
ASSEMBLY BILL NO. 319—ASSEMBLYWOMAN WEBER (BY REQUEST)

MARCH 21, 2005

Referred to Concurrent Committees on
Government Affairs and Ways and Means

SUMMARY—Provides certain rights and other benefits to persons who perform service in military services. (BDR 36-352)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to military services; prohibiting employers from discriminating against a person because of his service in the military or his application to perform that service; providing for certain rights and benefits relating to employment for such a person; providing for the continuation of coverage for insurance and retirement plans while a person serves in the military under certain circumstances; providing for the exemptions of certain fees; requiring the establishment of policies relating to the continuation of postsecondary education by persons who serve in the military services; providing that elected offices held by persons who enter service in the military services are deemed to not be vacant during that period of service; providing legal remedies to enforce rights and benefits provided to persons who serve in the military; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law establishes the Nevada National Guard, and entitles members of
- 2 the Guard to receive pay and allowances when ordered to active duty. (NRS
- 3 412.026, 412.124)
- 4 This bill establishes certain employment rights for persons who leave their
- 5 employment to serve in the military services. The provisions of this bill are



6 applicable to all public and private employers and employees. This bill defines
7 "military services" to include the Armed Forces of the United States, including
8 reserve components of the Armed Forces, the Army National Guard and the Air
9 National Guard, the Commissioned Corps of the United States Public Health
10 Service and any other category of persons designated by the President of the United
11 States in time of war or emergency.

12 This bill prohibits an employer from denying initial employment,
13 reemployment, retention in employment, promotion or any employment benefit
14 solely on the basis of a person's membership, application for membership,
15 performance of service, application for service or obligation to perform service in
16 the military services.

17 This bill authorizes an employer to pay compensation to any person who leaves
18 his employment to perform service in the military services. The employer must not
19 deduct from the compensation any cost of replacing the employee during the
20 employee's absence. This bill authorizes an employee to continue coverage under
21 his health insurance plan during his period of service. The employee must pay the
22 amount that would otherwise have been deducted from his salary. If coverage is not
23 continued during the period of service, the employee may reapply for coverage
24 upon the completion of his service.

25 This bill requires an employer to reemploy an employee who applies for
26 reemployment after serving in the military services. The employer is not required to
27 reemploy the employee if: (1) the employee is dishonorably discharged from
28 service; (2) the employer's circumstances have so changed as to make
29 reemployment impossible or unreasonable; (3) reemployment would impose an
30 undue hardship on the employer; or (4) because of the type of employment there
31 was no reasonable expectation that the employment would continue. This bill
32 prohibits a reemployed employee from being discharged from his position without
33 cause for 1 year after his reemployment.

34 This bill requires a reemployed employee to receive credit for his period of
35 service toward vesting and computation of the employee's benefits in the retirement
36 system, pension fund or other employee benefit plan applicable to his employment.
37 The maximum amount of creditable service that an employee may receive for his
38 service is 4 years.

39 This bill requires each employer to post within the place of employment a
40 notice informing employees of the rights and benefits available to persons who
41 perform service in the military services. This bill authorizes a district court to
42 require an employer to comply with the provisions of this bill and to compensate a
43 person for any lost wages or benefits suffered as a result of the employer's failure
44 to comply with these provisions.

45 This bill prohibits the Department of Motor Vehicles from requiring the
46 registered owner of a vehicle whose registration was suspended during the time the
47 owner was performing service in the military services from paying any fee to
48 rescind the suspension or to reinstate the registration.

49 This bill exempts any person who holds a license, certificate or permit issued
50 by any state or local governmental agency or who holds an occupational or
51 professional license, certificate or permit issued by a state agency from paying
52 renewal fees during his service in the military services. Such license, certificate or
53 permit remains in effect during the person's service.

54 This bill provides that if an elected official enters into service in the military
55 services, the office held by that person shall not be deemed to be vacant and a
56 change in residence must not be deemed to have occurred.

57 This bill requires a postsecondary educational institution, the Commission on
58 Postsecondary Education and the Board of Regents of the University of Nevada to
59 adopt and carry out policies to address issues related to persons whose academic
60 pursuits are disrupted when they are called into service in the military services. The



61 policies must address such issues as the awarding of academic credits, academic
62 status upon reenrollment, assessments and tuition.

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

1 **Section 1.** Title 36 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 38, inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 2 to 10,*
6 *inclusive, have the meanings ascribed to them in those sections.*

7 **Sec. 3.** *“Appointed official” means a person holding an*
8 *appointive position or office with any department, board,*
9 *commission or agency of the State or any political subdivision*
10 *thereof, when the office or position is established by the*
11 *constitution or laws of this State, or by a charter or an ordinance*
12 *of a political subdivision.*

13 **Sec. 4.** *“Compensation” means normal or regular base pay,*
14 *including, without limitation, overtime, per diem, differential pay*
15 *or any other allowance for other expense. The term includes,*
16 *when applicable, supplemental pay or extra compensation paid by*
17 *the State or political subdivision as authorized and provided by*
18 *law.*

19 **Sec. 5.** *“Elected official” means a person holding an office*
20 *in a governmental entity of the State or any political subdivision*
21 *thereof, which is filled by the vote of the appropriate electorate.*

22 **Sec. 6.** 1. *“Employee” means a person who:*

23 (a) *Is employed by any private or public employer in this State;*
24 *and*

25 (b) *Performs service in the military services.*

26 2. *The term includes an elected or appointed official.*

27 **Sec. 7.** *“Employment” means a position as an employee*
28 *within this State. The term includes commencement of*
29 *employment, by any actions in furtherance of employment, once*
30 *an offer has been extended by an employer and accepted by an*
31 *employee.*

32 **Sec. 8.** *“Military services” means the Armed Forces of the*
33 *United States as defined by 10 U.S.C. § 101(a)(5), including*
34 *reserve components of the Armed Forces, the Army National*
35 *Guard and the Air National Guard, the Commissioned Corps of*
36 *the United States Public Health Service and any other category*
37 *of persons designated by the President of the United States in time*
38 *of war or emergency.*



1 **Sec. 9.** *“Public retirement system” means any public*
2 *retirement system, pension fund or employee benefit plan*
3 *maintained primarily for officers and employees of the State of*
4 *Nevada or any political subdivision thereof, or any district, board,*
5 *commission, or other agency of either, or of any other such public*
6 *entity.*

7 **Sec. 10.** *“Service in the military services” means:*

8 1. *The performance of duty on a voluntary or involuntary*
9 *basis in military service under competent authority, including*
10 *active duty, active duty for training, initial active duty for training,*
11 *inactive duty training and full-time national guard duty, and*
12 *includes any periods for which a person is absent from a position*
13 *of employment for the purpose of an examination to determine his*
14 *fitness to perform such a duty;*

15 2. *Service in the Armed Forces of the United States pursuant*
16 *to a declaration of war, authorization by the United States*
17 *Congress or Presidential proclamation pursuant to the War*
18 *Powers Resolution, 50 U.S.C. §§ 1541 et seq., or national*
19 *emergency; and*

20 3. *Active duty in the Nevada National Guard and, when*
21 *called into active service by the Governor, the Nevada National*
22 *Guard Reserve.*

23 **Sec. 11.** *An action taken by an employer shall be deemed to*
24 *impose an undue hardship on an employer for the purposes of this*
25 *chapter if actions undertaken by the employer require significant*
26 *difficulty or expense, when considered in light of:*

27 1. *The nature and cost of the actions needed to comply with*
28 *this chapter;*

29 2. *The overall financial resources of the facilities involved in*
30 *the provision of those actions;*

31 3. *The number of persons employed at such facilities;*

32 4. *The effect on expenses and resources, or the impact*
33 *otherwise of such action upon the operation of the facilities;*

34 5. *The overall financial resources of the employer;*

35 6. *The overall size of the business of an employer with respect*
36 *to the number of its employees;*

37 7. *The number, type and location of the facilities, and the*
38 *type of operations of the employer, including the composition,*
39 *structure and functions of the work force of such employer; and*

40 8. *The geographic separateness and administrative or fiscal*
41 *relationship of the facilities in question to the employer.*

42 **Sec. 12.** 1. *An employer shall not deny to a person who:*

43 (a) *Is a member of or applies to be a member of the military*
44 *services; or*



1 (b) Performs, has performed, applies to perform or has an
2 obligation to perform service in the military services,
3 ↳ initial employment, reemployment, retention in employment,
4 promotion or any benefit of employment on the basis of that
5 person's membership, application for membership, performance
6 of service, application for service or obligation to perform service
7 in the military services.

8 2. An employer shall be deemed to have denied a person
9 initial employment, reemployment, retention in employment,
10 promotion or a benefit of employment in violation of this section if
11 the person's membership, application for membership,
12 performance of service, application for service or obligation to
13 perform service in the military services is a motivating factor in
14 the action of the employer, unless the employer proves that the
15 action would have been taken in the absence of such membership,
16 application for membership, performance of service, application
17 for service or obligation to perform service in the military services.

18 3. An employer shall not discriminate or take an adverse
19 action against any person solely because the person has taken an
20 action to endorse a protection afforded any person by this chapter,
21 has testified or otherwise made a statement in or in connection
22 with any proceeding pursuant to this chapter, has assisted or
23 otherwise participated in an investigation related to the
24 enforcement of this chapter or has exercised a right provided for
25 in this chapter. The prohibition provided in this subsection
26 applies:

27 (a) With respect to a person regardless of whether that person
28 has performed service in the military services; and

29 (b) With regard to any position of employment, including a
30 position that is for a brief, nonrecurring period and for which
31 there is no reasonable expectation that the employment will
32 continue indefinitely or for a significant period.

33 **Sec. 13.** 1. Except as otherwise provided in this section, an
34 employer may pay compensation to any person who leaves
35 employment with the employer to perform service in the military
36 services. If the employer elects to pay compensation pursuant to
37 this subsection, the employer must pay the compensation on a
38 uniform basis to all such employees of the employer.

39 2. If an employee who is a public officer or state employee
40 exhausts military leave with pay as provided for in NRS 281.145,
41 the employee is called into service in the military services and his
42 base pay from the military is less than his base salary from his
43 regular employment as a public officer or state employee, the
44 employee must be paid the difference between his military base
45 pay and his base salary. Such a payment must be made in the



1 same frequency and manner as the employee's regular base
2 salary. An employee receiving the pay differential pursuant to this
3 subsection shall provide to his employer all appropriate
4 documentation as is necessary to ensure that the amount of the
5 differential pay owed is accurately calculated. An employee who is
6 a public officer or state employee who elected to use his annual
7 leave during his service in the military services is not eligible to
8 receive the pay differential provided pursuant to this section,
9 except that if the employee used the annual leave between
10 September 11, 2001, and July 1, 2005, and the employee chooses
11 to use the pay differential option, his leave balance must be
12 recredited with a leave amount equal to the value of the pay
13 differential the employee would have received had this subsection
14 been in effect on September 11, 2001.

15 3. The payment of compensation and benefits to elected
16 officials must be made in accordance with the provisions of
17 Sections 28, 32 and 33 of Article 4, Section 21 of Article 5, Section
18 15 of Article 6 and Section 9 of Article 15 of the Nevada
19 Constitution.

20 **Sec. 14.** 1. An employee who is reemployed by his employer
21 in accordance with sections 16 to 20, inclusive, of this act:

22 (a) Except as otherwise provided in this section, must be
23 treated by the employer as being on military leave of absence
24 during the employee's period of service in the military services;

25 (b) May elect to use any amount or combination of his accrued
26 annual leave, paid military leave or compensatory time standing to
27 his credit during his period of service in the military services; and

28 (c) Shall be deemed to have accrued sick leave, annual leave
29 or military leave on the same basis as he would have accrued such
30 leave during his period of service in the military services.

31 2. An employer shall not deduct from the compensation paid
32 to an employee in service in the military services any cost of
33 replacing the employee during the employee's service in the
34 military services.

35 **Sec. 15.** 1. Notwithstanding any provision of title 57 of
36 NRS to the contrary and except as otherwise provided in this
37 section:

38 (a) An employee may elect to maintain coverage under his
39 insurance plan while he serves in the military services if the
40 employee furnishes his employer, in a timely manner, with an
41 amount of money equal to that which would have otherwise been
42 deducted from the employee's compensation for the coverage.
43 Upon timely receipt of the employee's contributions, the employer
44 shall forward to the provider of the insurance plan the employee's
45 contributions, plus an amount equal to the amount that the



1 *employer would have otherwise contributed on behalf of the*
2 *employee. To be eligible to continue coverage under an insurance*
3 *plan pursuant to this subsection, the employee must, at the time*
4 *that he enters service in the military services, notify his employer*
5 *of the employee's election to continue coverage under his*
6 *insurance plan.*

7 (b) *If an employee who does not elect to continue coverage*
8 *under his insurance plan pursuant to paragraph (a) reapplies for*
9 *coverage under the insurance plan after his release from the*
10 *military services, coverage under the insurance plan must be*
11 *reinstated for the employee, his spouse or dependent child who*
12 *was covered by the insurance plan at the time that the employee*
13 *entered service in the military services, without any clause or*
14 *restriction because of a preexisting condition.*

15 (c) *If the spouse or dependent child of an employee who is*
16 *covered by the employee's insurance plan is called into service in*
17 *the military services, the employee may elect to maintain coverage*
18 *of his spouse or dependent child under the employee's insurance*
19 *plan without any lapse of coverage, if all contributions are paid as*
20 *required by the insurance plan for that coverage.*

21 (d) *If, after the spouse or dependent child of an employee is*
22 *released from service in the military services and for whom*
23 *coverage under the employee's insurance plan was not maintained*
24 *pursuant to paragraph (c), the employee reapplies for coverage for*
25 *his spouse or dependent child under the employee's insurance*
26 *plan, coverage must be reinstated for the spouse or dependent*
27 *child without any clause or restriction because of a preexisting*
28 *condition.*

29 2. *Notwithstanding any provision of this section to the*
30 *contrary:*

31 (a) *The provisions of this section must not be construed as*
32 *invalidating coverage under any life insurance policy or*
33 *excluding or restricting coverage in the event of death as provided*
34 *for in subparagraph (1) of paragraph (b) of subsection 1 of*
35 *NRS 688A.260.*

36 (b) *The provisions of this section do not invalidate any*
37 *legitimate exclusions to coverage of an insurance plan otherwise*
38 *allowed by law.*

39 3. *As used in this section, "insurance plan" means any group*
40 *life insurance, group insurance, family group insurance, blanket*
41 *and franchise health and accident insurance and health care plan*
42 *provided by a public or private employer in this State.*

43 **Sec. 16.** 1. *Except as otherwise provided in sections 16 to*
44 *20, inclusive, of this act, an employer of an employee who is*
45 *absent from a position of employment because of service in the*



1 *military services shall reemploy the employee within 10 days after*
2 *the employee reports or applies for reemployment pursuant to*
3 *section 18 of this act, if:*

4 *(a) The employee, or an appropriate officer of the military*
5 *services in which the employee served, had given advance written*
6 *or verbal notice to the employer that the employee was entering*
7 *into service in the military services; and*

8 *(b) The cumulative length of the absence and of all previous*
9 *absences from a position of employment by the employee with that*
10 *employer by reason of service in the military services is not more*
11 *than 5 years.*

12 *2. An employer is not required to reemploy an employee*
13 *pursuant to subsection 1 if the employee is dishonorably*
14 *discharged from service in the military services.*

15 *3. Notice is not required pursuant to paragraph (a) of*
16 *subsection 1 if providing notice is precluded by military necessity*
17 *as determined by the military service in which the employee is*
18 *serving or, when considering all the relevant circumstances,*
19 *providing notice is otherwise impossible or unreasonable. A*
20 *determination of the existence of military necessity is not subject*
21 *to judicial review.*

22 *4. The following must not be considered in determining the*
23 *length of service in the military services of an employee for the*
24 *purposes of this section:*

25 *(a) Service that is required beyond 5 years to complete an*
26 *initial period of obligated service.*

27 *(b) Service during which the employee was unable, through no*
28 *fault of his own, to obtain orders releasing him from his service in*
29 *the military services before the expiration of the 5-year period.*

30 *(c) Service performed by the employee to fulfill additional*
31 *training requirements determined to be necessary for professional*
32 *development, completion of skill training or retraining.*

33 *(d) Service performed by the employee if the employee has*
34 *been:*

35 *(1) Ordered to or has been retained on active duty in time*
36 *of war or national or state emergency;*

37 *(2) Ordered to or has been retained on active duty, other*
38 *than for training, under any provision of law during a war or*
39 *during a national emergency declared by the President or the*
40 *Congress of the United States, or during an emergency declared*
41 *by the Governor or the Legislature of this State; or*

42 *(3) Ordered to or has been retained on active duty in*
43 *support of a critical mission or requirement of the military services*
44 *in which the employee is serving.*



1 **Sec. 17. 1.** *An employer is not required to reemploy an*
2 *employee pursuant to sections 16 to 20, inclusive, of this act if:*

3 *(a) The employer's circumstances have so changed as to make*
4 *reemployment of the employee impossible or unreasonable.*

5 *(b) Reemployment of the employee would impose an undue*
6 *hardship on the employer.*

7 *(c) The employment from which the employee left to serve in*
8 *the military services was for a brief, nonrecurring period and*
9 *there was no reasonable expectation that the employment would*
10 *continue indefinitely or for a significant period.*

11 **2.** *The employer has the burden of proving the impossibility*
12 *or unreasonableness, the undue hardship or the brief or*
13 *nonrecurring nature of the employment without a reasonable*
14 *expectation of continuing indefinitely or for a significant period.*

15 **Sec. 18. 1.** *Except as otherwise provided in subsection 2, to*
16 *exercise his right of reemployment pursuant to sections 16 to 20,*
17 *inclusive, of this act, the employee must:*

18 *(a) If employee's period of service in the military services is*
19 *less than 30 days, report directly to his employer for work not later*
20 *than the beginning of the first full regularly scheduled work*
21 *period on the first full calendar day after the completion of the*
22 *period of service, plus 8 hours to allow for the safe transportation*
23 *of the employee from the place where he served to his place of*
24 *residence. If reporting not later than the beginning of the first full*
25 *regularly scheduled work period is impossible or unreasonable*
26 *through no fault of the employee as required, the employee must*
27 *report to the employer as soon as possible after the expiration of*
28 *the 8-hour period allowed for travel.*

29 *(b) If the employee is absent from a position of employment for*
30 *a period of any length for the purposes of an examination to*
31 *determine the employee's fitness to perform service in the military*
32 *services, report to his employer for work in the manner and time*
33 *as required pursuant to paragraph (a).*

34 *(c) If the employee's period of service in the military services is*
35 *for at least 30 days but not more than 180 days, submit an*
36 *application for reemployment with the employer not later than 14*
37 *days after the date on which the employee completes his period of*
38 *service or, if submitting the application within the 14-day period is*
39 *impossible or unreasonable through no fault of the employee, not*
40 *later than the next first full calendar day when submission of the*
41 *application for reemployment becomes possible.*

42 *(d) If the employee's period of service in the military services*
43 *is for more than 180 days, submit an application for reemployment*
44 *with the employer not later than 90 days after the date on which*
45 *the employee completes his period of service.*



2. Except as otherwise provided in this subsection, if the employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, his service in the military services, the period by which the employee must report to, or submit his application for reemployment with, his employer pursuant to subsection 1 begins at the end of the period that is necessary for the employee to recover from his illness or injury provided that the period of recovery does not exceed 2 years, plus the minimum time, if any, required to accommodate circumstances beyond the control of the employee.

3. If an employee fails to report to, or submit an application for reemployment with, his employer in a timely manner as provided in this section, the employee and his right to reemployment with the employer become subject to the conduct rules, established policy and general practices of the employer pertaining to explanations and discipline relating to absences from scheduled work.

Sec. 19. 1. An employee who submits an application for reemployment to his employer pursuant to section 18 of this act shall, upon request of the employer, provide to the employer documentation to establish that:

(a) The employee has submitted the application for reemployment in a timely manner;

(b) The cumulative length of the absence and of all previous absences from a position of employment by the employee with that employer by reason of service in the military services does not exceed the limitation set forth in paragraph (b) of subsection 1 of section 16 of this act; and

(c) The employee was not dishonorably discharged from service in the military services.

2. Documentation submitted by an employee to his employer pursuant to subsection 1 shall be deemed to be satisfactory if the documentation meets the requirements for such documentation established by the Adjutant General by regulation.

3. Except as otherwise provided in subsection 4, an employer may not use the failure of an employee to provide satisfactory documentation as a basis for denying reemployment to the employee pursuant to sections 16 to 20, inclusive, of this act, if the failure of the employee to provide the documentation was because the documentation did not exist or was not readily available at the time of the request of the employer. If, after the employer reemploys the employee, documentation becomes available that establishes that the employee does not meet one or more of the requirements set forth in subsection 1, the employer may terminate the employment of the employee and the provision of any related



1 *rights or benefits provided to the employee pursuant to this*
2 *chapter.*

3 4. *An employer who reemploys an employee pursuant to*
4 *sections 16 to 20, inclusive, of this act, who was absent from a*
5 *position of employment with the employer for more than 90 days*
6 *may require the employee to provide the employer with the*
7 *documentation specified in subsection 1 before treating the*
8 *employee, for the purposes of his retirement, pension fund or*
9 *other employee benefit program, as not having incurred a break in*
10 *his employment. An employer may not delay or attempt to defeat*
11 *his obligation of reemployment by demanding documentation that*
12 *does not then exist or is not then readily available.*

13 **Sec. 20.** 1. *The right of an employee to reemployment*
14 *pursuant to sections 16 to 20, inclusive, of this act does not*
15 *otherwise entitle the employee to the right for retention, preference*
16 *or displacement over any other person who has a superior claim*
17 *under the provisions of Title 5 of the United States Code, relating*
18 *to veterans and other persons who qualify as preference eligibles*
19 *pursuant to that Title.*

20 2. *An employee who applies for reemployment in accordance*
21 *with sections 16 to 20, inclusive, of this act, may complete any*
22 *training program that was applicable to his former position of*
23 *employment during his period of service in the military services.*

24 3. *An employee who is reemployed in a position in*
25 *accordance with sections 16 to 20, inclusive, of this act may not be*
26 *discharged from that position without cause for 1 year after the*
27 *date on which he begins his reemployment.*

28 4. *An employee who is reemployed pursuant to sections 16 to*
29 *20, inclusive, of this act, is entitled to the seniority and other rights*
30 *and benefits determined by seniority that the employee had on the*
31 *date of the commencement of his service in the military services*
32 *plus the additional seniority and rights and benefits that the*
33 *person would have attained if the employee's employment had not*
34 *been interrupted by his service in the military services.*

35 5. *As used in this section, "preference eligible" has the*
36 *meaning ascribed to it in 5 U.S.C. § 2108.*

37 **Sec. 21.** 1. *Except as otherwise provided in this section, if*
38 *an employee, upon his completion of his service in the military*
39 *services, is reemployed with his employer in accordance with*
40 *sections 16 to 20, inclusive, of this act, the employee must receive*
41 *credit for his period of service in the military services toward*
42 *vesting and computation of the employee's benefits in the public*
43 *retirement system, pension fund or other employee benefit plan*
44 *applicable to his employment, as provided in this section.*



1 2. The maximum amount of creditable service that an
2 employee may receive pursuant to this section for his service in the
3 military services is 4 years.

4 **Sec. 22.** An employee may, at the time that he enters service
5 in the military services, elect to pay the required employee
6 contributions to the public retirement system, pension fund or
7 other employee benefit plan applicable to his employment, during
8 his period of service in the military services if the plan is a
9 qualified plan and if payment of contributions is authorized by the
10 Internal Revenue Code. If the employee elects to make the
11 contributions, the employee must timely furnish his employer with
12 an amount of money that is equal to the amount of money which
13 would have been deducted from his compensation as required
14 under the public retirement system, pension fund or employee
15 benefit plan. Upon receipt of the employee contributions, the
16 employer shall remit the employee contributions to the public
17 retirement system, pension fund or employee benefit plan, plus an
18 amount equal to the amount that the employer would have
19 otherwise contributed on behalf of the employee.

20 **Sec. 23.** 1. A private employer in this State who maintains a
21 defined benefit plan, as defined by 29 U.S.C. § 1002(35), shall
22 credit an employee with his period of service in the military
23 services towards retirement eligibility and vesting under the plan,
24 including the computation of any retirement benefits due under
25 the express terms of the plan, when the accrued benefits due under
26 the plan are derived from employer contributions to the plan. If
27 the defined benefit plan provides benefits derived from employer
28 and employee contributions to the plan, the employee must be
29 credited with his period of service in the military services toward
30 retirement eligibility and vesting under the plan, including the
31 computation of any retirement benefits due under the express
32 terms of the plan, provided that the employer contributions and
33 the mandatory contributions of the employee are made to the plan.

34 2. If a private employer maintains an individual account plan
35 or a defined contribution plan, as those terms are defined by 29
36 U.S.C. § 1002(34) and (35), the employee must be credited with his
37 period of service in the military services toward retirement
38 eligibility under the express terms of the plan, upon payment of
39 the designated contributions to the plan and if such credit is
40 authorized under the Internal Revenue Code, if the plan is a
41 qualified plan pursuant to the Internal Revenue Code.

42 3. An employee may be required to pay his cost, if any, of any
43 funded benefit continued pursuant to this section to the extent
44 other employees of that employer on furlough or leave of absence
45 are so required.



1 **Sec. 24. 1.** *Any employee, who did not elect to make*
2 *employee contributions pursuant to section 22 of this act to the*
3 *system, fund or plan specified in section 22 of this act applicable*
4 *to his employment during his period of service in the military*
5 *services, is entitled to receive credit for his service in the military*
6 *services toward establishing retirement eligibility and for*
7 *computation of benefits, upon payment into the system, fund or*
8 *plan in an amount equal to the employee contributions that would*
9 *have been paid had the employee continued in employment and*
10 *not been called to service in the military services, together with*
11 *interest thereon at the valuation interest rate of the system, fund or*
12 *plan in effect at the time payment is made. The contributions must*
13 *be based on the employee's salary, including any increases in*
14 *compensation that the employee would have received had he*
15 *remained in employment during the period of service in the*
16 *military services.*

17 2. *Upon payment by the employee of the employee*
18 *contributions and interest as provided in subsection 1, the*
19 *employer shall pay to the system, fund or plan an amount equal to*
20 *the employer contributions that the employer would have paid to*
21 *the system, fund or plan had the employee remained in*
22 *employment during the period of service in the military services,*
23 *together with interest thereon, at the valuation interest rate in*
24 *effect at the time payment is made. The contributions must be*
25 *based on the employee's salary, including any increases in*
26 *compensation that the employee would have received had he*
27 *remained in employment during the period of service in the*
28 *military services. The employer contributions and interest due to*
29 *the system, fund or plan must be paid within 30 days after the*
30 *employee has paid all of his portion of the contributions due to the*
31 *system, fund or plan.*

32 3. *All employee contributions and interest due as payment of*
33 *credit for service in the military services in accordance with*
34 *subsection 1 must be received by the system, fund or plan within 4*
35 *years of reemployment.*

36 4. *If the employee fails to make the required contributions*
37 *within 4 years, service in the military services credit must only*
38 *count toward determining eligibility for retirement benefits.*

39 **Sec. 25. 1.** *An employee's period of service in the military*
40 *services must be counted as creditable service in the system, fund*
41 *or plan specified in section 22 of this act in which he was a*
42 *member, for determining eligibility for death and survivor benefits*
43 *and in the computation of benefits, provided that:*

44 (a) *The beneficiary of the death or survivor benefits pays the*
45 *unpaid portion of the contributions of the deceased member. The*



1 beneficiary may agree in writing to have the payment of the
2 unpaid portion of the contributions of the deceased member
3 deducted from the benefits over a period not to exceed 4 years. The
4 beneficiary may pay, in the alternative, the actuarial cost of such
5 additional credit in a lump sum before the distribution of benefits.

6 (b) If there is more than one beneficiary, all of the
7 beneficiaries agree in writing to pay the unpaid contributions of
8 the deceased member. If the recipient is a minor child, the legal
9 guardian of the minor child must expressly consent for the minor
10 child.

11 2. The governing entity of each public retirement system shall
12 adopt a written policy covering all rights of beneficiaries and
13 survivors to pay the required contributions in order to have the
14 employee's military service computed in the computation of any
15 death or survivor benefits payable under the system, fund or plan.

16 3. If all of the conditions of subsection 1 are satisfied, the
17 employer shall pay the employer contributions in a manner
18 consistent with sections 21 to 26, inclusive, of this act.

19 4. If the beneficiary of death or survivor benefits of a
20 deceased member elects not to pay the employee contributions due
21 the system, fund or plan for credit for service in the military
22 services, the computation of death and survivor benefits must be
23 based on the actual service of the employee in the system, fund or
24 plan before his call to service in the military services. The death or
25 survivor benefits provided for herein are due upon the death of the
26 employee.

27 **Sec. 26.** Notwithstanding any provision of sections 21 to 26,
28 inclusive, of this act to the contrary, the provisions of sections 21
29 to 26, inclusive, of this act do not apply to employees who are
30 participants in a deferred retirement option plan.

31 **Sec. 27.** If the Department of Motor Vehicles suspends the
32 registration of a vehicle pursuant to NRS 485.317 and the
33 registered owner, in accordance with regulations adopted by
34 the Department, proves to the satisfaction of the Department that
35 he was unable to comply with the provisions of NRS 485.185 on
36 that date because he was performing service in the military
37 services, the Department shall not require the registered owner to
38 pay any fee to rescind the suspension of the registration of the
39 motor vehicle or to reinstate the registration of the motor vehicle.

40 **Sec. 28.** 1. Except as otherwise provided in section 29 of
41 this act, if, at the time that a person enters into the service of the
42 military services, the person validly holds a license, certificate or
43 permit issued by any state or local governmental agency within
44 this State:



1 (a) *The license, certificate or permit remains in effect during*
2 *the person's service in the military services; and*

3 (b) *The person is exempt from the payment of any renewal fees*
4 *during his service in the military services that the person would*
5 *have otherwise been required to pay to maintain the license,*
6 *certificate or permit.*

7 2. *If the person does not comply, within 90 days after the*
8 *completion of his service in the military services or his discharge*
9 *from hospitalization incidental to his service, as appropriate, with*
10 *the applicable requirements for maintaining the license, certificate*
11 *or permit, including paying any renewal fees, the state or local*
12 *governmental agency which issued the license, certificate or*
13 *permit may suspend or revoke the license, certificate or permit.*

14 **Sec. 29.** *1. Notwithstanding any specific statutory provision*
15 *in title 54 of NRS to the contrary, if, at the time that a person*
16 *enters into the service of the military services, the person validly*
17 *holds a license, certificate or permit issued by a regulatory body*
18 *pursuant to title 54 of NRS, the license, certificate or permit*
19 *remains in effect during the person's service in the military service*
20 *and, except as otherwise provided in this section, the person is*
21 *exempt during his period of service in the military services from:*

22 (a) *The payment of any licensing and renewal fees that he*
23 *would have otherwise been required to pay; and*

24 (b) *Any requirements for continuing education that he would*
25 *have otherwise had to complete.*

26 2. *If the person does not:*

27 (a) *Within 90 days after the completion of his service in the*
28 *military services or his discharge from hospitalization incidental to*
29 *his service, as applicable, pay the licensing or renewal fees for the*
30 *year in which the person completes his service or is discharged*
31 *from hospitalization; and*

32 (b) *Within 180 days after the completion of his service in the*
33 *military services or his discharge from hospitalization incidental to*
34 *his service, as applicable, complete the requirements for*
35 *continuing education for the year in which the person completes*
36 *his service or is discharged from hospitalization,*

37 ↪ *the regulatory body which issued the license, certificate or*
38 *permit may suspend or revoke the license, certificate or permit.*

39 **Sec. 30.** *1. A district court, upon the filing of a complaint,*
40 *motion, petition or other appropriate pleading by or on behalf of*
41 *the person claiming a right or benefit provided pursuant to this*
42 *chapter, may:*

43 (a) *Require an employer to comply with the provisions of this*
44 *chapter.*



1 (b) *Require an employer to compensate the person for any loss*
2 *of wages or benefits suffered as a result of the failure of the*
3 *employer to comply with the provisions of this chapter.*

4 (c) *Require an employer to pay the person an amount equal to*
5 *the amount of lost wages or benefits as liquidated damages, if the*
6 *court determines that the employer's failure to comply with the*
7 *provisions of this chapter was willful.*

8 2. *Any compensation ordered pursuant to subsection 1 must*
9 *be in addition to and must not diminish any of the other rights and*
10 *benefits provided for in this chapter.*

11 3. *A district court shall give preference in scheduling such*
12 *actions, upon the motion of any person in the military services, or*
13 *his attorney, who presents certification that the person has*
14 *performed service in the military services or is in service in the*
15 *military services.*

16 **Sec. 31.** *Each employer shall post in a conspicuous place*
17 *within the place of employment a notice informing his employees*
18 *of the rights and benefits available to persons who perform service*
19 *in the military services, including, the rights and benefits under*
20 *this chapter and the Uniformed Services Employment and*
21 *Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq., and the*
22 *Servicemembers Civil Relief Act, 50 App. U.S.C. §§ 501 et seq. and*
23 *this chapter. The Labor Commissioner shall, by regulation,*
24 *prescribe the form and content of the notice required by this*
25 *section.*

26 **Sec. 32.** *In any proceeding conducted to enforce any of the*
27 *provisions of this chapter, the court may award reasonable*
28 *attorney's fees and costs.*

29 **Sec. 33.** *If an elected official enters into service in the*
30 *military services:*

31 1. *The office held by that person shall not be deemed to be*
32 *vacant; and*

33 2. *A change in residence shall not be deemed to have*
34 *occurred.*

35 **Sec. 34.** 1. *In a hearing or proceeding before a hearing*
36 *officer, the hearing officer may continue an adjudication in any*
37 *case when a party or subpoenaed necessary witness has been*
38 *called to service in the military services.*

39 2. *As used in this section, "hearing officer" includes any*
40 *hearing officer employed or appointed by a state or local*
41 *governmental entity in this State, including, without limitation,*
42 *hearing officers, compensation officers and appeal officers within*
43 *the Hearings Division of the Department of Administration.*

44 **Sec. 35.** *The provisions of this chapter are intended to be*
45 *supplemental to any rights that persons called to service in the*



1 *military services have under any applicable federal statutes,*
2 *including, without limitation, the Servicemembers Civil Relief Act,*
3 *50 App. U.S.C. §§ 501 et seq., and the Uniformed Services*
4 *Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et*
5 *seq., and under any other applicable laws of this State.*

6 **Sec. 36.** *Nothing in this chapter supersedes, nullifies or*
7 *diminishes any federal law, state law or local ordinance, contract,*
8 *agreement, policy, plan, practice or other matter that establishes a*
9 *right or benefit that is more beneficial to, or is in addition to, a*
10 *right or benefit provided for pursuant to this chapter.*

11 **Sec. 37.** *The provisions of this chapter supersede any state or*
12 *local law or ordinance, contract, agreement, policy, plan, practice*
13 *or other matter that reduces, limits or eliminates in any manner*
14 *any right or benefit provided by this chapter, including the*
15 *establishment of additional prerequisites to the exercise of any*
16 *such right or the receipt of any such benefit.*

17 **Sec. 38.** *If a conflict occurs between the provisions of this*
18 *chapter and any other statute, ordinance or regulation, the*
19 *provisions of this chapter control.*

20 **Sec. 39.** NRS 386.270 is hereby amended to read as follows:

21 386.270 ~~[Except as otherwise provided in NRS 386.275:]~~

22 1. Any vacancy occurring in a board of trustees must be filled
23 by appointment by the remaining members of the board at a public
24 meeting held after notice of the meeting is published at least once
25 each week for 2 weeks in a newspaper qualified pursuant to the
26 provisions of chapter 238 of NRS. The appointee shall serve until
27 the next general election, at which time his successor must be
28 elected for the balance of the unexpired term.

29 2. Any person appointed to fill a vacancy must have the
30 qualifications provided in NRS 386.240.

31 **Sec. 40.** NRS 386.275 is hereby amended to read as follows:

32 386.275 1. If a ~~[vacancy occurs, or will occur, in]~~ *member of*
33 *a board of trustees* ~~[because a member of the board]~~ has entered, or
34 is entering, into active military service, the board of trustees may
35 appoint a person to serve as a temporary replacement for that
36 member. Such a temporary appointment must be made in the
37 manner, and subject to the requirements, otherwise prescribed in
38 NRS 386.270, except that the member of the board of trustees who
39 has entered, or is entering, into active military service may
40 participate in the process to appoint his temporary replacement.

41 2. If a person is temporarily appointed to serve on a board of
42 trustees pursuant to this section:

43 (a) The person fully assumes the duties, rights and
44 responsibilities of a member of the board of trustees, and is entitled



1 to the compensation, allowances and expenses otherwise payable to
2 a member, for the duration of his appointment.

3 (b) The member of a board of trustees who is temporarily
4 replaced shall be deemed to be on leave without pay from the board
5 of trustees for the duration of the appointment of his temporary
6 replacement.

7 3. A person appointed to serve on the board of trustees
8 pursuant to this section serves:

9 (a) Until the member of the board of trustees being temporarily
10 replaced returns from active military service; or

11 (b) For the remainder of the unexpired term of that member,
12 ➤ whichever occurs first.

13 **Sec. 41.** Chapter 394 of NRS is hereby amended by adding
14 thereto a new section to read as follows:

15 *A postsecondary educational institution shall develop and carry*
16 *out policies to address academic matters of persons who are*
17 *members of the military services that result from the mobilization*
18 *or activation of the persons to ensure that the pursuit of education*
19 *by those persons at the postsecondary educational institution is*
20 *disrupted to the minimum extent possible and that no undue*
21 *penalties are assessed on those persons as a result of being called*
22 *into service in the military services. The policies must address the*
23 *awarding of academic credits, grades, periods for the resumption*
24 *of academic work, academic status upon reenrollment,*
25 *scholarships, student grants and loans, student fees, assessments*
26 *and tuition, and other matters related to the disruption of*
27 *academic pursuit caused when a person is called into service in*
28 *the military services.*

29 **Sec. 42.** NRS 394.411 is hereby amended to read as follows:

30 394.411 1. The Commission shall adopt regulations
31 governing the administration of NRS 394.383 to 394.560, inclusive,
32 *and section 41 of this act*, and may adopt such other regulations as
33 are proper or necessary for the execution of the powers and duties
34 conferred upon it by law.

35 2. The Administrator shall execute, direct or supervise all
36 administrative, technical and procedural activities for which he is
37 responsible in accordance with the policies and regulations of the
38 Commission and subject to the Commission's direction and control.

39 **Sec. 43.** NRS 394.610 is hereby amended to read as follows:

40 394.610 Unless a specific penalty is otherwise provided, a
41 person who willfully violates the provisions of NRS 394.005 to
42 394.550, inclusive, *and section 41 of this act*, is guilty of a gross
43 misdemeanor. Each day's failure to comply with the provisions of
44 these sections is a separate offense.



1 **Sec. 44.** Chapter 396 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *The Board of Regents shall develop and carry out policies to*
4 *address academic matters of persons who are members of the*
5 *military services that result from the mobilization or activation of*
6 *the persons to ensure that the pursuit of education by those*
7 *persons is disrupted to the minimum extent possible and that no*
8 *undue penalties are assessed on those persons as a result of being*
9 *called into service in the military services. The policies must*
10 *address the awarding of academic credits, grades, periods for the*
11 *resumption of academic work, academic status upon reenrollment,*
12 *scholarships, student grants and loans, student fees, assessments*
13 *and tuition, and other matters related to the disruption of*
14 *academic pursuit caused when a person is called into service in*
15 *the military services.*

16 **Sec. 45.** NRS 482.480 is hereby amended to read as follows:

17 482.480 There must be paid to the Department for the
18 registration or the transfer or reinstatement of the registration of
19 motor vehicles, trailers and semitrailers, fees according to the
20 following schedule:

21 1. Except as otherwise provided in this section, for each stock
22 passenger car and each reconstructed or specially constructed
23 passenger car registered to a person, regardless of weight or number
24 of passenger capacity, a fee for registration of \$33.

25 2. Except as otherwise provided in subsection 3:

26 (a) For each of the fifth and sixth such cars registered to a
27 person, a fee for registration of \$16.50.

28 (b) For each of the seventh and eighth such cars registered to a
29 person, a fee for registration of \$12.

30 (c) For each of the ninth or more such cars registered to a
31 person, a fee for registration of \$8.

32 3. The fees specified in subsection 2 do not apply:

33 (a) Unless the person registering the cars presents to the
34 Department at the time of registration the registrations of all of the
35 cars registered to him.

36 (b) To cars that are part of a fleet.

37 4. For every motorcycle, a fee for registration of \$33 and for
38 each motorcycle other than a trimobile, an additional fee of \$6 for
39 motorcycle safety. The additional fee must be deposited in the State
40 Highway Fund for credit to the Account for the Program for the
41 Education of Motorcycle Riders.

42 5. For each transfer of registration, a fee of \$6 in addition to
43 any other fees.



1 6. Except as otherwise provided in subsection 9 of NRS
2 485.317, *and section 27 of this act*, to reinstate the registration of a
3 motor vehicle suspended pursuant to ~~that~~ *either* section:

4 (a) A fee of \$250 for a registered owner who failed to have
5 insurance on the date specified in the form for verification that was
6 mailed by the Department pursuant to subsection 3 of NRS 485.317;
7 or

8 (b) A fee of \$50 for a registered owner of a dormant vehicle who
9 cancelled the insurance coverage for that vehicle or allowed the
10 insurance coverage for that vehicle to expire without first cancelling
11 the registration for the vehicle in accordance with subsection 3 of
12 NRS 485.320,

13 ↪ both of which must be deposited in the Account for Verification
14 of Insurance which is hereby created in the State Highway Fund.
15 The money in the Account must be used to carry out the provisions
16 of NRS 485.313 to 485.318, inclusive.

17 7. For every travel trailer, a fee for registration of \$27.

18 8. For every permit for the operation of a golf cart, an annual
19 fee of \$10.

20 9. For every low-speed vehicle, as that term is defined in NRS
21 484.527, a fee for registration of \$33.

22 10. To reinstate the registration of a motor vehicle that is
23 suspended pursuant to NRS 482.451, a fee of \$33.

24 **Sec. 46.** This act becomes effective on July 1, 2005.

