

NEVADA LEGISLATURE

81st Session, 2021

SENATE DAILY JOURNAL

THE ONE HUNDRED AND SIXTEENTH DAY

CARSON CITY (Thursday), May 27, 2021

Senate called to order at 11:24 a.m.

President Marshall presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Nick Emery.

Father God, thank You for this day. Thank You for each of these leaders. Help each of these Senators to represent well the Nevadans who elected them in their district. Help them to seek what is best for those who have trusted in their leadership. Help them to know what to do at the right time. Help them to know when to wait and what questions they need to ask to gain more information.

As this Legislative Session draws to a close, their work as servant leaders in our State does not end. I pray over this group of servant leaders from Your Holy Word. In Jude 1:2, it says, "May mercy and peace and love be multiplied to you." Give these leaders opportunities to demonstrate great mercy to those much different than themselves this day. Allow them to be gracious and receive mercy from others. Give these leaders a deeper sense of Your peace for their lives for their journey they are on and all of the work they do.

Help them to be Your people, people of peace this day. Give these leaders opportunities to demonstrate true service, real sacrifice and authentic love toward everyone; those who are easy or a joy to love, and those who are harder to love but who need to be loved and encouraged, too. Fill each one here this day with strength and wisdom to accomplish Your Holy purposes. Give them opportunities they did not expect and the grace to face each task, whether planned or not planned.

May each one here work faithfully toward the ultimate goal of what is truly best for everyone in our State. May You bless this gathering of servant leaders and bless our great State.

It is in His Name, we pray.

AMEN.

Pledge of Allegiance to the Flag.

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:27 a.m.

SENATE IN SESSION

At 11:30 a.m.
 President Marshall presiding.
 Quorum present.

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.

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 Senate Bill No. 458.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 126, 224, 225, 230, 319, 321, 363, 376, 416, 427.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 550 to Assembly Bill No. 3; Senate Amendment No. 590 to Assembly Bill No. 7; Senate Amendment No. 497 to Assembly Bill No. 8; Senate Amendment No. 750 to Assembly Bill No. 61; Senate Amendment No. 643 to Assembly Bill No. 86; Senate Amendment No. 677 to Assembly Bill No. 132; Senate Amendment No. 588 to Assembly Bill No. 182; Senate Amendment No. 645 to Assembly Bill No. 186; Senate Amendment No. 541 to Assembly Bill No. 195; Senate Amendment No. 661 to Assembly Bill No. 251; Senate Amendment No. 647 to Assembly Bill No. 253; Senate Amendment No. 499 to Assembly Bill No. 257; Senate Amendment No. 562 to Assembly Bill No. 301; Senate Amendment No. 561 to Assembly Bill No. 320; Senate Amendment No. 648 to Assembly Bill No. 333; Senate Amendment No. 585 to Assembly Bill No. 343; Senate Amendment No. 620 to Assembly Bill No. 359; Senate Amendment No. 664 to Assembly Bill No. 396; Senate Amendment No. 592 to Assembly Joint Resolution No. 1.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in Senate Amendment No. 748 to Assembly Bill No. 440.

CAROL AIELLO-SALA

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

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

Motion carried.

Senator Denis moved that Senate Bill No. 67 be taken from the Secretary's desk and placed on the General File.

Motion carried.

Senator Cannizzaro moved that Assembly Bills Nos. 37, 67, 357, 365, 441 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:33 a.m.

IN JOINT SESSION

At 11:37 a.m.

President Marshall presiding.

The Secretary of the Senate called the Senate roll.

All present except Senator Hansen, who was excused.

The Chief Clerk of the Assembly called the Assembly roll.

All present except Assemblywoman Martinez, who was excused.

Representative Horsford delivered his message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
EIGHTY-FIRST SESSION, 2021

It is an honor to be with you today. I realize this is the final week of the Session, and you are busy doing the hard, but necessary, work to pass meaningful legislation and the State budget for the next two years. I want to thank Speaker Frierson and Leader Cannizzaro for inviting me to address this distinguished Body.

Since the beginning of the COVID-19 pandemic, the elected members and staff of the Nevada Legislature have worked long hours to help our State weather one of the greatest crises in modern history. History will remember that you led when Nevada needed it the most, and I want to thank each of you for your public service.

Twelve years ago when I was Senate Majority Leader, Nevada faced another crisis. The 2008 recession had devastated our economy. Just like today, our hospitality and tourism industries were badly hit, and Nevada suffered a level of economic damage that other states could only fear. Then, just like now, members of the Nevada Legislature worked across the aisle to rebuild stronger than before. With your work and mine in Washington, we can build back better from this pandemic and forge a stronger, fairer future for every Nevadan family.

During this Session of Congress, I am focused on three key priorities. First, crush the coronavirus. Since the COVID-19 vaccine became available to the public, Governor Sisolak and our State and local leaders have worked to quickly open vaccine sites across our State and encourage Nevadans to get their shots. I want to thank the first responders, the Nevada National Guard, health districts, pharmacists and our entire State for coming together to get every person vaccinated so we can end this pandemic. In early May, my office announced that more than \$2 million from the American Rescue Plan was secured for Nevada to promote vaccine education and outreach.

While that money makes a tremendous difference, it is community leadership that ultimately make the most difference. During a public roundtable conversation I hosted last month, I heard from Pastor Kelcey West of Nehemiah Ministries, and he told an important story. Pastor West was a coronavirus skeptic. He was skeptical about the virus, and he was skeptical about the vaccine. Then he contracted coronavirus himself. With God's mercy, Pastor West recovered. That experience made him a vaccine evangelist. Today, he is working with Jo Cato and Clark County leaders on the Back to Life initiative, which works to expand vaccination rates in Black and Latino communities.

Alongside other leaders and groups, like Ericka Aviles with Esta En Tus Manos, we have powerful ambassadors for this vaccine across Nevada. Their communities trust them, and your constituents trust you. When you tell your constituents this vaccine is safe and effective, that will make more of a difference than a billboard or public service announcement ever could.

Beyond the vaccine, this past year has shown the urgency to improve our healthcare system. Throughout the pandemic, we have seen countless deaths that could have been prevented with earlier medical intervention. When healthcare is unaffordable and Nevadans need to choose between a \$50 copay and putting food on the table, many people will not get the care they need. The American Rescue Plan, Congress's \$1.9-trillion COVID relief package, provides healthcare premium subsidies for marketplace healthcare plans to ensure that Nevada families pay no more than 8.5 percent of their income in healthcare premiums. Thanks to the powerful advocacy of

Nevada's Culinary Union and other labor groups. The plan also includes full Continuation Omnibus Budget Reconciliation Act (COBRA) subsidies for workers who have lost their jobs. That is big, and I am proud we were able to deliver on healthcare at a time when our communities needed it the most.

In March, I was proud to announce that my office secured more than \$2.7 million for vaccinations, primary care and telemedicine in Nevada's 4th District as part of a \$25-million package for healthcare providers across our State. Several weeks ago, I toured one of the funded health centers, FirstMed Health and Wellness Center, to learn about their innovative tele-healthcare practices during the pandemic. Like many other Nevada healthcare providers, FirstMed has pioneered new ways to deliver physical and mental-health care virtually. I know many of these practices will expand care far beyond this pandemic. There are a number of members of this Body who have been working alongside healthcare experts to expand care for Nevadans. I want to especially thank Senator Spearman for her leadership in this area.

As we work to crush the coronavirus, my second goal for this Congress is to get our economy back on track. Nevada's economy has disproportionately suffered from this pandemic, but help is finally here. The American Rescue Plan allocates around \$4 billion to help Nevada's State, county and local governments get back on track. Recently, the Treasury Department released guidance that gives state and local government broad latitude in how these funds are to be spent. It is my hope these funds will be used to keep essential workers on payroll, fund essential, shovel-worthy infrastructure projects and expand social services for those who have been hit the hardest to ensure that no community is left behind in our recovery.

The American Rescue Plan also includes more than \$1 billion to fully reopen our schools and childcare facilities and ensure parents can return to work safely. Over the last few months, I have been privileged to have the opportunity to work closely with Nevada's own Juliana Urtubey, the National Teacher of the Year. Juliana teaches at Booker Elementary, where my son attended school, and she told me how much her students have struggled with remote and hybrid learning. When Congress was working to pass this education funding, I was thinking of Juliana, her students and a great champion for education, former Assemblyman Tyrone Thompson, who worked hard to increase investment in our children's futures. The money from the American Rescue Plan will get all of our children back to in-person learning and address pandemic learning loss, which has taken the heaviest toll on children of color and those in rural communities. With schools and childcare facilities fully reopened, Nevada's parents will be able to return to their jobs safely, helping to rebuild the economy.

In Nevada, our unique communities need unique economic support. Nevada businesses have already received critical aid to keep employees on payroll through the Paycheck Protection Program, which was expanded in the American Rescue Plan. As we worked to pass aid for small businesses, I was proud to work to establish the Restaurant Relief Fund and the Shuttered Venue Operators Grant program, which is now open for applications.

I know that some in this Body have expressed concerns about the federal unemployment aid in the American Rescue Plan. The problem we are facing is not a problem with unemployment insurance. Nevadans want to work. They deserve better than jobs that keep their family below the poverty line with no health insurance or benefits. As we rebuild Nevada's economy, we need to make sure that every hardworking Nevadan can get a good job that pays a living wage.

We need to solve the childcare access issues that have prevented so many working families, particularly mothers, from returning to the workforce. One of the most important and often overlooked sections of the American Rescue Plan is the extended and increased Child Tax Credit, which will put an average of \$3,100 in the pockets of working families in my district during the pandemic. Half of the child tax credit will be paid monthly between July and December 2021. Nevadans who are not required to file their taxes will need to use the nonfiler tool on IRS.gov to qualify. This tool will become available in the next couple of weeks, and I hope you will help me spread the word to the families who are most in need.

When we talk about building back better, I want to briefly touch on five individual bills I am working on to pass. First, the Hospitality and Commerce Jobs Recovery Act of 2021, which would provide relief to our hospitality and tourism industries. This legislation will keep Nevadans on the job, create new jobs and increase tourism to the entertainment capital of the world.

Second, the Secure and Fair Enforcement (SAFE) Banking Act, would align State and federal law to ensure that Nevada's cannabis businesses are no longer forced to operate in all-cash environments. This legislation works hand-in-hand with other legislation I have sponsored to remove cannabis from the federal Controlled Substances Act and expunge previous marijuana convictions to ensure that yesterday's laws are not punishing today's families. I want to recognize the important work being done on the ground on cannabis issues, particularly with Assembly Bill No. 158, which allows youth the opportunity to acknowledge mistakes involving cannabis without establishing a police record.

Third, the George Floyd Justice in Policing Act will address the use of excessive force by law enforcement and build stronger relationships between police and the communities they serve. Over the last year, our country has seen a national reckoning over the way people of color are often treated by law enforcement. The need for change is clear. I want to thank Assemblywoman Danielle Monroe-Moreno and Senator Dina Neal, who have been leaders on issues of racial justice and police accountability during this Session in particular.

Fourth, the Southern Nevada Economic Development and Conservation Act, the largest public lands bill in Nevada's history. This will protect more than two-million acres of land from development while ensuring that Nevada's long-term housing and economic development needs continue to be met. This is a bipartisan bill sponsored by the entire Nevada delegation.

Fifth, the American Dream and Promise Act of 2021 will create a pathway to citizenship for the thousands of undocumented immigrants who have made Nevada their home. Our Temporary Protected Status recipients and DREAMers have lived in the shadows for too long, and we must ensure they have a pathway to citizenship.

In the months to come, I will be working to pass these bills, along with the American Families Plan and the American Jobs Plan, the two major strategic initiatives President Biden has outlined. The American Jobs Plan will create millions of good-paying jobs while strengthening America's infrastructure and revitalizing our care economy. The American Families Plan will create tax breaks for working families, provide four additional years of free public education to every child and create a national paid-leave program to keep millions of working women from leaving the workforce. These are bold plans that will make sure that Nevada has a strong future, and I am optimistic about our chances of getting them passed into law.

Let me finish by saying this: at the beginning of the new Congress, we saw armed insurrectionists storm the U.S. Capitol. It was shocking, and it was unprecedented. It demonstrated our collective obligation to restore faith in American democracy. Thankfully, Nevada is leading the way. Since the presidential election last November, Republicans and Democrats have united to make clear that our elections were safe, secure and fair. As other states have worked to restrict access to the ballot box, Nevadans have worked to make it easier for every Nevadan to participate in our democracy. In Nevada, that faith in our democracy has always defined who we are.

Thank you to our devoted public servants, our committed citizenry and the leadership in this Body. Our future in Nevada is bright.

Assemblywoman Monroe-Moreno moved that the Senate and Assembly in Joint Session extend a vote of thanks to Congressman Steven Horsford for his timely, able and constructive message.

Motion carried.

Assemblyman Roberts moved that the Joint Session be dissolved.

Motion carried.

Joint Session dissolved at 11:50 a.m.

SENATE IN SESSION

At 11:50 a.m.
 President Marshall presiding.
 Quorum present.

Madam President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 11:51 a.m.

SENATE IN SESSION

At 11:55 a.m.
 President Marshall presiding.
 Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 126.

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. 224.

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. 225.

Senator Ratti moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 230.

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. 319.

Senator Ratti moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 321.

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. 363.

Senator Ratti moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 376.

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. 416.

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

Motion carried.

Assembly Bill No. 427.

Senator Ratti moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Finance.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 441.

Bill read third time.

Remarks by Senator Ratti.

Senate Bill No. 441 repeals 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, and reenacts those provisions into NRS Chapter 360, which includes provisions governing revenue and taxation generally.

Senate Bill No. 441 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 bill requires the \$15 initial and annual renewal fee to be distributed in the same manner as the existing initial seller's permit fees are distributed pursuant to NRS Chapters 372, 374 and 377.

The bill specifies that a seller's permit issued under current law before the October 1, 2021, effective date of this bill remains in effect following October 1, 2021, and expires on December 31, 2021.

Roll call on Senate Bill No. 441:

YEAS—13.

NAYS—Buck, Goicoechea, Hammond, Hansen, Hardy, Pickard, SeEVERS Gansert, Settelmeyer—8.

Senate Bill No. 441 having failed to receive a two-thirds majority, Madam President declared it lost.

Senator Cannizzaro moved that the action whereby the bill was lost be reconsidered.

Motion carried.

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

Motion carried.

Senate in recess at 12:02 p.m.

SENATE IN SESSION

At 12:07 p.m.
 President Marshall presiding.
 Quorum present.

Senator Cannizzaro moved that the bill be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senate Bill No. 457.

Bill read third time.

Remarks by Senator Kieckhefer.

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

Roll call on Senate Bill No. 457:

YEAS—16.

NAYS—Buck, Hansen, Hardy, Pickard, Settlemeyer—5.

Senate Bill No. 457 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 94.

The following Assembly amendment was read:

Amendment No. 600.

SUMMARY—~~Provides that an unlocked gate does not, in and of itself, constitute a public nuisance.~~ Revises provisions relating to property. (BDR 15-440)

AN ACT relating to ~~public nuisances;~~ property; providing that an unlocked gate which is erected and maintained across certain public roads in certain counties does not, in and of itself, constitute a public nuisance ~~;~~ under certain circumstances; removing a provision making a place where vagrants resort a public nuisance; authorizing a board of county commissioners and board of county highway commissioners to take certain actions relating to the erection and maintenance of gates across certain public roads; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law ~~states that: (1) a public nuisance is a crime against the order and economy of the State; and (2) a person commits a public nuisance if he or she engages in certain activities. (NRS 202.450) A person who commits or maintains a public nuisance for which no special punishment is prescribed is guilty of a misdemeanor and a court may order the person to abate the nuisance and pay a civil penalty of not less than \$500 but not more than \$5,000. (NRS 202.470, 202.480)~~ creates in each county, except for a county whose

population is 100,000 or more (currently Clark and Washoe Counties), a board of county highway commissioners which has the exclusive control of all matters pertaining to the construction, repair and maintenance of public highways, roads and bridges within its county. (NRS 403.005, 403.010, 403.090) Existing law authorizes a board of county highway commissioners to make certain rules and regulations. (NRS 403.050) Section 5.3 of this bill authorizes a board of county highway commissioners to make rules and regulations to allow the erection and maintenance of gates across certain public roads in the county. Section 5.3: (1) requires such rules and regulations to specify that such a gate is to be kept unlocked; and (2) authorizes such rules and regulations to set forth any specifications, standards and requirements concerning such a gate as the board determines to be necessary.

Section 5.6 of this bill authorizes the board of county commissioners in a county whose population is 100,000 or more to adopt an ordinance or enter into a written agreement with a person authorizing the person to erect and maintain a gate across a public road in the county. Section 5.6 requires any such ordinance or agreement to contain provisions: (1) specifying that the gate is to be kept unlocked; and (2) ensuring that public access to the public road is not restricted in any manner and that the traveling public is able to travel on the public road without unnecessary delay.

Existing law makes it a public nuisance for a person, by force, threat, intimidation or any other unlawful means, to prevent or obstruct the free passage or transit over or through certain highways, roads, state lands or other public lands or lands dedicated to public use or to knowingly misrepresent the status of or assert any right to the exclusive use and occupancy of any of those highways, roads, state lands or other public lands or lands dedicated to public use if the person has no leasehold interest in or claim or color of title to the highway, road, state land or other public land or land dedicated to public use. (NRS 202.450) Section 1 of this bill ~~revises the provisions setting forth the activities that constitute a public nuisance to specify~~ provides that an unlocked gate which is erected and maintained across a public road does not, in and of itself, constitute a public nuisance, ~~if~~ if the gate is erected and maintained in accordance with the rules and regulations made pursuant to section 5.3 or an ordinance adopted or written agreement entered into pursuant to section 5.6, as applicable. Section 1 further provides that it is not a public nuisance for a person to fence or enclose public land if the fencing or enclosure is authorized or required by a federal agency having jurisdiction over the public land. Section 1 also removes a provision of existing law making a place where vagrants resort a public nuisance.

Sections 3-5 of this bill make conforming changes to reflect the addition of the provision made by section 1.

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

Section 1. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor or controlled substance analog is unlawfully sold, served, stored, kept, manufactured, used or given away; or

(f) That is regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang

~~or~~
~~(g) Where vagrants resort,~~

→ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

→ is a public nuisance.

4. A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by the board of health and:

(a) The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or

(b) The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully

manufacturing a controlled substance, immediate precursor or controlled substance analog.

5. ~~HH~~ Except as otherwise provided in subsections 6 and 7, it is a public nuisance for any person:

(a) By force, threat or intimidation, or by fencing or otherwise enclosing, or by any other unlawful means, to prevent or obstruct the free passage or transit over or through any:

- (1) Highway designated as a United States highway;
- (2) Highway designated as a state highway pursuant to NRS 408.285;
- (3) Main, general or minor county road designated pursuant to NRS 403.170;
- (4) Public road, as defined in subsection 2 of NRS 405.191;
- (5) State land or other public land; or
- (6) Land dedicated to public use; or

(b) To knowingly misrepresent the status of or assert any right to the exclusive use and occupancy of such a highway, road, state land or other public land or land dedicated to public use,

↪ if the person has no leasehold interest, claim or color of title, made or asserted in good faith, in or to the highway, road, state land or other public land or land dedicated to public use.

6. An unlocked gate which is erected and maintained across:

(a) A road described in subparagraph (3) or (4) of paragraph (a) of subsection 5 located in a county whose population is less than 100,000, does not, in and of itself, constitute a public nuisance ~~if~~ if the gate is erected and maintained in accordance with the rules and regulations of the board of county highway commissioners made pursuant to section 5.3 of this act.

(b) A road described in subparagraph (4) of paragraph (a) of subsection 5 located in a county whose population is 100,000 or more, does not, in and of itself, constitute a public nuisance if the gate is erected and maintained pursuant to an ordinance adopted or an agreement entered into by the board of county commissioners pursuant to section 5.6 of this act.

7. It is not a public nuisance for a person to fence or otherwise enclose any public land if such fencing or enclosure is authorized or required by a federal agency having jurisdiction over the public land.

8. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

~~7-8, 9.~~ 9. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

~~18-97~~ 10. A request for emergency assistance by a tenant as described in NRS 118A.515 and 118B.152 is not a public nuisance.

~~19-107~~ 11. As used in this section:

(a) "Board of health" has the meaning ascribed to it in NRS 439.4797.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Criminal gang" has the meaning ascribed to it in NRS 193.168.

(d) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(e) "Shooting range" has the meaning ascribed to it in NRS 40.140.

(f) "State land" has the meaning ascribed to it in NRS 383.425.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 244.363 is hereby amended to read as follows:

244.363 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~7-87~~ 9 of NRS 202.450, the boards of county commissioners in their respective counties may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the county.

Sec. 4. NRS 266.335 is hereby amended to read as follows:

266.335 The city council may:

1. Except as otherwise provided in subsections 3 and 4 of NRS 40.140 and subsections 6, 7, and 8, ~~and 6, 8 and 9 and 10~~ of NRS 202.450, determine by ordinance what shall be deemed nuisances.

2. Provide for the abatement, prevention and removal of the nuisances at the expense of the person creating, causing or committing the nuisances.

3. Provide that the expense of removal is a lien upon the property upon which the nuisance is located. The lien must:

(a) Be perfected by recording with the county recorder a statement by the city clerk of the amount of expenses due and unpaid and describing the property subject to the lien.

(b) Be coequal with the latest lien thereon to secure the payment of general taxes.

(c) Not be subject to extinguishment by the sale of any property because of the nonpayment of general taxes.

(d) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

4. Provide any other penalty or punishment of persons responsible for the nuisances.

Sec. 5. NRS 268.412 is hereby amended to read as follows:

268.412 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~7-87~~ 9 of NRS 202.450, the city council or other governing body of a city may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.

Sec. 5.3. Chapter 403 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county highway commissioners may make rules and regulations to allow a person to erect and maintain a gate across a public road in the county. Such rules and regulations:

(a) Must require such a gate to be kept unlocked; and
(b) May set forth any specifications, standards and requirements concerning the erection and maintenance of such a gate as the board of county highway commissioners determines to be necessary.

2. As used in this section, "public road" means a:

(a) Main, general or minor county road designated pursuant to NRS 403.170.
(b) Public road, as defined in subsection 2 of NRS 405.191.

Sec. 5.6. Chapter 405 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a county whose population is 100,000 or more, the board of county commissioners of the county may, by ordinance or by written agreement with a person, authorize a person to erect and maintain a gate across a public road. Any such ordinance or agreement must contain provisions:

(a) That require such a gate to be kept unlocked; and
(b) To ensure that:
(1) Public access to the public road is not restricted in any manner; and
(2) The traveling public is able to travel on the public road without unnecessary delay.

2. As used in this section, "public road" has the meaning ascribed to it in subsection 2 of NRS 405.191.

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Senator Scheible moved that the Senate concur in Assembly Amendment No. 600 to Senate Bill No. 94.

Remarks by Senator Scheible.

Amendment No. 600 to Senate Bill No. 94 makes changes at the request of the sponsor to ensure that trespassing statutes can be enforced in every county of the State.

Motion carried by a constitutional majority.

Bill ordered enrolled.

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

Motion carried.

Senate in recess at 12:10 p.m.

SENATE IN SESSION

At 5:40 p.m.

President Marshall presiding.

Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Finance, to which was referred Senate Bill No. 459, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was referred Assembly Bill No. 480, 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*

Madam President:

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 422, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JAMES OHRENSCHALL, *Chair*

Madam President:

Your Committee on Natural Resources, to which was referred Assembly Bill No. 411, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

FABIAN DONATE, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Legislative Operations and Elections:

Senate Resolution No. 7—Designating certain members of the Senate as regular and alternate members of the Legislative Commission for the 2021-2023 biennium.

Senator Ohrenschall moved the adoption of the resolution.

Remarks by Senator Cannizzaro.

Senate Resolution No. 7 designates certain members of the Nevada Senate as regular and alternate members of the Legislative Commission for the 2021-2023 biennium.

Resolution adopted.

Senator Ratti moved that the action whereby Assembly Bill No. 363 was referred to the Committee on Government Affairs be rescinded.

Motion carried.

Senator Ratti moved that Senate Standing Rule No. 40 be suspended and that Assembly Bill No. 363 be referred to the Committee on Revenue and Economic Development.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 459.

Bill read second time and ordered to third reading.

Assembly Bill No. 411.

Bill read second time and ordered to third reading.

Assembly Bill No. 422.

Bill read second time and ordered to third reading.

Assembly Bill No. 480.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 803.

SUMMARY—Revises provisions governing legal services for indigent defendants. (BDR 1-1076)

AN ACT relating to criminal defense; revising various provisions relating to the appointment of attorneys; removing limitations on fees earned by certain attorneys; revising provisions relating to claims for compensation and expenses made by certain attorneys; creating the Special Account for the Support of Indigent Defense Services; revising certain deadlines for requirements placed on boards of county commissioners relating to the transfer of responsibility for the provision of indigent defense services to the State Public Defender; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a magistrate, master or district court from appointing an attorney other than a public defender to represent a person charged with any offense or delinquent act unless the magistrate, master or district court finds that the public defender is disqualified from providing representation and explains the reasons for the disqualification. (NRS 7.115) Section 5 of this bill provides that if the public defender is disqualified, the magistrate, master or district court is required to refer the selection of the attorney: (1) in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties), to the Department of Indigent Defense Services (hereinafter "Department") or its designee in compliance with the plan of the county for the provision of indigent defense services; or (2) in a county whose population is 100,000 or more (currently Clark and Washoe Counties), in compliance with the plan of the county for the provision of indigent defense services. Sections 11 and 17 of this bill, respectively, make similar changes in cases where: (1) a county public defender or the State Public Defender is unable to represent an indigent defendant or other good cause appears; and (2) a magistrate or district court decides to appoint an attorney other than or in addition to a county public defender for an indigent person.

Existing law provides, in general, that an attorney other than a public defender who is appointed to represent or defend a person during any stage of a criminal proceeding is entitled to receive certain fees for his or her services.

Existing law also places limits on the amount of the fee that such an attorney is able to receive but allows a court to grant a fee in excess of such limits in certain circumstances. (NRS 7.125) Section 6 of this bill removes such limits. Existing law further authorizes such an attorney to be reimbursed for certain expenses and employ persons to provide necessary investigative, expert or other services but places a limit on the compensation paid to any person providing those services. (NRS 7.135) Section 7 of this bill provides that an attorney may be reimbursed for such expenses and employ such persons: (1) in a county whose population is less than 100,000, subject to the prior approval of the Department or its designee and in compliance with the plan of the county for the provision of indigent defense services; or (2) in a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services. Section 7 also provides that a claim for compensation and expenses may be certified and approved by a judge if the claim is denied. Existing law further requires a claim for compensation and expenses to be submitted to a magistrate or district court, as applicable, not later than 60 days after the appointment of the attorney is terminated. (NRS 7.145) Section 8 of this bill instead requires such a claim to be submitted within 60 days after representation is terminated: (1) in a county whose population is less than 100,000, to the Department or its designee in compliance with the plan of the county for the provision of indigent defense services; or (2) in a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services. Section 8 also: (1) requires each claim to be reviewed and, if necessary, modified, and paid in compliance with the plan of the applicable county for the provision of indigent defense services; and (2) authorizes any dispute regarding the approval, denial or modification of a claim to be reviewed by the trial court.

Section 9 of this bill requires, in general, the juvenile court to order the appointment of an attorney for a child who is alleged to be delinquent or in need of supervision and refer the selection of the attorney in the manner set forth in section 5 in cases where the parent or guardian of the child does not retain an attorney for the child and is not likely to retain an attorney for the child. Existing law authorizes the juvenile court to appoint an attorney for a parent or guardian of such a child in certain circumstances and provides that each appointed attorney, other than a public defender, is entitled to the same compensation and expenses as attorneys appointed to represent persons charged with criminal offenses. (NRS 62D.100) Section 10 of this bill removes the exclusion of public defenders. Section 18 of this bill makes the same change with regard to attorneys appointed in cases relating to children alleged to have been abused or neglected.

Section 12 of this bill creates the Special Account for the Support of Indigent Defense Services. Section 12 authorizes the Department to apply for and accept any available grants, bequests, devises, donations or gifts from any public or private source to carry out the duties of the Department and the Board

on Indigent Defense Services (hereinafter “Board”) and requires the Department to deposit any money received in the Account.

Existing law establishes certain requirements for the board of county commissioners of a county that is required to transfer or voluntarily transfers responsibility for the provision of all indigent defense services for the county to the State Public Defender. (NRS 180.450) Section 14 of this bill revises certain deadlines relating to such requirements.

Existing law requires the Board to adopt certain regulations, including regulations establishing standards for the provision of indigent defense services. (NRS 180.320) Existing law also requires the compensation of the public defender of a county to be fixed by the board of county commissioners. (NRS 260.040) Section 15 of this bill requires that in counties whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties), the compensation of the public defender of a county must comply with the regulations adopted by the Board.

Existing law provides that in a county whose population is 700,000 or more (currently Clark County), deputy public defenders are governed by the merit personnel system of the county. (NRS 260.040) Section 15 provides that the compensation of such deputy public defenders is not subject to the regulations adopted by the Board.

Existing law provides that a person who is alleged to be a person in a mental health crisis, or any relative or friend on behalf of the person, is entitled to retain counsel to represent the person in proceedings relating to the involuntary court-ordered admission of the person to a mental health facility or program of community-based or outpatient services. If the person fails or refuses to obtain counsel, the court is required to appoint counsel, who may be the public defender or a deputy of the public defender. (NRS 433A.270) Section 19 of this bill removes the provision requiring that such appointed counsel be the public defender or his or her deputy.

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

Section 1. Chapter 7 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in NRS 7.115 to 7.175, inclusive, and sections 2, 3 and 4 of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Department” means the Department of Indigent Defense Services created by NRS 180.400.*

Sec. 4. *“Selection” means the choosing of an attorney to provide representational services for a person.*

Sec. 5. NRS 7.115 is hereby amended to read as follows:

7.115 A magistrate, master or ~~a~~ district court shall not ~~appoint~~ order the appointment of an attorney other than a public defender to represent a person charged with any offense or delinquent act by petition, indictment or

information unless the magistrate, master or district court makes a finding, entered into the record of the case, that the public defender is disqualified from furnishing the representation and sets forth the ~~reason or~~ reasons for the disqualification. *If the public defender is disqualified, the magistrate, master or district court shall, after making a finding of the disqualification on the record and the reasons therefor, refer the selection of the attorney:*

1. *In a county whose population is less than 100,000, to the Department or its designee in compliance with the plan of the county for the provision of indigent defense services; or*

2. *In a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services.*

Sec. 6. NRS 7.125 is hereby amended to read as follows:

7.125 ~~{1. Except as limited by subsections 2, 3 and 4, an}~~ *An* attorney, other than a public defender, who is ~~{appointed by a magistrate or a district court}~~ *selected pursuant to NRS 7.115* to represent or defend a defendant at any stage of the criminal proceedings from the defendant's initial appearance before the magistrate or the district court through the appeal, if any, is entitled to receive a fee for court appearances and other time reasonably spent on the matter to which the appointment is made of \$125 per hour in cases in which the death penalty is sought and \$100 per hour in all other cases. Except for cases in which the most serious crime is a felony punishable by death or by imprisonment for life with or without possibility of parole, this ~~{subsection}~~ *section* does not preclude a governmental entity from contracting with a private attorney who agrees to provide such services for a lesser rate of compensation.

~~{2. Except as otherwise provided in subsection 4, the total fee for each attorney in any matter regardless of the number of offenses charged or ancillary matters pursued must not exceed:~~

~~—(a) If the most serious crime is a felony punishable by death or by imprisonment for life with or without possibility of parole, \$20,000;~~

~~—(b) If the most serious crime is a felony other than a felony included in paragraph (a) or is a gross misdemeanor, \$2,500;~~

~~—(c) If the most serious crime is a misdemeanor, \$750;~~

~~—(d) For an appeal of one or more misdemeanor convictions, \$750; or~~

~~—(e) For an appeal of one or more gross misdemeanor or felony convictions, \$2,500.~~

~~—3. Except as otherwise provided in subsection 4, an attorney appointed by a district court to represent an indigent petitioner for a writ of habeas corpus or other postconviction relief, if the petitioner is imprisoned pursuant to a judgment of conviction of a gross misdemeanor or felony, is entitled to be paid a fee not to exceed \$750.~~

~~—4. If the appointing court because of:~~

~~—(a) The complexity of a case or the number of its factual or legal issues;~~

~~—(b) The severity of the offense;~~

~~—(c) The time necessary to provide an adequate defense; or~~

~~—(d) Other special circumstances;~~

~~↪ deems it appropriate to grant a fee in excess of the applicable maximum, the payment must be made, but only if the court in which the representation was rendered certifies that the amount of the excess payment is both reasonable and necessary and the payment is approved by the presiding judge of the judicial district in which the attorney was appointed, or if there is no such presiding judge or if he or she presided over the court in which the representation was rendered, then by the district judge who holds seniority in years of service in office.~~

~~—5. The magistrate, the district court, the Court of Appeals or the Supreme Court may, in the interests of justice, substitute one appointed attorney for another at any stage of the proceedings, but the total amount of fees granted to all appointed attorneys must not exceed those allowable if but one attorney represented or defended the defendant at all stages of the criminal proceeding.]~~

Sec. 7. NRS 7.135 is hereby amended to read as follows:

7.135 ~~[The]~~

1. ~~An attorney [appointed by a magistrate or district court] who is selected pursuant to NRS 7.115 to represent a defendant is entitled, in addition to the fee provided by NRS 7.125 for the attorney's services, to be reimbursed for expenses reasonably incurred by the attorney in representing the defendant and may employ [subject to the prior approval of the magistrate or the district court in an ex parte application,] such investigative, expert or other services as may be necessary for an adequate defense [Compensation to any person furnishing such investigative, expert or other services must not exceed \$500, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is:~~

~~—1. Certified] :~~

~~(a) In a county whose population is less than 100,000, subject to the prior approval of the Department or its designee and in compliance with the plan of the county for the provision of indigent defense services; or~~

~~(b) In a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services.~~

2. ~~If a claim for compensation and expenses made pursuant to subsection 1 is denied, the claim may be:~~

~~(a) Certified by the trial judge of the court, or by the magistrate if the services were rendered in connection with a case disposed of entirely before the magistrate, as necessary to provide fair compensation for services of an unusual character or duration; and~~

~~{2.} (b) Approved by the presiding judge of the judicial district in which the attorney was appointed or, if there is no presiding judge, by the district judge who holds seniority in years of service in office.~~

Sec. 8. NRS 7.145 is hereby amended to read as follows:

7.145 1. A claim for compensation and expenses made pursuant to NRS 7.125 or 7.135 must not be paid unless it is submitted within 60 days after the ~~[appointment] representation is terminated [to:~~

~~—(a) The magistrate in cases in which the representation was rendered exclusively before the magistrate; and~~

~~—(b) The district court in all other cases.] :~~

(a) In a county whose population is less than 100,000, to the Department or its designee in compliance with the plan of the county for the provision of indigent defense services; or

(b) In a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services.

2. Each claim must be ~~[supported]~~ :

(a) Supported by a sworn statement specifying the time expended in court, the services rendered out of court and the time expended therein, the expenses incurred while the case was pending and the compensation and reimbursement applied for or received in the same case from any other source. ~~[Except as otherwise provided for the approval of payments in excess of the statutory limit, the magistrate or the court to which the claim is submitted shall fix and certify the compensation and expenses to be paid, and the amounts so certified must be paid in accordance with NRS 7.155.]~~

(b) Reviewed and, if necessary, modified, and paid in compliance with the plan of the county for the provision of indigent defense services.

3. *Any dispute regarding the approval, denial or modification of a claim may be reviewed by the trial court based upon reasonable and necessary standards.*

Sec. 9. NRS 62D.030 is hereby amended to read as follows:

62D.030 1. If a child is alleged to be delinquent or in need of supervision, the juvenile court shall advise the child and the parent or guardian of the child that the child is entitled to be represented by an attorney at all stages of the proceedings.

2. If a parent or guardian of a child is indigent, the parent or guardian may request the appointment of an attorney to represent the child pursuant to the provisions in NRS 171.188.

3. Except as otherwise provided in this section, the juvenile court shall ~~[appoint]~~ *order the appointment of an attorney for a child and refer the selection of the attorney in the manner set forth in NRS 7.115* if the parent or guardian of the child does not retain an attorney for the child and is not likely to retain an attorney for the child.

4. A child may waive the right to be represented by an attorney if:

(a) A petition is not filed and the child is placed under informal supervision pursuant to NRS 62C.200; or

(b) A petition is filed and the record of the juvenile court shows that the waiver of the right to be represented by an attorney is made knowingly, intelligently, voluntarily and in accordance with any applicable standards established by the juvenile court.

5. Except as otherwise provided in NRS 424.085, if the juvenile court ~~[appoints]~~ *orders the appointment of an attorney to represent a child [] and refers the selection of the attorney in the manner set forth in NRS 7.115, the*

parent or guardian must not be required to pay the fees and expenses of the attorney.

6. Each attorney, other than a public defender, who is appointed under the provisions of this section is entitled to the same compensation and expenses from the county as is provided in NRS 7.125 and 7.135 for attorneys appointed to represent persons charged with criminal offenses.

Sec. 10. NRS 62D.100 is hereby amended to read as follows:

62D.100 1. A parent or guardian of a child who is alleged to be delinquent or in need of supervision may be represented by an attorney at all stages of the proceedings. The juvenile court may not appoint an attorney for a parent or guardian, unless the juvenile court:

- (a) Finds that such an appointment is required in the interests of justice; and
- (b) Specifies in the record the reasons for the appointment.

2. Each attorney ~~[, other than a public defender,]~~ who is appointed pursuant to subsection 1 is entitled to the same compensation and expenses from the county as is provided in NRS 7.125 and 7.135 for attorneys appointed to represent persons charged with criminal offenses.

Sec. 11. NRS 171.188 is hereby amended to read as follows:

171.188 1. Any defendant charged with a public offense who is an indigent may, by oral statement to the district judge, justice of the peace, municipal judge or master, request the appointment of an attorney to represent the defendant. The record in each such case must indicate that the defendant was provided an opportunity to make an oral statement and whether the defendant made such a statement or declined to request the appointment of an attorney. If the defendant declined to request the appointment of an attorney, the record must also indicate that the decision to decline was made knowingly and voluntarily and with an understanding of the consequences.

2. The request must be accompanied by the defendant's affidavit, which must state:

- (a) That the defendant is without means of employing an attorney; and
- (b) Facts with some particularity, definiteness and certainty concerning the defendant's financial disability.

3. The district judge, justice of the peace, municipal judge or master shall forthwith consider the application and shall make such further inquiry as he or she considers necessary. If the district judge, justice of the peace, municipal judge or master:

- (a) Finds that the defendant is without means of employing an attorney; and
 - (b) Otherwise determines that representation is required,
- ↳ the judge, justice or master shall designate the public defender of the county or the State Public Defender, as appropriate, to represent the defendant.

4. If the appropriate public defender is unable to represent the defendant, or other good cause appears, *the judge, justice or master shall order the appointment of another attorney* ~~[must be appointed]~~.

~~—4.] and refer the selection of the attorney:~~

(a) *In a county whose population is less than 100,000, to the Department of Indigent Defense Services or its designee in compliance with the plan of the county for the provision of indigent defense services; or*

(b) *In a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services.*

5. The county or State Public Defender must be reimbursed by the city for costs incurred in appearing in municipal court. The county shall reimburse the State Public Defender for costs incurred in appearing in Justice Court, unless the county has transferred the responsibility to provide all indigent defense services for the county to the State Public Defender pursuant to NRS 180.450. If a private attorney is appointed as provided in this section, the private attorney must be reimbursed by the county for appearance in Justice Court or the city for appearance in municipal court. ~~{in an amount not to exceed \$75 per case.}~~

Sec. 12. Chapter 180 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Department may apply for and accept any available grants, bequests, devises, donations or gifts from any public or private source to carry out the duties of the Department and Board.*

2. *Any money received pursuant to subsection 1 must be deposited in the Special Account for the Support of Indigent Defense Services, which is hereby created in the State General Fund. Interest and income earned on money in the Account must be credited to the Account. Money in the Account may only be used to carry out the duties of the Department and the Board.*

3. *Any money in the Account remaining at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.*

Sec. 13. NRS 180.060 is hereby amended to read as follows:

180.060 1. The State Public Defender may, before being designated as counsel for that person pursuant to NRS 171.188, interview an indigent person when the indigent person has been arrested and confined for a public offense or for questioning on suspicion of having committed a public offense.

2. The State Public Defender shall, when designated pursuant to NRS 62D.030 ~~{, 62D.100,}~~ or 171.188, ~~{or 432B.420,}~~ represent without charge each indigent person for whom the State Public Defender is appointed.

3. When representing an indigent person, the State Public Defender shall:

(a) Counsel and defend the indigent person at every stage of the proceedings, including, *without limitation, during the initial appearance and proceedings relating to admission to bail or the revocation of probation or parole;* and

(b) Prosecute any appeals or other remedies before or after conviction that the State Public Defender considers to be in the interests of justice.

4. In cases of postconviction proceedings and appeals arising in counties in which the office of public defender has been created pursuant to the provisions of chapter 260 of NRS, where the matter is to be presented to the

appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution, the State Public Defender shall prepare and present the case and the public defender of the county shall assist and cooperate with the State Public Defender.

5. The State Public Defender may contract with any county in which the office of public defender has been created to provide representation for indigent persons when the court, for cause, disqualifies the county public defender or when the county public defender is otherwise unable to provide representation.

Sec. 14. NRS 180.450 is hereby amended to read as follows:

180.450 1. If a corrective action plan is recommended pursuant to NRS 180.440, the deputy director and the board of county commissioners must collaborate on the manner in which the county will meet the minimum standards for the provision of indigent defense services and the time by which the county must meet those minimum standards. Any disagreement must be resolved by the Board. Each corrective action plan must be submitted to and approved by the Board.

2. If the plan established pursuant to subsection 1 will cause the county to expend more money than budgeted by the county in the previous budget year plus inflation for the provision of indigent defense services, the Executive Director shall include the additional amount needed by the county in the next budget for the Department of Indigent Defense Services to help support the indigent defense services provided by the county. If additional money is needed to carry out the plan before the next budget cycle, the Executive Director shall submit a request to the Interim Finance Committee for an allocation from the Contingency Account pursuant to NRS 353.266 to cover the additional costs.

3. For any county that is not required to have an office of public defender pursuant to NRS 260.010, if the additional amount included in the budget of the Department pursuant to subsection 2 is not approved, the board of county commissioners for the county to which the amount applies may determine whether to continue providing indigent defense services for the county or enter into an agreement with the Executive Director to transfer responsibility for the provision of such services to the State Public Defender.

4. If a county does not meet the minimum standards for the provision of indigent defense services within the period established in the corrective action plan for the county, the deputy director shall inform the Executive Director.

5. Upon being informed by the deputy director pursuant to subsection 4 that a county has not complied with a corrective action plan, the Executive Director must review information regarding the provision of indigent defense services in the county and determine whether to recommend establishing another corrective action plan with the board of county commissioners of the county. For a county that is not required to have an office of public defender pursuant to NRS 260.010, the Executive Director may

instead recommend requiring the board of county commissioners to transfer responsibility for the provision of all indigent defense services for the county to the State Public Defender. The recommendation of the Executive Director must be submitted to and approved by the Board. Once approved, the board of county commissioners shall comply with the decision of the Board.

6. If a county is required to transfer or voluntarily transfers responsibility for the provision of all indigent defense services for the county to the State Public Defender:

(a) The board of county commissioners for the county shall notify the State Public Defender in writing on or before ~~March~~ *November* 1 of the next ~~odd~~ *even*-numbered year and the responsibilities must transfer at a specified time on or after July 1 of the ~~same~~ *odd-numbered year following the year* in which the notice was given, as determined by the Executive Director.

(b) The board of county commissioners for the county shall pay the State Public Defender in the same manner and in an amount determined in the same manner as other counties for which the State Public Defender has responsibility for the provision of indigent defense services. The amount that a county may be required to pay must not exceed the maximum amount determined using the formula established by the Board pursuant to NRS 180.320.

Sec. 15. NRS 260.040 is hereby amended to read as follows:

260.040 1. The compensation of the public defender must be fixed by the board of county commissioners ~~[-]~~ *and, in counties whose population is less than 100,000, must comply with the regulations adopted by the Board on Indigent Defense Services pursuant to NRS 180.320.* The public defender of any two or more counties must be compensated and be permitted private civil practice of the law as determined by the boards of county commissioners of those counties, subject to the provisions of subsection 4 of this section and NRS 7.065.

2. The public defender may appoint as many deputies or assistant attorneys, clerks, investigators, stenographers and other employees as the public defender considers necessary to enable him or her to carry out his or her responsibilities, with the approval of the board of county commissioners. An assistant attorney must be a qualified attorney licensed to practice in this State and may be placed on a part-time or full-time basis. The appointment of a deputy, assistant attorney or other employee pursuant to this subsection must not be construed to confer upon that deputy, assistant attorney or other employee policymaking authority for the office of the public defender or the county or counties by which the deputy, assistant attorney or other employee is employed.

3. The compensation of persons appointed under subsection 2 must be fixed by the board of county commissioners of the county or counties so served.

4. The public defender and his or her deputies and assistant attorneys in a county whose population is less than 100,000 may engage in the private

practice of law. Except as otherwise provided in this subsection, in any other county, the public defender and his or her deputies and assistant attorneys shall not engage in the private practice of law except as otherwise provided in NRS 7.065. An attorney appointed to defend a person for a limited duration with limited jurisdiction may engage in private practice which does not present a conflict with his or her appointment.

5. The board of county commissioners shall provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of the business of his or her office. However, the board of county commissioners may provide for an allowance in place of facilities. Each of those items is a charge against the county in which public defender services are rendered. If the public defender serves more than one county, expenses that are properly allocable to the business of more than one of those counties must be prorated among the counties concerned.

6. In a county whose population is 700,000 or more, deputies are governed by the merit personnel system of the county ~~[-]~~, *and their compensation is not subject to the regulations adopted by the Board on Indigent Defense Services pursuant to NRS 180.320.*

Sec. 16. NRS 260.050 is hereby amended to read as follows:

260.050 1. The public defender may, before being designated as counsel for that person pursuant to NRS 171.188, interview an indigent person when he or she has been arrested and confined for a public offense or for questioning on suspicion of having committed a public offense.

2. The public defender shall, when designated pursuant to NRS 62D.030 ~~[-]~~ or 171.188, ~~[-]~~ ~~or 432B.420,~~ represent without charge each indigent person for whom he or she is appointed.

3. When representing an indigent person, the public defender shall:

(a) Counsel and defend the person at every stage of the proceedings, including, *without limitation, during the initial appearance and proceedings relating to admission to bail and the revocation of probation or parole;* and

(b) Prosecute, subject to the provisions of subsection 4 of NRS 180.060, any appeals or other remedies before or after conviction that he or she considers to be in the interests of justice.

Sec. 17. NRS 260.060 is hereby amended to read as follows:

260.060 For cause, the magistrate or district court may, on its own motion or upon motion of the public defender or the indigent person, ~~appoint~~ *order the appointment of another attorney and* ~~compensate out of county funds~~ *refer the selection of the attorney in the manner set forth in NRS 7.115. Such an attorney :*

1. *May be* other than, or in addition to, the public defender to represent such indigent person at any stage of the proceedings or on appeal in accordance with the laws of this state pertaining to the appointment of counsel to represent indigent criminal defendants.

2. *Must be compensated out of county funds.*

Sec. 18. NRS 432B.420 is hereby amended to read as follows:

432B.420 1. A parent or other person responsible for the welfare of a child who is alleged to have abused or neglected the child may be represented by an attorney at all stages of any proceedings under NRS 432B.410 to 432B.590, inclusive. Except as otherwise provided in subsection 3, if the person is indigent, the court may appoint an attorney to represent the person.

2. A child who is alleged to have been abused or neglected shall be deemed to be a party to any proceedings under NRS 432B.410 to 432B.590, inclusive. The court shall appoint an attorney to represent the child. The child must be represented by an attorney at all stages of any proceedings held pursuant to NRS 432B.410 to 432B.590, inclusive. The attorney representing the child has the same authority and rights as an attorney representing any other party to the proceedings.

3. If the court determines that the parent of an Indian child for whom protective custody is sought is indigent, the court:

(a) Shall appoint an attorney to represent the parent; and

(b) May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney,

↪ as provided in the Indian Child Welfare Act.

4. Each attorney, other than ~~[a public defender or]~~ an attorney compensated through a program for legal aid described in NRS 19.031 and 247.305, if appointed under the provisions of subsection 1 or 2, is entitled to the same compensation and payment for expenses from the county as provided in NRS 7.125 and 7.135 for an attorney appointed to represent a person charged with a crime.

Sec. 19. NRS 433A.270 is hereby amended to read as follows:

433A.270 1. The person alleged to be a person in a mental health crisis or any relative or friend on the person's behalf is entitled to retain counsel to represent the person in any proceeding before the district court relating to involuntary court-ordered admission, and if he or she fails or refuses to obtain counsel, the court shall advise the person and the person's guardian or next of kin, if known, of such right to counsel and shall appoint counsel. ~~[, who may be the public defender or his or her deputy.]~~

2. Any counsel appointed pursuant to subsection 1 must be awarded compensation by the court for his or her services in an amount determined by it to be fair and reasonable. The compensation must be charged against the estate of the person for whom the counsel was appointed or, if the person is indigent, against the county where the person alleged to be a person in a mental health crisis last resided.

3. The court shall, at the request of counsel representing the person alleged to be a person in a mental health crisis in proceedings before the court relating to involuntary court-ordered admission, grant a recess in the proceedings for the shortest time possible, but for not more than 5 days, to give the counsel an opportunity to prepare his or her case.

4. If the person alleged to be a person in a mental health crisis is involuntarily admitted to a program of community-based or outpatient services, counsel shall continue to represent the person until the person is released from the program. The court shall serve notice upon such counsel of any action that is taken involving the person while the person is admitted to the program of community-based or outpatient services.

5. Each district attorney or his or her deputy shall appear and represent the State in all involuntary court-ordered admission proceedings in the district attorney's county. The district attorney is responsible for the presentation of evidence, if any, in support of the involuntary court-ordered admission of a person to a mental health facility or to a program of community-based or outpatient services in proceedings held pursuant to NRS 433A.200 and 433A.210.

Sec. 20. ~~[This act becomes effective on July 1, 2021.]~~ (Deleted by amendment.)

Senator Ratti moved the adoption of the amendment.

Remarks by Senator Ratti.

Amendment No. 803 to Assembly Bill No. 480 changes the effective date of Assembly Bill No. 480 from July 1, 2021, to October 1, 2021.

Conflict of interest declared by Senator Ohrenschall.

Amendment adopted.

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

UNFINISHED BUSINESS
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 21; Senate Concurrent Resolutions Nos. 9, 14.

Senator Cannizzaro moved that the Senate adjourn until Friday, May 28, 2021, at 11:00 a.m.

Motion carried.

Senate adjourned at 5:46 p.m.

Approved:

KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate