Preempt or prevent the establishment of employment standards which are more protective of, or more beneficial for, employees, including, without limitation, higher wages or the expansion of coverage by ~~*[ordinance, resolution, contract or]*~~ *any other action of this State* ~~*[or any political subdivision within this State.]*~~ *; or*

(b) Supersede an employee's right to recall contained in a collective bargaining agreement, which right shall govern in the event of a conflict with an employee's rights set forth in sections 2 to 28, inclusive, of this act.

Sec. 5. *As used in sections 2 to 28, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 19, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 6. *"Airport" has the meaning ascribed to it in NRS 496.020.*

Sec. 7. *1. "Airport hospitality operation" means a business that provides food and beverage, retail or other consumer goods or services to the public at an airport.*

2. The term does not include an air carrier which has been issued an air carrier operating certificate by the Federal Aviation Administration.

Sec. 8. *1. "Airport service provider" means a business entity that performs, under contract with a passenger air carrier:*

(a) Functions for the catering of food and beverage; or

(b) Functions on the property of the airport that are directly related to the air transportation of persons, property or mail, including, without limitation:

(1) The loading and unloading of property on aircraft;

(2) Assistance to passengers pursuant to 14 C.F.R. Part 382;

(3) Security;

(4) Airport ticketing and check-in;

(5) Ground-handling of aircraft; and

(6) Aircraft cleaning, sanitization and waste removal.

2. The term does not include an air carrier which has been issued an air carrier operating certificate by the Federal Aviation Administration.

Sec. 9. *"Business entity" means a natural person, corporation, partnership, limited partnership, limited-liability partnership, limited-liability company, business trust, estate, trust, association, joint venture, agency, instrumentality or any other legal or commercial entity, whether domestic or foreign.*

Sec. 10. *1. ~~["Casino"]~~ Except as otherwise provided in subsection 3, "casino" has the meaning ascribed to the term "licensed gaming establishment" in NRS 463.0169.*

2. The term includes any contracted, leased or sublet premises that are connected to or operated in conjunction with the purpose of the casino, including, without limitation, facilities for the preparation of food, concessions, retail stores, restaurants, bars and structured parking facilities.

3. The term does not include:

(a) A restricted operation; or

(b) A licensed gaming establishment, as defined in NRS 463.0169, which operates solely pursuant to a restricted license.

Sec. 11. *"Covered enterprise" means an airport hospitality operation, an airport service provider, a casino, an event center or a hotel that is located in a county whose population is 100,000 or more.*

Sec. 12. *~~["Employee"]~~*

1. Except as otherwise provided in subsection 2, "employee" has the meaning ascribed to it in NRS 608.010.

2. The term does not include:

(a) Any employee who is:

(1) Employed in a managerial or executive capacity; and

(2) Exempt from the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., pursuant to 29 U.S.C. § 213(a)(1); or

(b) Any person who is engaged as a theatrical or stage performer, including, without limitation, at an exhibition.

Sec. 13. *"Employer" means any business entity ~~[, including an officer or executive of a corporation, who]~~ which directly or indirectly through an agent or any other business entity, including through the services of a temporary employment service, staffing agency or similar entity, owns or operates a covered enterprise within this State and employs or exercises control over the wages, hours or working conditions of an employee.*

Sec. 14. *1. "Event center" means a publicly or privately owned structure of more than 50,000 square feet or containing more than 5,000 seats that is used for the purposes of public performances, sporting events, business meetings or similar events and includes, without limitation, a concert hall, stadium, sports arena, race track, coliseum or convention center.*

2. The term includes any contracted, leased or sublet premises that are connected to or operated in conjunction with the purpose of the event center,

including, without limitation, facilities for the preparation of food, concessions, retail stores, restaurants, bars and structured parking facilities.

Sec. 15. *1. "Hotel" means ~~[(a)~~ :*

(a) A resort hotel ~~[and any]~~ ; or

(b) Any other residential building that:

~~[(a)]~~ (1) Is designated or used for lodging and other related services for the public, including, without limitation, the preparation and service of food and beverages, trade shows and conventions; and

~~[(b)]~~ (2) Contains not less than 200 guest rooms or suites of rooms. For the purposes of this paragraph, adjoining rooms do not constitute a suite of rooms.

2. The term also includes any contracted, leased or sublet premises that:

(a) Is connected to or operated in conjunction with the purpose of the resort hotel or residential building; or

(b) Provides services at the resort hotel or residential building.

Sec. 16. *"Laid-off employee" means an employee:*

1. Who was employed by an employer for not less than 6 months during the 12 months immediately preceding March 12, 2020; and

2. Whose most recent separation from active service for that employer:

(a) Occurred after March 12, 2020; and

(b) Was due to a governmental order, lack of business, reduction in force or another economic, nondisciplinary reason.

Sec. 17. *"Length of service" means the total of all periods of time during which an employee has been in active service, including periods of time during which the employee was on leave or on vacation.*

Sec. 18. *"Resort hotel" ~~[has the meaning ascribed to it]~~ means:*

1. A resort hotel, as defined in NRS 463.01865 ~~[.]~~ ;

2. An establishment described in section 19 of chapter 452, Statutes of Nevada 1997; or

3. A resort hotel described in section 20 of chapter 452, Statutes of Nevada 1997.

Sec. 18.5. "Restricted license" and "restricted operation" have the meaning ascribed to those terms in NRS 463.0189.

Sec. 19. *"Structured parking facility" means a parking deck, parking garage, parking structure or paved or unpaved parking lot.*

Sec. 20. *1. In the event of a layoff, an employer shall provide an employee who is to be laid off with written notice of the layoff, either in person or mailed to the last known address of the employee and, if the employer possesses such contact information, by telephone, text message ~~[and]~~ or electronic mail.*

2. The employer shall provide the notice required by this section at the time of the layoff or, if the layoff took place before the effective date of this act, not later than 20 days after the effective date of this act.

3. The employer shall provide the notice required by this section to each affected employee in ~~[a]~~ Spanish, English and any other language that is

~~[understood]~~ spoken by ~~[that employee.]~~ not less than 10 percent of the employer's workforce.

4. The notice required by this section must include:

(a) A notice of the layoff and the effective date of the layoff.

(b) A summary of the right to reemployment pursuant to sections 2 to 28, inclusive, of this act or clear instructions on the means by which the employee may access the information regarding that right.

(c) Contact information for the person who the employer has designated to receive, on behalf of the employer, an aggrieved employee's written notice of an alleged violation pursuant to paragraph (a) of subsection 2 of section 24 of this act.

Sec. 21. 1. An employer shall retain the following records for not less than 2 years after an employee is laid off:

(a) The full legal name of the employee;

(b) The job classification of the employee at the time of the separation from employment;

(c) The date of hire of the employee;

(d) The last known address of the employee;

(e) The last known electronic mail address of the employee;

(f) The last known telephone number of the employee; ~~[and]~~

(g) A copy of the written notice regarding the layoff that was provided to the employee ~~[.]~~ ; and

(h) Records of each offer made by the employer to the employee pursuant to subsection 1 of section 22 of this act, including, without limitation, the date and time of each offer.

2. For the purposes of this section, 2 years is measured from the date of the written notice provided by the employer to the laid-off employee pursuant to section 20 of this act.

Sec. 22. 1. An employer shall offer a laid-off employee in writing, by ~~[registered]~~ mail to the last known address of the employee and, if the employer possesses such contact information, by telephone, text message ~~[and]~~ or electronic mail, each job position:

(a) Which becomes available after the effective date of this act; and

(b) For which the laid-off employee is qualified. A laid-off employee is qualified for a job position pursuant to this paragraph if the laid-off employee:

(1) Held the same ~~[or a similar]~~ position at the covered enterprise at the time of the laid-off employee's most recent separation from active service with the employer; or

(2) ~~[Is or can be qualified for the position with the same training that would be provided to a new employee hired for that position.]~~ Held a similar position within the same job classification at the covered enterprise at the time of the laid-off employee's most recent separation from active service with the employer.

2. An employer shall offer job positions to laid-off employees in an order of preference corresponding to subparagraphs (1) and (2) of paragraph (b) of

subsection 1. If more than one laid-off employee is entitled to preference for a position, the employer must first offer the position to the laid-off employee with the greatest length of service for the covered enterprise.

3. An employer may extend simultaneous conditional offers of employment to laid-off employees with a final offer of employment conditioned on application of the order of preference set forth in subparagraphs (1) and (2) of paragraph (b) of subsection 1.

4. An employer who offers a laid-off employee a job position pursuant to this section shall afford the employee not less than ~~[10 days]~~ 24 hours after the ~~[date]~~ time of the employee's receipt of the offer to accept or decline the offer. A laid-off employee who is offered a job position pursuant to this section must be available to return to work within 5 calendar days after accepting the offer. If a laid-off employee who is offered a job position pursuant to this section:

(a) Does not accept or decline the offer within 24 hours; or

(b) Is not available to return to work within 5 calendar days after accepting the offer,

➥ the employer may recall the next available employee with the greatest length of service for the covered enterprise.

5. An employer who declines to recall a laid-off employee because the employee lacks qualifications and hires a person other than the laid-off employee shall, not later than 30 days after making that decision, provide the laid-off employee with a written notice of the decision identifying all the reasons for the decision.

6. An employer is not required to extend additional offers of employment to a laid-off employee pursuant to this section if any of the following applies:

(a) The employee states in writing that:

(1) The employee does not wish to be considered for future open positions with the employer; or

(2) The employee does not wish to be considered for future open positions with the employer which have regularly scheduled hours of work that are different from those which the employee worked immediately before his or her last separation from active service with the employer.

(b) The employer extends three bona fide offers of employment to the employee, with not less than 3 weeks between each offer, and the employee declines all three offers. For purposes of this paragraph, "bona fide offer" means an offer of employment in the same or a similar job classification and with a comparable number of regularly scheduled hours of work as the employee worked immediately before his or her last separation from active service with the employer.

(c) The employer attempts to make three offers of employment to the employee using the methods described in subsection 1 and:

(1) Each offer made by mail is returned as undeliverable;

(2) If the employer has the electronic mail address of the employee, any offer made by electronic mail is returned as undeliverable; and

(3) If the employer has contact information provided by the employee for telephone calls or text messages, the number provided for such calls or messages is no longer in service.

Sec. 23. *An employer shall not terminate, reduce in compensation, refuse to employ or otherwise take any adverse action against:*

1. Any person for:

(a) Seeking to enforce by any lawful means his or her rights pursuant to sections 2 to 28, inclusive, of this act;

(b) Participating in proceedings pursuant to sections 2 to 28, inclusive, of this act; or

(c) Opposing any practice proscribed by sections 2 to 28, inclusive, of this act. ~~[; or~~

~~(d) Otherwise asserting rights pursuant to sections 2 to 28, inclusive, of this act.]~~

2. An employee who mistakenly, but in good faith, alleges noncompliance with sections 2 to 28, inclusive, of this act.

Sec. 24. *1. The provisions of sections 2 to 28, inclusive, of this act may be enforced by an aggrieved employee through the Labor Commissioner or in a civil action in any court of competent jurisdiction. ~~[brought by one or more employees for and on behalf of himself, herself or themselves and other employees similarly situated, or the employees may designate an agent or representative to maintain an action for and on behalf of all employees similarly situated.]~~*

2. An aggrieved employee may file a complaint with the Labor Commissioner or file a civil action in any court of competent jurisdiction alleging a violation of the provisions of sections 2 to 28, inclusive, of this act only after the following requirements are met:

(a) The employee provides the employer with written notice, including, without limitation, by electronic mail, of the alleged violation and any facts known by the employee to support the allegation of the violation; and

(b) The employer is afforded 15 days after the date of receipt of the written notice to cure any alleged violation.

3. There is a rebuttable presumption that an employer's action is taken in violation of section ~~[25]~~ 23 of this act if it is established that:

(a) A laid-off employee exercised rights pursuant to the provisions of sections 2 to 28, inclusive, of this act or alleged in good faith that the employer was not complying with the provisions of sections 2 to 28, inclusive, of this act;

(b) The employer thereafter ~~[refused to employ;]~~ terminated, demoted or otherwise took adverse action against the employee; and

(c) The employer took the action described in paragraph (b) against the employee not later than 60 days after the employee exercised rights or made an allegation described in paragraph (a).

~~[3.]~~ 4. An employer may rebut a presumption created pursuant to subsection ~~[2]~~ 3 by proving that the true and entire reason for the action taken pursuant to paragraph (b) of subsection ~~[2]~~ 3 was a legitimate business

reason. The plaintiff in the action may rebut the legitimate business reason asserted by the employer by showing that the reason was, in fact, a pretext.

~~*[4. If the court finds that the employer has violated a provision of sections 2 to 28, inclusive, of this act, the court may enjoin the employer from engaging in the violation and order such affirmative action as may be appropriate, including, without limitation, reinstatement or hiring of employees, with or without back pay and fringe benefits, or any other equitable relief as the court deems appropriate.*~~

~~*5. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. Before interim earnings are deducted from lost wages, there must be deducted from the interim earnings any reasonable amounts expended by the employee in searching for, obtaining or relocating to new employment.*~~

~~*6. If the plaintiff in an action which is brought pursuant to this section prevails in the action, the court shall award reasonable attorney's fees, expert witness fees and costs as part of the cost recoverable.*~~

~~*7. In addition to the costs awarded pursuant to subsection 6, the court may issue an order for an award of:*~~

~~*(a) Compensatory and punitive damages if the court finds that the employer engaged in the violation with malice or with reckless indifference to the requirements of the provisions of sections 2 to 28, inclusive, of this act; and*~~

~~*(b) Treble damages payable to an employee who was terminated in violation of section 23]*~~

5. An employee or employees who establish a violation of sections 2 to 28, inclusive, of this act may be awarded any or all of the following, as appropriate:

(a) Rights of hiring and reinstatement.

(b) Future and back pay for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the greatest of any of the following rates:

(1) The average regular rate of pay received by the laid-off employee during the last 3 years of that employee's employment in the same job classification.

(2) The most recent regular rate of pay received by the laid-off employee while employed by the employer.

(3) The regular rate of pay received by an employee occupying the job position in place of the laid-off employee who should have been employed in that position.

(4) The value of the benefits which the laid-off employee would have received under the benefit plan provided by the employer.

6. Any employer, agent of the employer or other person who violates or causes to be violated any provision of sections 2 to 28, inclusive, of this act shall be subject to:

(a) A civil penalty of $100 for each employee whose rights under the provisions of sections 2 to 28, inclusive, of this act are violated; and

(b) The imposition of an additional sum payable to each employee as compensatory and liquidated damages in the amount of $500 for each day the rights provided to that employee pursuant to sections 2 to 28, inclusive, of this act are violated. Such damages shall be continuing until such time as the violation is cured.

7. The Labor Commissioner or the court may also award attorney's fees to a prevailing plaintiff in an action filed pursuant to this section.

8. No criminal penalties may be imposed for a violation of sections 2 to 28, inclusive, of this act.

Sec. 25. *1. An employer that, on or after January 31, 2020:*

(a) Purchases or otherwise acquires the ownership of another employer which owns or operates a covered enterprise; and

(b) Conducts the same or similar operations as those which were conducted by the employer that owned or operated the covered enterprise before the date of the purchase or acquisition,

➥ is subject to the provisions of sections 2 to 28, inclusive, of this act as if the purchasing or acquiring employer was the employer that owned or operated the covered enterprise before the date of the purchase or acquisition and owes to a laid-off employee the rights afforded by sections 2 to 28, inclusive, of this act.

2. An employer that, on or after January 31, 2020:

(a) Purchases or otherwise acquires all or substantially all of the assets of an employer that owned or operated a covered enterprise; and

(b) With those assets, conducts the same or similar operations as those which were conducted by the employer that conducted operations with those assets before the date of the purchase or acquisition,

➥ is subject to the provisions of sections 2 to 28, inclusive, of this act as if the employer which purchased or acquired the assets was the employer that conducted operations with those assets before the date of the purchase or acquisition and owes to a laid-off employee the rights afforded by sections 2 to 28, inclusive, of this act.

3. An employer which:

(a) Owns or operates a covered enterprise; and

(b) On or after January 31, 2020, changes the employer's form of organization but continues to own or operate the covered enterprise,

➥ remains subject to the provisions of sections 2 to 28, inclusive, of this act and owes to a laid-off employee the rights afforded by sections 2 to 28, inclusive, of this act.

4. An employer which moves operations from a location at which a laid-off employee was employed before January 31, 2020, to a different location within this State remains subject to the provisions of sections 2 to 28, inclusive, of this act and owes to the laid-off employee the rights afforded by sections 2 to 28, inclusive, of this act.

Sec. 26. ~~*[The]*~~

1. Except as otherwise provided in subsection 2, the provisions of sections 2 to 28, inclusive, of this act apply to all employees, as defined in section 12 of this act, regardless of whether the employees are represented for purposes of collective bargaining or are covered by a collective bargaining agreement.

2. The provisions of sections 2 to 28, inclusive, of this act do not apply to a laid-off employee who is a party to a valid severance agreement.

Sec. 27. *The provisions of sections 2 to 28, inclusive, of this act shall not be construed to:*

1. Invalidate or limit the rights, remedies and procedures of any contract or agreement that provides greater or equal protection for employees than are afforded by the provisions of sections 2 to 28, inclusive, of this act, notwithstanding the provisions of section 26 of this act.

2. Limit a discharged employee's right to bring a cause of action for wrongful termination under common law.

Sec. 28. *1. If any section, sentence, clause or phrase of sections 2 to 28, inclusive, of this act is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of sections 2 to 28, inclusive, of this act, which shall remain in full force and effect.*

2. The Legislature hereby declares that it would have adopted the provisions of sections 2 to 28, inclusive, of this act and each and every section, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of sections 2 to 28, inclusive, of this act were subsequently declared invalid or unconstitutional.

3. The courts are hereby authorized to reform the provisions of sections 2 to 28, inclusive, of this act in order to preserve the maximum permissible effect of each section therein.

Sec. 28.1. NRS 447.335 is hereby amended to read as follows:

447.335 1. The Director shall adopt regulations requiring a public accommodation facility to establish standards for cleaning that are designed to reduce the transmission of SARS-CoV-2. Those standards must require only the following and with no greater frequency than provided in this section:

(a) ~~[The use of cleaning products that are qualified by the United States Environmental Protection Agency for use against SARS-CoV-2 for the cleaning required by paragraphs (b) to (p), inclusive.~~

~~(b)]~~ Desks, tabletops, ~~[minibars that have been used after the most recent cleaning,]~~ interior and exterior handles of doors, faucets, toilets, ~~[nonporous headboards of beds,]~~ light switches, remote controls, telephones, keyboards ~~[,]~~ *and* touch screens ~~[, bed linens, towels, bed scarves and other decorative items on beds]~~ in guest rooms to be cleaned every day that the room is in use unless the guest using the room declines in-room housekeeping.

~~[(c)]~~ *(b)* The following high-contact areas and items in locations used by the public and employees to be cleaned ~~[regularly throughout the day]~~ *daily* while in use:

(1) Fixtures with which guests and employees may be expected to have regular physical contact;

(2) Doors and door handles at exterior entrances;

(3) Door handles at interior entrances regularly accessed by guests and employees;

(4) Regularly used computer keyboards, touch screens, credit card readers, printers, telephones, light switches, ice machines, vending machines and other frequently used instruments and equipment; and

(5) Countertops and desks in entrance areas and other high-usage areas.

~~[(d)]~~ *(c)* Glass surfaces, desks, tabletops, door handles and light switches in public areas to be cleaned ~~[regularly throughout the day]~~ *daily* while in use.

~~[(e)]~~ *(d)* Counters, desks, touch screens, keyboards, credit card readers and desktops in front desk areas to be cleaned ~~[regularly throughout the day]~~ *daily* while in use.

~~[(f)]~~ *(e)* Key cards and other types of keys for accessing rooms to be cleaned before those key cards or other keys are issued to another guest or removed from circulation for at least 24 hours after a guest checks out.

~~[(g)]~~ *(f)* Elevator buttons and rails in guest and service elevators to be cleaned ~~[regularly throughout the day]~~ *daily* if the elevator is in use.

~~[(h)]~~ *(g)* Sinks, faucets, walls, toilets, toilet paper dispensers and door handles in employee and public restrooms to be cleaned regularly throughout the day while in use.

~~[(i)]~~ *(h)* Work surfaces, tables, utensils, counters, touch screens and keyboards in areas used for food preparation to be cleaned regularly throughout the day.

~~[(j)]~~ *(i)* Tables, desks, tabletops, door handles and light switches in shared offices, employee locker rooms and employee cafeterias to be cleaned ~~[regularly throughout the day]~~ *daily* while in use.

~~[(k)]~~ *(j)* Exercise equipment, weights, tables, countertops, chairs, lockers and benches in fitness centers to be cleaned ~~[regularly throughout the day]~~ *daily* while in use.

~~[(l)]~~ *(k)* Tabletops in meeting rooms to be cleaned while in use.

~~[(m)]~~ *(l)* Tables, bartops, menus and check presentation holders in bar and dining facilities to be cleaned ~~[after use by a guest.~~

~~(n)]~~ *daily.*

(m) Touch screens and keyboards in bar and dining facilities to be cleaned ~~[regularly while in use.~~

~~(o)]~~ *daily.*

(n) Soiled laundry to be cleaned as necessary.

~~[(p)]~~ *(o)* Laundry carts and hampers to be cleaned ~~[regularly throughout the day]~~ *daily* while in use.

2. A public accommodation facility shall not advise or incentivize guests to decline daily in-room housekeeping.

3. An employer operating a public accommodation facility shall conspicuously post at each employee entrance and on each bulletin board where the facility regularly posts official communications with employees:

(a) A one-page summary of the standards adopted pursuant to subsection 1; and

(b) A list of key contact persons at public health agencies.

4. An employer operating a public accommodation facility shall make available to employees or their bargaining representative a physical or electronic copy of the standards adopted pursuant to subsection 1 upon request at no cost.

Sec. 28.2. NRS 447.340 is hereby amended to read as follows:

447.340 The Director shall adopt regulations requiring each public accommodation facility to establish protocols to:

1. Limit the transmission of SARS-CoV-2. Such protocols, must include only the following:

(a) ~~[Methods to encourage, to the extent reasonably possible:~~

~~(1) Employees to remain at least 6 feet apart from other employees and guests during their work and while on break.~~

~~(2) Guests to remain at least 6 feet apart from employees and other guests.~~

~~(b) A requirement that employee breaks must be structured to allow social distancing to the maximum extent recommended by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.~~

~~(c) A requirement that workstations must be separated by physical barriers or structured to allow social distancing where practicable to the maximum extent recommended by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.~~

~~(d)]~~ Requirements concerning the frequency of hand cleaning for employees.

~~[(e)]~~ *(b)* A requirement that each employee be provided with access to a sink with soap and water for hand washing or hand sanitizer containing at least 60 percent alcohol within reasonable proximity to the work area of the employee.

~~[(f)]~~ *(c)* Policies providing for the availability of hand sanitizer containing at least 60 percent alcohol near locations where employee meetings are held, breakrooms and cafeterias for employees, front desks, bell desks, lobbies, entrances to food and beverage service and preparation areas, principal entrances to the facility and, in a resort hotel, on the casino floor, if:

(1) Those areas are not near hand washing facilities with soap and water; and

(2) A supply of hand sanitizer containing at least 60 percent alcohol is generally available.

[(g)] *(d)* Policies for the distribution, at no cost to the employee, of masks and, where appropriate, gloves, based on public health concerns.

2. Train staff concerning the prevention and mitigation of SARS-CoV-2 transmission in the manner prescribed by the Director.

Sec. 28.3. NRS 447.345 is hereby amended to read as follows:

447.345 1. The Director shall adopt regulations requiring each public accommodation facility to establish, implement and maintain a written SARS-CoV-2 response plan designed to monitor and respond to instances and potential instances of SARS-CoV-2 infection among employees and guests. The plan must include only the following:

(a) The designation of a person or persons responsible for overseeing and carrying out on-site enforcement of the plan. The regulations must not require such a person or persons to be on-site at all times.

(b) [A requirement that each new employee and each employee returning to work for the first time after March 13, 2020, must undergo testing for SARS-CoV-2, if such testing is available.

(c) The designation of an area of the public accommodation facility where employees will check in every day to receive contact-free temperature measurement and review questions to screen for exposure to SARS-CoV-2.

(d)] Requirements that:

(1) The public accommodation facility must notify each employee who is known to have had close contact with a guest or employee who has been diagnosed with COVID-19 not later than 24 hours or as soon as practicable after the employer learns of the diagnosis. [; and]

(2) Each such employee must undergo testing for SARS-CoV-2 and, in addition to any other leave to which the employee is entitled, be given:

(I) Not more than 3 days of [paid] time off to await testing and testing results; and

(II) Additional [paid] time off if the public accommodation facility receives documentation of a delay in testing or receiving testing results that exceeds 3 days.

[(e)] *(3) For each such employee who is fully vaccinated for COVID-19 or who has a verified underlying medical condition that prevents the employee from receiving a vaccination for COVID-19, the time off required pursuant to subparagraph (2) must be paid time off.*

(c) A requirement that each employee who otherwise has a reasonable belief or has been advised that he or she has been in close contact with a person who has tested positive for SARS-CoV-2 must undergo testing for SARS-CoV-2.

[(f)] *(d)* Requirements that each employee who notifies his or her employer that he or she is experiencing symptoms of COVID-19:

(1) Must undergo testing for SARS-CoV-2; and

(2) Must not return to work while awaiting the results of that testing.

[(g)] *(e)* Requirements that each employee described in paragraph [(c) or (f)] *(c) and notifies his or her employer that he or she is experiencing*

symptoms of COVID-19 or who is described in paragraph (d) must, in addition to any other leave to which the employee is entitled, be given for the first occurrence on which the employee gives the employer such notification:

(1) Not more than 3 days of ~~[paid]~~ time off to await testing and testing results. ~~[; and]~~

(2) Additional ~~[paid]~~ time off if the public accommodation facility receives documentation of a delay in testing or receiving testing results that exceeds 3 days.

~~[(h)]~~ *(3) For each such employee who is fully vaccinated for COVID-19 or who has a verified underlying medical condition that prevents the employee from receiving a vaccination for COVID-19, the time off required pursuant to subparagraphs (1) and (2) must be paid time off.*

(f) A requirement that ~~[, except as otherwise provided in subsection 3,]~~ each employee who tests positive for SARS-CoV-2 or is otherwise diagnosed with COVID-19 and is working or has been recalled to work at the time of the result or diagnosis must be allowed to take at least 14 days off. ~~[.]~~ *For each such employee who is fully vaccinated for COVID-19 or who has a verified underlying medical condition that prevents the employee from receiving a vaccination for COVID-19,* at least 10 of ~~[which]~~ *the 14 days described in this paragraph* must be paid time off.

~~[(i)]~~ *(g)* A requirement that testing for SARS-CoV-2 required by this section must be:

(1) Provided at no cost to the employee; and

(2) Performed on-site or at a testing facility selected by the public accommodation facility.

~~[(j)]~~ *(h)* A requirement that an employee that is required to be tested pursuant to this section authorize the provision of or provide the testing results to the public accommodation facility.

~~[(k)]~~ *(i)* A requirement that any guest who reports testing positive for SARS-CoV-2 or being diagnosed with COVID-19 must be requested to leave the public accommodation facility if practicable and seek medical attention.

~~[(l)]~~ *(j)* A requirement that information pertaining to employees and guests who test positive for SARS-CoV-2 or who are diagnosed with or report symptoms of COVID-19 must be kept confidential, unless the employee or guest agrees otherwise and except as required to be disclosed to public health officials and for purposes of contact tracing or cleaning.

2. The regulations adopted pursuant to this section must define the term "close contact" to have the meaning most recently ascribed to it by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services for the purpose of determining when a person has been in close contact with another person who has tested positive for SARS-CoV-2.

3. ~~[An employer who operates a public accommodation facility may submit a request to the Director to increase or decrease the amount of days off required by paragraph (h) of subsection 1. The Director may grant such a request if it is consistent with the recommendations of the Centers for Disease~~

~~Control and Prevention of the United States Department of Health and Human Services concerning time off for employees who test positive for SARS-CoV-2 or are otherwise diagnosed with COVID-19.~~

~~4.~~] For the purposes of this section, paid time off must be calculated at the base rate of pay for the employee. Paid time off taken pursuant to this section:

(a) Must not be deducted from paid time off provided to the employee pursuant to NRS 608.0197 or a policy or contract of the public accommodation facility.

(b) May be deducted from paid sick leave provided pursuant to section 5102(a)(1)-(3) of the Families First Coronavirus Response Act, P.L. 116-127.

~~[5.]~~ *4.* The health authority may require a public accommodation facility that is not under the jurisdiction of the Nevada Gaming Control Board to submit a written SARS-CoV-2 response plan to the health authority. Except as otherwise provided in this section and notwithstanding any other law, a written SARS-CoV-2 response plan submitted to the health authority is confidential. The health authority may disclose all or a part of such a plan upon:

(a) The request of an authorized agent of the Federal Government, a foreign government or a state or local governmental entity in this State or any of the several states, territories, possessions and dependencies of the United States, the District of Columbia or Puerto Rico.

(b) The order of a court of competent jurisdiction.

(c) Specific authorization of the chief administrative officer of the health district or, in a location that is not part of a health district, the Chief Medical Officer.

~~[6.]~~ *5.* The Nevada Gaming Control Board may require a public accommodation facility that is under the jurisdiction of the Board to submit a written SARS-CoV-2 response plan to the Board, either alone or as part of an emergency response plan adopted pursuant to NRS 463.790.

~~[7.]~~ *6.* The provisions of this section must not be construed to preclude an employee who is exposed to or tests positive for SARS-CoV-2 or is diagnosed with COVID-19 from choosing to perform his or her duties remotely instead of taking time off if the job duties of the employee are conducive to remote work.

7. As used in this section:

(a) "Fully vaccinated for COVID-19" has the meaning most recently ascribed to it by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

(b) "Verified underlying medical condition that prevents the employee from receiving a vaccination for COVID-19" means a condition of an employee for whom the SARS-CoV-2 vaccine is not recommended because of a medical exemption that is documented by a note provided by a licensed physician and provided to the employer.

Sec. 28.4. Section 39 of chapter 8, Statutes of Nevada 2020, 32nd Special Session, at page 114, is hereby amended to read as follows:

Sec. 39. ~~[1.]~~ This act becomes effective upon passage and approval.

~~[2. Section 30 of this act expires by limitation on the later of:~~

~~(a) The date on which the Governor terminates the emergency described in the Declaration of Emergency for COVID-19 issued on March 12, 2020; or~~

~~(b) July 1, 2023.]~~

Sec. 28.5. 1. The Director of the Department of Health and Human Services may, if necessary and not later than 5 business days after the date on which this act becomes effective, amend regulations adopted pursuant to the provisions of NRS 447.335, 447.340 and 447.345, as amended by sections 28.1, 28.2 and 28.3, respectively, of this act to conform to those provisions.

2. Notwithstanding the 15-day requirement set forth in NRS 447.355, a district board of health of a health district shall, pursuant to NRS 447.355, adopt regulations that are substantively identical to the regulations adopted by the Director of the Department of Health and Human Services pursuant to subsection 1 within 10 days after the adoption of the regulations by the Director pursuant to subsection 1.

3. Any provision of the regulations adopted by the Director or a district board of health of a health district that are in conflict with the provisions of NRS 447.335, 447.340 or 447.345, as amended by sections 28.1, 28.2 and 28.3, respectively, of this act are unenforceable as of the effective date of this act.

Sec. 28.6. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 28.7. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Sec. 29. 1. This section and sections 28.1 to 28.7, inclusive, of this act ~~[becomes]~~ become effective upon ~~[passage]~~ the later of:

(a) Passage and approval ~~[, and expires]~~ ; or

(b) June 1, 2021.

2. Sections 1 to 28, inclusive, of this act become effective on July 1, 2021, and expire by limitation on the later of:

~~[1.]~~ (a) The date on which the Governor terminates the emergency described in the Declaration of Emergency for COVID-19 issued on March 12, 2020; or

~~[2. July 1, 2023.]~~

(b) August 31, 2022.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Amendment No. 800 makes several changes to Senate Bill No. 386. The amendment amends provisions concerning the Legislature's intent and revises provisions concerning labor standards.

It amends the definitions of various terms used in the bill, including, but not limited to, the term "casino," "employee" and "resort hotel." It amends provisions concerning the notification required be provided to an employee who is to be laid-off and amends provisions concerning a job offer made to a laid-off employee and the records of each offer. It extends that an aggrieved employee may file a complaint with the Nevada Labor Commissioner and authorizes the granting of certain awards to a prevailing plaintiff and the imposition of certain penalties for violations. It provides that the provisions of this bill do not apply to a laid-off employee who is a party to a valid severance agreement. Finally, it revises provisions concerning regulations adopted by the Director of DHSS and the district boards of health with requirements to reduce the transmission of COVID-19 in certain public accommodation facilities.

Amendment adopted.

Bill read third time.

Remarks by Senator Cannizzaro.

Senate Bill No. 386 requires certain employers who laid off employees because of the Declaration of Emergency for COVID-19 to offer job positions to those employees under certain conditions. The bill prescribes an order of preference that the employer must follow when extending a job offer to such employees. The bill requires these employers, in the event of a layoff, to provide an employee who is laid off with a written notice containing certain information regarding the layoff.

The bill prohibits an employer from terminating, reducing compensation, refusing to employ or otherwise taking any adverse action against a person who takes certain actions in relation to the provisions of this bill. An aggrieved employee who establishes certain requirements may file a complaint with the Labor Commissioner or bring a civil action in court. The bill sets forth certain standards for establishing and rebutting certain presumptions concerning violations of the provisions of this bill in such an action and specifies certain awards may be granted to an aggrieved employee who prevails in such an action. The bill establishes minimum labor standards and does not preempt or prevent employment standards that are more protective and beneficial for employees, nor does the bill supersede an employee's right to recall pursuant to a collective bargaining agreement.

In addition, the bill revises provisions requiring the Director of DHSS and the district boards of health to adopt regulations prescribing requirements to reduce and prevent the transmission of the virus that causes COVID-19 in public accommodation facilities such as hotel/casinos, resorts, hotels, motels, hostels, bed and breakfast and similar facilities. Finally, the bill provides that the regulations adopted by the Director and district boards of health to reduce and prevent COVID-19 transmission must be amended to reflect the new requirements and provisions in these regulations that conflict with this bill are unenforceable.

I support of Senate Bill No. 386. Due to the COVID-19 pandemic, many workers were laid off and found themselves without a job the day after the doors closed. They are eager to go back to work to provide for their families and ensure they have a place to live. Senate Bill No. 386 provides a pathway to ensure they can have those jobs back and that we can get our economy back. This bill is all about bringing those workers back to work and giving those employers the resources they need to continue to operate. This is the least we can do to ensure that we start to see progress toward getting our State back on track. I urge the support of my colleagues.

Roll call on Senate Bill No. 386:

YEAS—12.

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

Senate Bill No. 386 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 4, 44, 49, 67, 75, 77, 95, 103, 109, 150, 166, 173, 177, 179, 186, 188, 190, 196, 203, 209, 215, 217, 222, 229, 237, 245, 248, 249, 260, 269, 275, 283, 288, 293, 294, 307, 320, 327, 329, 332, 344, 352, 354, 358, 359, 360, 383, 387, 391, 396, 404, 406; Senate Resolutions Nos. 5, 6; Assembly Bills Nos. 19, 42, 57, 71, 84, 85, 88, 104, 105, 115, 158, 177, 181, 200, 202, 207, 214, 222, 237, 250, 277, 286, 287, 290, 298, 327, 345, 394, 400, 436.

Senator Cannizzaro moved that the Senate adjourn until Thursday, May 27, 2021, at 11:00 a.m.

Motion carried.

Senate adjourned at 8:07 p.m.

Approved: KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate