THE ONE HUNDRED-SEVENTEENTH DAY

CARSON CITY (Friday), May 28, 2021

Senate called to order at 2:02 p.m.

President Marshall presiding.

Roll called.

All present.

Prayer by Senator Heidi Seevers Gansert.

Today is Day 117 of this Session, and it is a lovely day to go out for a breather. We are grateful and honored to serve the people of Nevada. We are grateful to our staff for the support they have given us for almost four months in helping process the work we need to do. We are grateful our families and constituencies are supportive and that we are able to do this work. Bless us all. May we have a good next three-and-a-half days together so we can work closely and make the best decisions possible on behalf of the State of Nevada.

AMEN.

Pledge of Allegiance to the Flag.

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

REPORTS OF COMMITTEE

Madam President:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 149, 358, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JULIA RATTI, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 27, 2021

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 423, 425, 429, 436; Assembly Bills Nos. 492, 493.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 219, 241, 262, 280, 341, 486.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 563 to Assembly Bill No. 32; Senate Amendment No. 509 to Assembly Bill No. 52; Senate Amendment No. 551 to Assembly Bill No. 55; Senate Amendment No. 576 to Assembly Bill No. 146; Senate Amendment No. 496 to Assembly Bill No. 284; Senate Amendment No. 660 to Assembly Bill No. 296; Senate Amendment No. 591 to Assembly Bill No. 356; Senate Amendment No. 560 to Assembly Bill No. 388; Senate Amendment No. 668 to Assembly Bill No. 399; Senate Amendment No. 650 to Assembly Bill No. 410; Senate Amendment No. 559 to Assembly Bill No. 412; Senate Amendment No. 513 to Assembly Bill No. 419; Senate Amendment No. 738 to Assembly Bill No. 424.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in Senate Amendment No. 615 to Assembly Bill No. 368.

CAROL AIELLO-SALA

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that Assembly Bills Nos. 37, 67, 357, 365, 411, 422, 441, 480 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Cannizzaro moved that Senate Bill No. 441 be taken from the Secretary's desk and placed on the General File on the second Agenda.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 460—AN ACT relating to state financial administration; making appropriations to certain state agencies for certain purposes; revising provisions relating to the compensation of employees of the Senate and Assembly; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 219.

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

Motion carried.

Assembly Bill No. 241.

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. 262.

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

Motion carried.

Assembly Bill No. 280.

Senator Ratti moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Assembly Bill No. 341.

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. 486.

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. 492.
Senator Ratti moved that the bill be referred to the Committee on Finance.
Motion carried.

Assembly Bill No. 493.
Senator Ratti moved that the bill be referred to the Committee on Finance.
Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 149.
Bill read second time and ordered to third reading.

Assembly Bill No. 358.
Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 459.
Bill read third time.
Remarks by Senator Brooks.

Senate Bill No. 459 provides funding and authorizes the expenditure of funding other than State General Fund appropriations or State Highway Fund appropriations. The funding sources include federal funds, self-funded budgets receiving money through fees or other means and outside revenue sources such as licensing fees, gifts, grants, interagency transfers and other funds, which total $28.11 billion over the 2021-2023 Biennium. This amount includes $2.83 billion in federal funding, inclusive of anticipated American Rescue Plan funds, in the COVID-19 Relief Programs budget. In response to the COVID-19 pandemic, it also includes $1.36 billion in federal funding for pre-K through grade 12 education.

Additionally, due to the specific statutory language for these agencies, Senate Bill No. 459 includes authority for the Nevada Gaming Control Board and the Nevada Gaming Commission to expend $63.9 million from the General Fund over the 2021-2023 Biennium. Similarly, the bill includes authority for the Nevada Department of Transportation to expend $900.6 million from the Highway Fund over the 2021-2023 Biennium.

Roll call on Senate Bill No. 459:
Yeas—18.
Nays—Buck, Hardy, Settelmeyer—3.

Senate Bill No. 459 having received a constitutional majority, Madam President declared it passed.
Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 317.
The following Assembly amendments were read:
Amendment No. 653.
SUMMARY—Revises provisions relating to juvenile justice. (BDR 5-1016)
AN ACT relating to juvenile justice; revising provisions governing employment with a department of juvenile justice services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of a county whose population is 700,000 or more (currently Clark County) to establish by ordinance a department of juvenile justice services to administer certain provisions of existing law relating to juvenile delinquency and the abuse and neglect of children. (NRS 62G.200-62G.240) If the board of county commissioners of such a county has not established a department of juvenile justice services, the juvenile court is required to: (1) establish by court order a probation committee; and (2) appoint a director of the department of juvenile justice services to administer certain functions of the juvenile court. (NRS 62G.300-62G.370)

Existing law authorizes a department of juvenile justice services to deny employment to an applicant or terminate the employment of an employee against whom certain criminal charges are pending. Existing law also: (1) requires a department of juvenile justice services to allow such an employee a reasonable amount of time of not more than 180 days to resolve the pending charges against the employee; and (2) authorizes a department of juvenile justice services to, upon request from the employee and good cause shown, allow the employee additional time to resolve the pending charges against the employee. Existing law further authorizes a department of juvenile justice services to place such an employee on leave without pay during the period in which the employee seeks to resolve the pending charges against the employee. (NRS 62G.225, 62G.355)

Sections 1 and 2 of this bill require a department of juvenile justice services to award back pay to ~~[such]~~ an employee of the department of juvenile justice services who is a peace officer for the duration of the unpaid leave if: (1) the charges against the employee are dismissed ~~[; (2)]~~ or the employee is found not guilty at trial; ~~[or (3)]~~ and (2) the employee is not subjected to punitive action in connection with the alleged misconduct. Sections 1 and 2 also specify that the amount of time which existing law requires a department of juvenile justice services to allow such an employee to resolve the pending charges against the employee, which is a reasonable amount of time of not more than 180 days, begins after arrest. Section 3 of this bill makes the amendatory provisions of this bill applicable to an employee of a department of juvenile justice services who, on or after July 1, 2021, has a pending charge against the employee for an offense alleged to have been committed before, on or after July 1, 2021.

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

Section 1. NRS 62G.225 is hereby amended to read as follows:

62G.225 1. If the report from the Federal Bureau of Investigation forwarded to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.223, the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.223 or evidence from any other source indicates that an applicant for employment with the

department of juvenile justice services, or an employee of the department of juvenile justice services:

(a) Has charges pending against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.223, the department of juvenile justice services:

(1) May deny employment to the applicant after allowing the applicant time to correct the information as required pursuant to subsection 2; or

(2) May terminate the employee after allowing the employee time to correct the information as required pursuant to subsection 2 or 3, or resolve the pending charges pursuant to subsection 4, whichever is applicable; or

(b) Has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 62G.223, has had a substantiated report of child abuse or neglect made against him or her or has not been satisfactorily cleared by a central registry described in paragraph (b) of subsection 2 of NRS 62G.223, the department of juvenile justice services shall deny employment to the applicant or terminate the employment of the employee after allowing the applicant or employee time to correct the information as required pursuant to subsection 2 or 3, whichever is applicable.

2. If an applicant for employment or an employee believes that the information in the report from the Federal Bureau of Investigation forwarded to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.223 is incorrect, the applicant or employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the applicant or employee a reasonable amount of time of not less than 30 days to correct the information.

3. If an employee believes that the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.223 is incorrect, the employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the employee a reasonable amount of time of not less than 60 days to correct the information.

4. If an employee has pending charges against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.223, the department of juvenile justice services shall allow the employee a reasonable time of not more than 180 days *after arrest* to resolve the pending charges against the employee. Upon request and good cause shown, the department of juvenile justice services may allow the employee additional time to resolve the pending charges against the employee.

5. During the period in which an employee seeks to correct information pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4, the employee:

(a) Shall not have contact with a child or a relative or guardian of a child in the course of performing any duties as an employee of the department of juvenile justice services.

(b) May be placed on leave without pay.

6. *If the department of juvenile justice services places an employee who is a peace officer on leave without pay pending the outcome of a criminal prosecution, the department of juvenile justice services shall award the employee back pay for the duration of the unpaid leave if:*

(a) The charges against the employee are dismissed ~~[,~~

~~(b) The]~~ or the employee is found not guilty at trial; ~~[or~~

~~(c)]~~ and

(b) The employee is not subjected to punitive action in connection with the alleged misconduct.

7. The provisions of subsection 5 are not disciplinary in nature and must not be construed as preventing the department of juvenile justice services from initiating departmental disciplinary procedures against an employee during the period in which an employee seeks to correct information pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4.

~~[7.]~~ *8.* A termination of employment pursuant to this section constitutes dismissal for cause for the purposes of NRS 62G.220.

9. As used in this section, "peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

Sec. 2. NRS 62G.355 is hereby amended to read as follows:

62G.355 1. If the report from the Federal Bureau of Investigation forwarded to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.353, the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.353 or evidence from any other source indicates that an applicant for employment with the department of juvenile justice services, or an employee of the department of juvenile justice services:

(a) Has charges pending against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.353, the department of juvenile justice services:

(1) May deny employment to the applicant after allowing the applicant time to correct the information as required pursuant to subsection 2; or

(2) May terminate the employee after allowing the employee time to correct the information as required pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4, whichever is applicable; or

(b) Has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 62G.353, has had a substantiated report of child abuse or neglect made against him or her or has not been satisfactorily cleared by a central registry described in paragraph (b) of subsection 2 of NRS 62G.353, the department of juvenile justice services shall deny employment to the applicant or terminate the employment of the employee after allowing the applicant or employee time to correct the information as required pursuant to subsection 2 or 3, whichever is applicable.

2. If an applicant for employment or an employee believes that the information in the report from the Federal Bureau of Investigation forwarded to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.353 is incorrect, the applicant or employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the applicant or employee a reasonable amount of time of not less than 30 days to correct the information.

3. If an employee believes that the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.353 is incorrect, the employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the employee a reasonable amount of time of not less than 60 days to correct the information.

4. If an employee has pending charges against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.353, the department of juvenile justice services shall allow the employee a reasonable amount of time of not more than 180 days *after arrest* to resolve the pending charges against the employee. Upon request from the employee and good cause shown, the department of juvenile justice services may allow the employee additional time to resolve the pending charges against the employee.

5. During the period in which an employee seeks to correct information pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4, the applicant or employee:

(a) Shall not have contact with a child or a relative or guardian of the child in the course of performing any duties as an employee of the department of juvenile justice services.

(b) May be placed on leave without pay.

6. *If the department of juvenile justice services places an employee who is a peace officer on leave without pay pending the outcome of a criminal prosecution, the department of juvenile justice services shall award the employee back pay for the duration of the unpaid leave if:*

(a) The charges against the employee are dismissed ~~[:~~

~~(b) The]~~ or the employee is found not guilty at trial; ~~[or~~

~~(c)]~~ and

(b) The employee is not subjected to punitive action in connection with the alleged misconduct.

7. The provisions of subsection 5 are not disciplinary in nature and must not be construed as preventing a department of juvenile justice services from initiating departmental disciplinary procedures against an employee during the period in which an employee seeks to correct information pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4.

~~[7.]~~ *8.* A termination of employment pursuant to this section constitutes dismissal for cause for the purposes of NRS 62G.360.

9. As used in this section, "peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

Sec. 3. The amendatory provisions of this act apply to an employee of a department of juvenile justice services who, on or after July 1, 2021, has a pending charge against the employee for an offense alleged to have been committed before, on or after July 1, 2021.

Sec. 4. This act becomes effective on July 1, 2021.

Amendment No. 717.

SUMMARY—Revises provisions relating to juvenile justice. (BDR 5-1016)

AN ACT relating to juvenile justice; revising provisions governing employment with a department of juvenile justice services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of a county whose population is 700,000 or more (currently Clark County) to establish by ordinance a department of juvenile justice services to administer certain provisions of existing law relating to juvenile delinquency and the abuse and neglect of children. (NRS 62G.200-62G.240) If the board of county commissioners of such a county has not established a department of juvenile justice services, the juvenile court is required to: (1) establish by court order a probation committee; and (2) appoint a director of the department of juvenile justice services to administer certain functions of the juvenile court. (NRS 62G.300-62G.370)

Existing law authorizes a department of juvenile justice services to deny employment to an applicant or terminate the employment of an employee against whom certain criminal charges are pending. Existing law also: (1) requires a department of juvenile justice services to allow such an employee a reasonable amount of time of not more than 180 days to resolve the pending charges against the employee; and (2) authorizes a department of juvenile justice services to, upon request from the employee and good cause shown, allow the employee additional time to resolve the pending charges against the employee. Existing law further authorizes a department of juvenile justice services to place such an employee on leave without pay during the period in which the employee seeks to resolve the pending charges against the employee. (NRS 62G.225, 62G.355)

Sections 1 and 2 of this bill require a department of juvenile justice services to award back pay to an employee of the department of juvenile justice services who is a peace officer for the duration of the unpaid leave if: (1) the charges against the employee are dismissed or the employee is found not guilty at trial; and (2) the employee is not subjected to punitive action in connection with the alleged misconduct. Sections 1 and 2 also : (1) specify that the amount of time which existing law requires a department of juvenile justice services to allow such an employee to resolve the pending charges against the employee, which

is a reasonable amount of time of not more than 180 calendar days ~~[,]~~ and begins after arrest ~~[.]~~ ; and (2) authorize a department of juvenile justice services to offset any other income earned by the employee during the duration of the unpaid leave against any back pay awarded to the employee. Section 3 of this bill makes the amendatory provisions of this bill applicable to an employee of a department of juvenile justice services who, on or after July 1, 2021, has a pending charge against the employee for an offense alleged to have been committed ~~[before,]~~ on or after July 1, 2021.

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

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(2) May terminate the employee after allowing the employee time to correct the information as required pursuant to subsection 2 or 3, or resolve the pending charges pursuant to subsection 4, whichever is applicable; or

(b) Has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 62G.223, has had a substantiated report of child abuse or neglect made against him or her or has not been satisfactorily cleared by a central registry described in paragraph (b) of subsection 2 of NRS 62G.223, the department of juvenile justice services shall deny employment to the applicant or terminate the employment of the employee after allowing the applicant or employee time to correct the information as required pursuant to subsection 2 or 3, whichever is applicable.

2. If an applicant for employment or an employee believes that the information in the report from the Federal Bureau of Investigation forwarded to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.223 is incorrect, the applicant or employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the applicant or employee a reasonable amount of time of not less than 30 days to correct the information.

3. If an employee believes that the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.223 is incorrect, the employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall

give the employee a reasonable amount of time of not less than 60 days to correct the information.

4. If an employee has pending charges against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.223, the department of juvenile justice services shall allow the employee a reasonable time of not more than 180 *calendar* days *after arrest* to resolve the pending charges against the employee. Upon request and good cause shown, the department of juvenile justice services may allow the employee additional time to resolve the pending charges against the employee.

5. During the period in which an employee seeks to correct information pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4, the employee:

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(b) May be placed on leave without pay.

6. *If the department of juvenile justice services places an employee who is a peace officer on leave without pay pending the outcome of a criminal prosecution, the department of juvenile justice services shall award the employee back pay for the duration of the unpaid leave if:*

(a) The charges against the employee are dismissed or the employee is found not guilty at trial; and

(b) The employee is not subjected to punitive action in connection with the alleged misconduct.

7. The department of juvenile justice services may offset any other income earned by the employee during the duration of the unpaid leave against any back pay awarded to the employee pursuant to this section.

8. The provisions of subsection 5 are not disciplinary in nature and must not be construed as preventing the department of juvenile justice services from initiating departmental disciplinary procedures against an employee during the period in which an employee seeks to correct information pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4.

~~[7. 8.]~~ *9.* A termination of employment pursuant to this section constitutes dismissal for cause for the purposes of NRS 62G.220.

~~[9.]~~ *10. As used in this section, "peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.*

Sec. 2. NRS 62G.355 is hereby amended to read as follows:

62G.355 1. If the report from the Federal Bureau of Investigation forwarded to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.353, the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.353 or evidence from any other source indicates that an applicant for employment with the

department of juvenile justice services, or an employee of the department of juvenile justice services:

(a) Has charges pending against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.353, the department of juvenile justice services:

(1) May deny employment to the applicant after allowing the applicant time to correct the information as required pursuant to subsection 2; or

(2) May terminate the employee after allowing the employee time to correct the information as required pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4, whichever is applicable; or

(b) Has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 62G.353, has had a substantiated report of child abuse or neglect made against him or her or has not been satisfactorily cleared by a central registry described in paragraph (b) of subsection 2 of NRS 62G.353, the department of juvenile justice services shall deny employment to the applicant or terminate the employment of the employee after allowing the applicant or employee time to correct the information as required pursuant to subsection 2 or 3, whichever is applicable.

2. If an applicant for employment or an employee believes that the information in the report from the Federal Bureau of Investigation forwarded to the department of juvenile justice services pursuant to subsection 5 of NRS 62G.353 is incorrect, the applicant or employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the applicant or employee a reasonable amount of time of not less than 30 days to correct the information.

3. If an employee believes that the information received by the department of juvenile justice services pursuant to subsection 2 of NRS 62G.353 is incorrect, the employee must inform the department of juvenile justice services immediately. A department of juvenile justice services that is so informed shall give the employee a reasonable amount of time of not less than 60 days to correct the information.

4. If an employee has pending charges against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 62G.353, the department of juvenile justice services shall allow the employee a reasonable amount of time of not more than 180 *calendar* days *after arrest* to resolve the pending charges against the employee. Upon request from the employee and good cause shown, the department of juvenile justice services may allow the employee additional time to resolve the pending charges against the employee.

5. During the period in which an employee seeks to correct information pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4, the applicant or employee:

(a) Shall not have contact with a child or a relative or guardian of the child in the course of performing any duties as an employee of the department of juvenile justice services.

(b) May be placed on leave without pay.

6. *If the department of juvenile justice services places an employee who is a peace officer on leave without pay pending the outcome of a criminal prosecution, the department of juvenile justice services shall award the employee back pay for the duration of the unpaid leave if:*

(a) The charges against the employee are dismissed or the employee is found not guilty at trial; and

(b) The employee is not subjected to punitive action in connection with the alleged misconduct.

7. The department of juvenile justice services may offset any other income earned by the employee during the duration of the unpaid leave against any back pay awarded to the employee pursuant to this section.

8. The provisions of subsection 5 are not disciplinary in nature and must not be construed as preventing a department of juvenile justice services from initiating departmental disciplinary procedures against an employee during the period in which an employee seeks to correct information pursuant to subsection 2 or 3, or resolve pending charges against the employee pursuant to subsection 4.

~~[7. 8.]~~ *9.* A termination of employment pursuant to this section constitutes dismissal for cause for the purposes of NRS 62G.360.

~~[9.]~~ *10. As used in this section, "peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.*

Sec. 3. The amendatory provisions of this act apply to an employee of a department of juvenile justice services who, on or after July 1, 2021, has a pending charge against the employee for an offense alleged to have been committed ~~[before,]~~ on or after July 1, 2021.

Sec. 4. This act becomes effective on July 1, 2021.

Senator Scheible moved that the Senate concur in Assembly Amendments Nos. 653, 717 to Senate Bill No. 317.

Remarks by Senator Scheible.

Amendments Nos. 653 and 717 to Senate Bill No. 317 are both in alignment with the request of the sponsor and make tactical changes to the bill and its intent.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 189, 196, 451, 453, 454, 455, 456, 457, 458, 461, 462, 465, 466, 467, 469, 470, 474, 475, 477, 482, 484, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

CHRIS BROOKS, *Chair*

Madam President:

Your Committee on Natural Resources, to which was referred Assembly Bill No. 40, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

FABIAN DONATE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 28, 2021

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 494.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

SECOND READING AND AMENDMENT

Assembly Bill No. 40.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 811.

SUMMARY—Revises provisions relating to petroleum storage tanks. (BDR 40-343)

AN ACT relating to storage tanks; revising the method by which certain representatives who are members of the Board to Review Claims in the Division of Environmental Protection of the State Department of Conservation and Natural Resources are nominated; revising provisions governing responsibility for discharges from certain storage tanks; revising the requirements relating to the eligibility of a storage tank for the coverage of certain costs from the Fund for Cleaning Up Discharges of Petroleum; authorizing the distribution of additional amounts from the Fund to cover the cost for cleaning up certain discharges; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law: (1) the Department of Motor Vehicles is required to impose fees on the importation of certain fuels into this State; and (2) the Division of Environmental Protection of the State Department of Conservation and Natural Resources is required to impose an annual fee on certain operators of storage tanks for the registration of storage tanks used to store petroleum in this State. (NRS 445C.330, 445C.340) The money collected from such fees is required to be deposited into the Fund for Cleaning Up Discharges of Petroleum, and used, in part, to: (1) reimburse the Division for the costs of cleaning up discharges involving petroleum, heating oil and certain petrochemicals from storage tanks and mobile tanks; and (2) provide financial assistance to operators of petroleum storage tanks for certain costs related to compliance with federal laws and regulations relating to preventing discharge of petroleum from a storage tank. (NRS 445C.310, 445C.320, 445C.360-445C.380) The Board to Review Claims is required by existing law to adopt regulations relating to the Fund. (NRS 445C.310)

For the purposes of this existing law, sections 1 and 2 of this bill expand the definitions of "operator" and "storage tank." (NRS 445C.250, 445C.280) Section 1 expands the definition of "operator" from a person who owns, controls, or is responsible for the operation of a storage tank to a person who: (1) owns, controls or is responsible for the operation and management of a storage tank or a discharge from a storage tank; (2) was previously in charge of a storage tank immediately before the use of the storage tank was discontinued; (3) owns the property on which the storage tank is or was previously located; or (4) owns property on which a discharge from a storage tank has occurred and is responsible for the management and cleanup of the discharge. Section 3 of this bill makes a conforming change by removing a conflicting definition of "operator." Section 2 revises the definition of "storage tank" to include the distribution piping associated with the tank. Sections 4-8 of this bill make conforming changes by replacing certain references to a "tank" with "storage tank."

Existing law creates the Board to Review Claims in the Division and provides that the Board consists of certain members, including representatives of certain fields of enterprise. Existing law requires the Governor to appoint each representative from a list of three persons who are nominated by persons engaged in that field of enterprise in this State, through their trade association if one exists. (NRS 445C.300) Section 2.5 of this bill requires the persons engaged in each field of enterprise, through their trade association if one exists, to submit to the Governor the name of their nominee or a list of names of not more than three nominees. Section 2.5 requires the Governor to appoint as the representatives: (1) the person named as the nominee; or (2) if a list of nominees is submitted, one of the persons listed as a nominee.

Federal regulations set forth tank tightness testing standards for storage tanks. (40 C.F.R. § 280.43(c)) Unless a tank has been tested for tightness according to those federal regulations since July 1, 1988, existing law requires each operator who is required, or who chooses, to register a tank to test the tank pursuant to those federal regulations before the tank is eligible for coverage of certain costs from the Fund. (NRS 445C.360) Federal regulations additionally set forth line tightness testing standards. (40 C.F.R. § 280.44(b)) Section 4 of this bill instead requires that, before a storage tank is eligible for the coverage of certain costs from the Fund, the operator must, unless the storage tank has been tested for tank and line tightness according to both federal regulations within the previous 6 months, demonstrate that: (1) the storage tank is being monitored for a discharge; and (2) a discharge has not occurred.

Existing law allocates the costs of payment relating to the cleanup of discharges of petroleum from storage tanks and the liability for damages for such discharges between the Fund and the operator of the storage tank. (NRS 445C.370, 445C.380) Existing law limits the total amount that may be paid from the Fund in any 1 fiscal year to certain operators to $1,900,000 for the cleanup of such discharges and $1,900,000 for liability for such damages.

(NRS 445C.380) Section 6 of this bill increases each of these amounts to $1,950,000.

Existing law provides that any further cost for cleaning up or for damages which is in excess of the amount paid to an operator from the Fund must be paid by the operator. (NRS 445C.380) Section 6 additionally provides that any further cost for cleaning up which is in excess of the amount paid to an operator must be paid by the operator unless: (1) the Division requires additional cleanup to occur in compliance with certain requirements; and (2) the Board determines that certain conditions are met. Section 6 provides that if these conditions are met and the amount paid to the operator from the Fund has been exhausted, the Board may approve the operator to receive an additional allotment of not more than $1,000,000 from the Fund for cleaning up discharged petroleum at the site of the storage tank. Section 6 authorizes the Board to approve additional allotments of not more than $1,000,000 per allotment for cleaning up discharged petroleum at the site of the storage tank if: (1) the conditions continue to be met; and (2) the previous allotment has been exhausted. Section 6 further requires an operator which has received an additional allotment to pay a certain amount of the costs of cleaning up discharged petroleum at the site of the storage tank depending on the type of operator.

Existing law prescribes a specific allocation with respect to the operator which is a small business who is responsible for a discharge. (NRS 445C.380) Section 6 removes the definition of "small business" in existing law and instead requires the Board to Review Claims to define "small business" by regulation. Sections 4 and 8 of this bill remove references to inapplicable existing law relating to the allocation of costs for discharges.

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

Section 1. NRS 445C.250 is hereby amended to read as follows:

445C.250 "Operator" means a person who ~~[owns,]~~ *:*

1. Owns, controls or is responsible for the operation *and management* of a storage tank ~~[.]~~ *or a discharge from a storage tank;*

2. Previously owned, controlled or was responsible for the operation and management of a storage tank immediately before the use of the storage tank was discontinued;

3. Owns the property on which a storage tank is operated and managed, or was previously operated and managed if the use of the storage tank was discontinued; or

4. Owns property on which a discharge from a storage tank has occurred and is responsible for the management and cleanup of the discharge.

Sec. 2. NRS 445C.280 is hereby amended to read as follows:

445C.280 "Storage tank" means any tank *, and the distribution piping associated with the tank,* used to store petroleum, except petroleum for use in a chemical process.

Sec. 2.5. NRS 445C.300 is hereby amended to read as follows:

445C.300 1. The Board to Review Claims is hereby created in the Division. The Board consists of:

(a) The Administrator of the Division;

(b) The Director of the Department;

(c) The State Fire Marshal;

(d) A representative of refiners of petroleum;

(e) A representative of independent dealers in petroleum;

(f) A representative of independent retailers of petroleum; and

(g) A representative of the general public.

2. An officer designated as a member of the Board may designate a substitute. *Persons engaged in a field of enterprise in this State that is listed in paragraph (d), (e) or (f) of subsection 1, through their trade association if one exists, shall submit to the Governor the name of their nominee or a list of names of not more than three nominees.* The Governor shall appoint *the person so nominated or, if more than one person is nominated, one of the persons from the list of nominees as* the ~~[respective representatives]~~ *representative* designated as ~~[members]~~ *a member* of the Board. ~~[Each representative of a field of enterprise must be appointed from a list of three persons nominated by persons engaged in that field in this State, through their trade association if one exists.]~~

3. The Board shall select its Chair. The Administrator of the Division shall provide administrative assistance to the Board as required.

4. Each member who is appointed by the Governor is entitled to receive a salary of not more than $80, as fixed by the Board, for each day's attendance at a meeting of the Board.

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

Sec. 3. NRS 445C.320 is hereby amended to read as follows:

445C.320 Notwithstanding any provision of NRS 445C.150 to 445C.410, inclusive, to the contrary, and except as otherwise provided in this section:

1. The Division may expend not more than $2,000,000 from the Fund per fiscal year as reimbursement for necessary costs incurred by the Division in the response to and cleanup of discharges in the State, including discharges from a storage tank and discharges from a mobile tank that occur during the transportation of petroleum or a petrochemical on roads and highways. The Interim Finance Committee may approve the expenditure of more than $2,000,000 from the Fund in a fiscal year for the purposes described in this subsection. If a discharge also involves another hazardous material, the Division may expend money pursuant to this section in the cleanup of the discharge and the other hazardous material. The Division shall not expend money from the Fund pursuant to this section to clean up discharges from pipelines.

2. Except as otherwise provided in this subsection, money from the Fund expended by the Division pursuant to this section must be used to augment,

and must not be used to replace or supplant, any money available from other sources for the cleanup of discharges, including, without limitation, reimbursements by operators required to be made to the Division pursuant to NRS 445C.340 and 445C.360. If no money is available from those other sources, the Division may expend money from the Fund pursuant to this section to reimburse the Division for any costs specified in subsection 1.

3. If the Division expends money pursuant to this section to clean up a discharge involving:

(a) Petroleum, the operator of the tank shall reimburse the Division for the operator's share of the costs for cleaning up the discharge.

(b) A petrochemical, the person who is responsible for the discharge shall reimburse the Division for the person's share of the costs for cleaning up the discharge.

➥ The Division shall, upon being reimbursed pursuant to this subsection, deposit that money in the Fund.

4. As used in this section:

(a) "Discharge" means, unless authorized by state or federal law, any:

(1) Release of a petrochemical into water or soil; or

(2) Release, leaking or spilling of petroleum or a petrochemical from a tank into water or soil.

(b) ~~[~~"Operator" means a person who owns, controls or is responsible for the operation of a tank.

~~— (c)]~~ "Petrochemical" means a chemical derived from petroleum or a petroleum feedstock, including, without limitation, perchloroethylene and any degradation product of perchloroethylene.

~~[(d)]~~ *(c)* "Tank" means a storage tank or a mobile tank used to transport petroleum or a petrochemical received for sale or use in this State.

Sec. 4. NRS 445C.360 is hereby amended to read as follows:

445C.360 1. The operator of every storage tank, and every person who for compensation puts petroleum into a storage tank, shall report to the Division every discharge from that *storage* tank of which the operator or other person is aware or has reason to believe has occurred. The Division shall undertake or contract for cleaning up the discharge unless the operator or another person is already acting properly to clean it up. If the Division cleans up the discharge, the operator shall reimburse the Division for the operator's share of the costs. If, in cleaning up the discharge, the Division expends money from the Fund in accordance with NRS 445C.320, the Division shall, upon being reimbursed by the operator of the storage tank pursuant to this subsection, deposit that money in the Fund.

2. ~~[Each]~~ *Before a storage tank is eligible for the coverage provided by NRS 445C.380, each* operator who is required *pursuant to subsection 1 of NRS 445C.340* or who chooses to register a *storage* tank must, unless the *storage* tank has been tested for tightness under the federal standards embodied in 40 C.F.R. ~~[§ 280.43c since July 1, 1988, test the tank pursuant to those standards before it is eligible for the coverage provided by NRS 445C.370 and~~

~~445C.380.~~] *§§ 280.43(c) and 280.44(b) within the previous 6 months, demonstrate that:*

(a) The storage tank is being monitored for a discharge; and

(b) A discharge has not occurred.

Sec. 5. NRS 445C.370 is hereby amended to read as follows:

445C.370 The costs resulting from a discharge from a storage tank which has a capacity of 1,100 gallons or less and is used to store heating oil for consumption on the same premises where the oil is stored must be paid as follows, to the extent applicable:

1. The first $250 for cleaning up and the first $250 of liability for damages to a person other than this State or the operator of the *storage* tank, or both amounts, by the operator.

2. If necessary to protect the environment or the public health and safety, the next $250,000 for cleaning up and the next $250,000 for damages to a person other than this State or the operator of the *storage* tank, or both amounts, from the Fund. These limits apply to any one discharge and to the total for discharges from storage tanks controlled by any one operator in any fiscal year. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.

3. Any further cost for cleaning up or for damages, by the operator.

Sec. 6. NRS 445C.380 is hereby amended to read as follows:

445C.380 *1.* If the costs resulting from a discharge from any other storage tank exceed $5,000, the costs must be paid as follows, to the extent applicable:

~~[1.]~~ *(a)* By an operator which is an agency, department, division or political subdivision of the State, 10 percent or $10,000, whichever is less, of the first $1,000,000 for cleaning up each *storage* tank and of the first $1,000,000 of liability for damages from each *storage* tank to any person other than this State or the operator of the *storage* tank, or both amounts. The balance of the first $1,000,000 for cleaning up each *storage* tank or for damages from each *storage* tank must be paid from the Fund, but the total amount paid from the Fund pursuant to this ~~[subsection]~~ *paragraph* in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed $1,980,000 for cleaning up *the tanks* and $1,980,000 for damages.

~~[2.]~~ *(b)* By an operator which is a small business, ~~[10]~~ *5* percent of the first $1,000,000 for cleaning up each *storage* tank and of the first $1,000,000 of liability for damages from each *storage* tank to a person other than this State or the operator of the *storage* tank, or both amounts. The total amount paid by an operator pursuant to this ~~[subsection]~~ *paragraph* must not exceed $50,000 for cleaning up and $50,000 for damages regardless of the number of storage tanks involved. The balance of the first $1,000,000 for cleaning up each *storage* tank or for damages from each *storage* tank must be paid from the Fund, but the total amount paid from the Fund pursuant to this ~~[subsection]~~

paragraph in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed ~~[$1,900,000]~~ *$1,950,000* for cleaning up *the storage tanks* and ~~[$1,900,000]~~ *$1,950,000* for damages. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.

~~[3.]~~ *(c)* By all other operators:

~~[(a)]~~ *(1)* Ten percent of the first $1,000,000 for cleaning up each *storage* tank and of the first $1,000,000 of liability for damages from each *storage* tank to a person other than this State or the operator of the *storage* tank, or both amounts.

~~[(b)]~~ *(2)* Ninety percent of the first $1,000,000 for cleaning up each *storage* tank ~~[or]~~ *and of the first $1,000,000 of liability* for damages from each *storage* tank must be paid from the Fund.

➥ The total amount paid from the Fund pursuant to ~~[paragraph (b)]~~ *subparagraph (2)* in any one fiscal year for discharges from two or more storage tanks under the control of any one operator must not exceed $1,800,000 for cleaning up *the storage tanks* and $1,800,000 for damages. For the purpose of this limitation, a group of operators more than 50 percent of whose net worth is beneficially owned by the same person or persons constitutes one operator.

~~[4.]~~ *2.* Any *further cost for damages which is in excess of the amount paid pursuant to subsection 1 must be paid by the operator.*

3. Except as otherwise provided in subsections 4 and 5, any further cost for cleaning up ~~[or for damages]~~ which is in excess of the ~~[amounts]~~ *amount* paid pursuant to ~~[subsections 1, 2 and 3]~~ *subsection 1* must be paid by the operator.

~~[5.]~~ *4. The Board may approve an operator to receive an additional allotment of not more than $1,000,000 from the Fund for cleaning up discharged petroleum at the site of a storage tank if:*

(a) The Division requires additional cleanup to occur in compliance with any of the requirements of the Division concerning the cleanup of discharged petroleum;

(b) The Board determines that:

(1) The operator is in compliance with any requirements of the Division concerning the cleanup of discharged petroleum;

(2) The operator has obtained approval from the Division for a plan and a schedule to clean up the discharged petroleum;

(3) Except as otherwise provided in subparagraph (4), the operator is not liable pursuant to subsection 1 of NRS 445C.390;

(4) If the operator is liable pursuant to subsection 1 of NRS 445C.390, the operator has complied with subsection 2 of NRS 445C.390;

(5) The facility where the storage tank is located has complied with the applicable provisions of NRS 459.800 to 459.856, inclusive, for the immediately preceding 3 years; and

(6) The operator has not received money for damages pursuant to subsection 1 before July 1, 2021; and

(c) The amount paid to the operator pursuant to subsection 1 for cleaning up the storage tank has been exhausted.

5. In addition to an allotment made pursuant to subsection 4, the Board may approve an operator to receive one or more additional allotments of not more than $1,000,000 per allotment from the Fund for cleaning up discharged petroleum at the site of a storage tank if:

(a) The Division requires additional cleanup pursuant to paragraph (a) of subsection 4;

(b) The Board determines that the conditions in paragraph (b) of subsection 4 are met; and

(c) The amounts paid to the operator from the Fund for cleaning up discharged petroleum at the site of the storage tank have been exhausted.

6. If the Board approves an additional allotment for cleaning up discharged petroleum at the site of a storage tank pursuant to subsection 4 or 5, for each such allotment:

(a) An operator which is an agency, department, division or political subdivision of the State shall pay an amount equal to 10 percent or $10,000, whichever is less, of the allotment for the costs of cleaning up discharged petroleum at the site of the storage tank.

(b) An operator which is a small business shall pay an amount equal to 5 percent of the allotment for the costs of cleaning up discharged petroleum at the site of the storage tank.

(c) Any operator not described in paragraph (a) or (b) shall pay an amount equal to 10 percent of the allotment for the costs of cleaning up discharged petroleum at the site of the storage tank.

7. A political subdivision of the State that receives money from the Fund pursuant to subsection 1 *, 4 or 5* to pay for the costs of cleaning up shall hold one public hearing upon initiation of the cleanup and one public hearing every 3 months thereafter until the cleanup is completed to ensure that the cleanup complies with any requirements of the Division concerning the cost-effectiveness of cleaning up. The costs incurred by the political subdivision for the hearing must not be attributed to the political subdivision as part of the costs paid by the political subdivision pursuant to subsection 1 ~~[. 6.]~~ *, 4 or 5.*

8. For the purposes of this section, ~~[a small business is a business which receives less than $500,000 in gross annual receipts from the site where the tank is located.]~~ *the Board shall define by regulation "small business."*

9. As used in this section, "site" means the facility, whether situated on a single parcel or on multiple adjacent parcels, where the storage tank is located.

Sec. 7. NRS 445C.390 is hereby amended to read as follows:

445C.390 1. Any person who, through willful or wanton misconduct, through gross negligence or through violation of any applicable statute or

regulation, including specifically any state or federal standard pertaining to the preparation or maintenance of sites for storage tanks, proximately causes a discharge is liable to the Division for any cost in cleaning up the discharge or paying for it to be cleaned up.

2. If a discharge occurs, the site of the *storage* tank and any other premises affected by the discharge must be brought into compliance with any applicable standard as described in subsection 1.

Sec. 8. NRS 445C.410 is hereby amended to read as follows:

445C.410 1. Except as otherwise specifically provided in NRS 445C.320, the provisions of NRS 445C.340 to 445C.400, inclusive, do not apply to any *storage* tank which:

(a) Contains petroleum being transported through this State in interstate commerce, but do apply to a *storage* tank being used to store petroleum received for sale or use in this State;

(b) Contains fuel for jet or turbine-powered aircraft, or is above ground and has a capacity of 30,000 gallons or less, unless in either case the operator complies with subsection 2; or

(c) Is above ground and has a capacity of more than 30,000 gallons.

2. The operator of a tank exempted by paragraph (b) of subsection 1 may obtain the coverage provided by NRS ~~[445C.370 and]~~ 445C.380 by applying to the Board, paying the fee set pursuant to NRS 445C.340 for its registration, and, if the tank is used to store fuel for jet or turbine-powered aircraft, reporting monthly the number of gallons of fuel put into the tank and paying the fee required by NRS 445C.330. Coverage pursuant to this subsection begins 6 months after the tank is registered and the required fee first paid.

Sec. 9. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 8, inclusive, of this act become effective:

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

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

Senator Donate moved the adoption of the amendment.

Remarks by Senator Donate.

Amendment No. 811 to Assembly Bill No. 40 revises the method by which certain representatives who are members of the Board to Review Claims in the Division of Environmental Protection of the State Department of Conservation and Natural Resources are nominated. The amendment requires the persons engaged in each field of enterprise, through their trade association, if one exists, to submit to the Governor the name of their nominee or a list of names of not more than three nominees from which the Governor shall make certain appointments.

Amendment adopted.

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

Assembly Bill No. 189.

Bill read second time and ordered to third reading.

Assembly Bill No. 196.
Bill read second time and ordered to third reading.

Assembly Bill No. 451.
Bill read second time and ordered to third reading.

Assembly Bill No. 453.
Bill read second time and ordered to third reading.

Assembly Bill No. 454.
Bill read second time and ordered to third reading.

Assembly Bill No. 455.
Bill read second time and ordered to third reading.

Assembly Bill No. 456.
Bill read second time and ordered to third reading.

Assembly Bill No. 457.
Bill read second time and ordered to third reading.

Assembly Bill No. 458.
Bill read second time and ordered to third reading.

Assembly Bill No. 461.
Bill read second time and ordered to third reading.

Assembly Bill No. 462.
Bill read second time and ordered to third reading.

Assembly Bill No. 465.
Bill read second time and ordered to third reading.

Assembly Bill No. 466.
Bill read second time and ordered to third reading.

Assembly Bill No. 467.
Bill read second time and ordered to third reading.

Assembly Bill No. 469.
Bill read second time and ordered to third reading.

Assembly Bill No. 470.
Bill read second time and ordered to third reading.

Assembly Bill No. 474.
Bill read second time and ordered to third reading.

Assembly Bill No. 475.
Bill read second time and ordered to third reading.

Assembly Bill No. 477.
Bill read second time and ordered to third reading.

Assembly Bill No. 482.

Bill read second time and ordered to third reading.

Assembly Bill No. 484.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 441.

Bill read third time.

The following amendment was proposed by Senator Neal:

Amendment No. 810.

SUMMARY—Revises provisions governing the issuance and renewal of a seller's permit. (BDR 32-1077)

AN ACT relating to taxation; ~~[requiring a seller's permit issued by the Department of Taxation to be renewed annually;]~~ revising provisions governing the issuance of permits for sellers of tangible personal property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires every person who desires to engage in or conduct business as a seller of tangible personal property in this State to: (1) register with the Department of Taxation or file an application with the Department; and (2) pay a fee of $5 for a permit for each of the taxes imposed by the Sales and Use Tax Act, the Local School Support Tax Law and the City-County Relief Tax Law and for each place of business ~~[.]~~ , which results in a fee of $15 for a permit. (NRS 372.125, 372.130, 374.130 ~~[)]~~ , 377.040) Sections 5.5-10 and 21 of this bill maintain the existing fee and move the provisions of law governing the issuance, ~~[renewal,]~~ suspension and revocation of a seller's permit from the Sales and Use Tax Act and the Local School Support Tax Law, which are currently placed in chapters 372 and 374 of the Nevada Revised Statutes, and places those provisions in a single location in chapter 360 of the Nevada Revised Statutes. Section 5.5 of this bill defines terms relating to seller's permits. ~~[Sections 7-10 of this bill: (1) provide that a permit issued to a seller expires on December 31 of each year; and (2) require a person who files an application for a seller's permit or for the renewal of a seller's permit to pay an annual fee of $15 for each place of business. If an application and fee for renewal are not received by the Department on or before January 31 of each year, the Department is authorized to revoke the permit.]~~

Sections 7 and 9 of this bill provide for the disposition of the fees collected for the issuance ~~[and renewal]~~ of seller's permits in the same manner as the existing fees are distributed.

Sections 11-19 of this bill make conforming changes to reflect the movement of the provisions of law governing the issuance of seller's permits to chapter 360 of the Nevada Revised Statutes.

Section 20 of this bill makes conforming changes to provide that the provisions of this bill do not affect permits issued before the effective date of this bill.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 5.5 to 10, inclusive, of this act.

Sec. 5.5. *As used in sections 5.5 to 10, inclusive, of this act, unless the context otherwise requires:*

1. "Business" includes any activity engaged in by any person or caused to be engaged in by any person with the object of gain, benefit or advantage, either direct or indirect.

2. "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee or any other group or combination acting as a unit, but shall not include the United States, this State or any agency thereof, or any city, county, district or other political subdivision of this State.

3. "Retail sale" has the meaning ascribed to it in NRS 372.050.

4. "Seller" includes every person engaged in the business of selling tangible personal property of any kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax imposed by NRS 372.105 or 372.185 or an ordinance enacted pursuant to NRS 377.030.

5. "Tangible personal property" has the meaning ascribed to it in NRS 372.085.

Sec. 6. *1. Every person desiring to engage in or conduct business as a seller within this State must:*

(a) Register with the Department pursuant to NRS 360B.200; or

(b) File with the Department an application for a permit for each place of business.

2. Every application for a permit must:

(a) Be made upon a form prescribed by the Department.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of the applicant's place or places of business.

(c) Set forth any other information which the Department may require.

(d) Be signed by:

(1) The owner if he or she is a natural person;

(2) A member or partner if the seller is an association or partnership; or

(3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

Sec. 7. *1. At the time of making an application for a permit pursuant to section 6 of this act* , ~~*for an application for the renewal of a permit pursuant*~~

~~*to section 8 of this act,]*~~ *the applicant must pay to the Department a fee of $15 for each permit* . ~~*[or renewal thereof.]*~~

2. From each fee collected pursuant to subsection 1:

(a) Five dollars of the fee shall be distributed in the same manner as fees are distributed pursuant to NRS 372.780;

(b) Five dollars of the fee shall be distributed in the same manner as fees are distributed pursuant to NRS 374.785; and

(c) Five dollars of the fee shall be distributed in the same manner as fees which derive from the basic city-county relief tax collected in the same county in which the fee pursuant to subsection 1 was collected, as provided in NRS 377.050, 377.055 and 377.057.

Sec. 8. *1. Except as otherwise provided in NRS 360.205 and section 10 of this act, after compliance with sections 6 and 7 of this act and NRS 372.510 and 374.515 by an applicant for a permit, the Department shall:*

(a) Grant and issue to the applicant a separate permit for each place of business within the county.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by chapters 372, 374 and 377 of NRS. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation, and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and

(III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. A permit must at all times be conspicuously displayed at the place for which it is issued.

~~*[3. A permit issued pursuant to this section expires on December 31 of each year. A person who is required to hold a seller's permit may renew the permit by filing an application for renewal with the Department in such form and including such information and documentation as the Department may require by regulation. The application for renewal must be accompanied by the fee required by section 7 of this act. If the application and fee for renewal of a permit are not received by the Department on or before January 31 of each year, the Department may revoke the permit pursuant to section 10 of this act.]*~~

Sec. 9. *A seller whose permit has been previously suspended or revoked shall pay the Department a fee of $15 for the* ~~*[renewal or]*~~ *issuance of a permit. This fee shall be distributed in the same manner as the fees collected pursuant to section 7 of this act.*

Sec. 10. *1. Whenever any person fails to comply with any provision of chapter 372, 374 or 377 of NRS relating to the taxes imposed by those chapters or any regulation of the Department relating to the taxes imposed by chapters 372, 374 and 377 of NRS, the Department, after a hearing of which the person was given prior notice of at least 10 days in writing specifying the time and place of the hearing and requiring the person to show cause as to why his or her permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person.*

2. The Department shall give to the person written notice of the suspension or revocation of any of his or her permits.

3. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

4. The Department shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of chapters 372, 374 and 377 of NRS relating to the taxes imposed by those chapters and the regulations of the Department.

Sec. 11. NRS 372.123 is hereby amended to read as follows:

372.123 1. If the State or a political subdivision of the State enters into a contract pursuant to chapter 332 or 333 of NRS on or after June 5, 2001, with a person who:

(a) Sells tangible personal property in this State; and

(b) Has not obtained a permit pursuant to ~~[NRS 372.125]~~ *section 6 of this act* or registered pursuant to NRS 360B.200,

➥ the contract must include a provision requiring the person to obtain a permit pursuant to ~~[NRS 372.125]~~ *section 6 of this act* or to register pursuant to NRS 360B.200, and to collect and pay the taxes imposed pursuant to this chapter on the sale of tangible personal property in this State. For the purposes of a permit obtained pursuant to ~~[NRS 372.125,]~~ *section 6 of this act,* the person shall be deemed to have a single place of business in this State.

2. The Department may require a state agency or local government to submit such documentation as is necessary to ensure compliance with this section.

Sec. 12. NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to ~~[NRS 372.135;]~~ *section 8 of this act;* and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 13. NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to ~~[NRS 372.135;]~~ *section 8 of this act;* and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 14. NRS 372.740 is hereby amended to read as follows:

372.740 1. The Department, or any person authorized in writing by it, may examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

2. Any person selling or purchasing tangible personal property in this State who:

(a) Is required to:

(1) Obtain a permit pursuant to ~~[NRS 372.125]~~ *section 6 of this act* or register pursuant to NRS 360B.200; or

(2) File a return pursuant to subsection 2 of NRS 372.360; and

(b) Keeps outside of this State his or her records, receipts, invoices and other documents relating to sales the person has made or the use tax due this State,

➥ shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he or she is absent from his or her regular place of employment to examine those documents.

Sec. 15. NRS 372.751 is hereby amended to read as follows:

372.751 1. Except as otherwise provided in this section and NRS 372.752, the provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, apply to a marketplace facilitator during a calendar year in which or during a calendar year immediately following any calendar year in which:

(a) The cumulative gross receipts from retail sales made or facilitated by the marketplace facilitator on its own behalf or for one or more marketplace sellers to customers in this State exceed $100,000; or

(b) The marketplace facilitator makes or facilitates 200 or more separate retail sales transactions on his or her own behalf or for one or more marketplace sellers to customers in this State.

2. The provisions of this chapter relating to the imposition, collection and remittance of sales tax and the collection and remittance of use tax do not apply to a marketplace facilitator described in subsection 1 if:

(a) The marketplace facilitator and the marketplace seller have entered into a written agreement whereby the marketplace seller assumes responsibility for the collection and remittance of the sales tax, and the collection and remittance of the use tax, for retail sales made by the marketplace seller through the marketplace facilitator; and

(b) The marketplace seller has obtained a permit pursuant to ~~[NRS 372.125]~~ *section 6 of this act* or registered pursuant to NRS 360B.200.

➥ Upon request of the Department, a marketplace facilitator shall provide to the Department a report containing the name of each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection and such other information as the Department determines is necessary to ensure that each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection has obtained a permit pursuant to ~~[NRS 372.125]~~ *section 6 of this act* or registered pursuant to NRS 360B.200.

3. Except as otherwise provided in this section and NRS 372.752, the provisions of subsection 1 apply regardless of whether:

(a) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale would not have been required to collect and remit the sales tax or the use tax had the retail sale not been facilitated by the marketplace facilitator;

(b) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale was required to register with the Department pursuant to NRS 360B.200 or obtain a permit pursuant to ~~[NRS 372.125;]~~ *section 6 of this act;* or

(c) The amount of the sales price of a retail sale will ultimately accrue to or benefit the marketplace facilitator, the marketplace seller or any other person.

4. In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of this section.

Sec. 16. NRS 374.128 is hereby amended to read as follows:

374.128 1. If the State or a political subdivision of the State enters into a contract pursuant to chapter 332 or 333 of NRS on or after June 5, 2001, with a person who:

(a) Sells tangible personal property in this State; and

(b) Has not obtained a permit pursuant to ~~[NRS 374.130]~~ *section 6 of this act* or registered pursuant to NRS 360B.200,

➥ the contract must include a provision requiring the person to obtain a permit pursuant to ~~[NRS 374.130]~~ *section 6 of this act* or to register pursuant to NRS 360B.200, and to collect and pay the taxes imposed pursuant to this chapter on the sale of tangible personal property in any county in this State. For the purposes of a permit obtained pursuant to ~~[NRS 374.130,]~~ *section 6 of this act*, the person shall be deemed to have a place of business in each county in this State, but shall pay the fee for a single permit.

2. The Department may require a state agency or local government to submit such documentation as is necessary to ensure compliance with this section.

Sec. 17. NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to ~~[NRS 374.140;]~~ *and section 8 of this act;* and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:

(a) The third-party vendor:

(1) Takes from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 18. NRS 374.230 is hereby amended to read as follows:

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the property is purchased for resale and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to ~~[NRS 374.140;]~~ *section 8 of this act;* and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes from his or her customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His or her customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 19. NRS 374.756 is hereby amended to read as follows:

374.756 1. Except as otherwise provided in this section and NRS 374.757, the provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, apply to a marketplace facilitator during a calendar year in which, or during a calendar year immediately following any calendar year in which:

(a) The cumulative gross receipts from retail sales made or facilitated by the marketplace facilitator on his or her own behalf or for one or more marketplace sellers to customers in this State exceed $100,000; or

(b) The marketplace facilitator makes or facilitates 200 or more separate retail sales transactions on his or her own behalf or for one or more marketplace sellers to customers in this State.

2. The provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax do not apply to a marketplace facilitator described in subsection 1 if:

(a) The marketplace facilitator and the marketplace seller have entered into a written agreement whereby the marketplace seller assumes responsibility for the collection and remittance of the sales tax, and the collection and remittance of the use tax for retail sales made by the marketplace seller through the marketplace facilitator; and

(b) The marketplace seller has obtained a permit pursuant to ~~[NRS 374.130]~~ *section 6 of this act* or registered pursuant to NRS 360B.200.

➥ Upon request of the Department, a marketplace facilitator shall provide to the Department a report containing the name of each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection and such other information as the Department determines is necessary to ensure that each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection has obtained a permit pursuant to ~~[NRS 374.130]~~ *section 6 of this act* or registered pursuant to NRS 360B.200.

3. Except as otherwise provided in this section and NRS 374.757, the provisions of subsection 1 apply regardless of whether:

(a) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale would not have been required to collect and remit the sales tax or use tax had the retail sale not been facilitated by the marketplace facilitator.

(b) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale was required to register with the Department pursuant to NRS 360B.200 or obtain a permit pursuant to ~~[NRS 374.130.]~~ *section 6 of this act.*

(c) The amount of the sales price of a retail sale will ultimately accrue to or benefit the marketplace facilitator, the marketplace seller or any other person.

4. In administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of this section.

Sec. 20. A permit issued pursuant to NRS 372.135 or 374.140 , or pursuant to an ordinance adopted pursuant to NRS 377.030, before October 1, 2021, remains in effect following October 1, 2021, and ~~[expires on December 31, 2021.]~~ is subject to the provisions of sections 5.5 to 10, inclusive, of this act, in the same manner as a permit issued pursuant to section 8 of this act.

Sec. 21. NRS 372.125, 372.130, 372.135, 372.140, 372.145, 374.130, 374.135, 374.140, 374.145 and 374.150 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

372.125 Registration or permit required to engage in or conduct business as seller; application for permit.

372.130 Fee for permit.

372.135 Issuance, assignability and display of permit; explanation of liability for collection and payment of taxes.

372.140 Fee for reinstatement of suspended or revoked permit.

372.145 Revocation or suspension of permit: Procedure; limitation on issuance of new permit.

374.130 Registration or permit required to engage in or conduct business as seller; application for permit.

374.135 Fee for permit.

374.140 Issuance, assignability and display of permit; explanation of liability for collection and payment of taxes.

374.145 Fee for reinstatement of suspended or revoked permit.

374.150 Revocation or suspension of permit: Procedure; limitation on issuance of new permit.

Senator Neal moved the adoption of the amendment.

Remarks by Senator Neal.

Amendment No. 810 to Senate Bill No. 441 deletes the provision of the bill that requires the $15 seller's permit be renewed annually. The amendment also clarifies that a permit issued pursuant to an ordinance adopted pursuant to NRS 377.030 before October 1, 2021, the effective date of the bill, remains in effect after the effective date of the bill and is subject to the provisions of this bill in the same manner as a permit pursuant to section 8 of this bill.

Amendment adopted.

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 are 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.

We took the $5 seller's permit and combined those into one account. This bill continues the current practice of having just the one $15 fee at initial application and makes sure these fees are distributed in the same manner as the existing initial seller's permits fees were distributed.

Roll call on Senate Bill No. 441:

YEAS—21.

NAYS—None.

Senate Bill No. 441 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

RECEDE FROM SENATE AMENDMENTS

Senator Scheible moved that the Senate do not recede from its action on Assembly Bill No. 440, that a conference be requested, and that Madam President appoint a Conference Committee consisting of three members to meet with a like Committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINT CONFERENCE COMMITTEES

President Marshall appointed Senators Harris, Scheible and Settelmeyer as a Conference Committee to meet with a like Committee of the Assembly for the further consideration of Assembly Bill No. 440.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 494.

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

Motion carried.

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

Motion carried.

Senate in recess at 2:49 p.m.

SENATE IN SESSION

At 5:30 p.m.

President Marshall presiding.

Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Finance, to which was referred Assembly Bill No. 460, 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 Government Affairs, to which were referred Assembly Bills Nos. 220, 270, 485, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN DONDERO LOOP, *Chair*

Madam President:

Your Committee on Revenue and Economic Development, to which was referred Senate Bill No. 367, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DINA NEAL, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that the following person be accepted as an accredited press representative, and that he be allowed the use of appropriate media facilities: Don Dike-Anukam.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 367.

Bill read second time.

The following amendment was proposed by the Committee on Revenue and Economic Development:

Amendment No. 816.

SUMMARY—~~[Removes certain exemptions from]~~ Revises provisions governing the excise tax on live entertainment. (BDR 32-571)

AN ACT relating to taxation; ~~[removing certain exemptions from]~~ revising provisions governing the excise tax on live entertainment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the imposition of an excise tax on admission to certain facilities where live entertainment is provided. (Chapter 368A of NRS) ~~[Existing law exempts from that excise tax: (1) live entertainment provided by or entirely for the benefit of a nonprofit organization, if the number of tickets offered for sale or other distribution to patrons is less than 7,500; and (2) an athletic contest, event or exhibition conducted by a professional team based in this State and in which the team participates. (NRS 368A.200) This bill removes the exemption from the excise tax for such athletic contests, events or exhibitions. This bill also lowers the threshold at which the excise tax is imposed for live entertainment provided by or entirely for the benefit of a nonprofit corporation from 7,500 tickets offered for sale or other distribution to 5,000 tickets.]~~ Section 1.7 of this bill exempts from this tax live entertainment provided by or entirely for the benefit of a governmental entity. Section 1 of this bill defines the term "governmental entity" for the purposes of this exemption, and section 1.3 of this bill makes a conforming change to indicate the placement of section 1 in the Nevada Revised Statutes.

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

Section 1. Chapter 368A of NRS is hereby amended by adding thereto a new section to read as follows:

"Governmental entity" means:

1. The United States and any of its unincorporated agencies and instrumentalities;

2. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;

3. The State of Nevada and any of its unincorporated agencies and instrumentalities; or

4. Any county, city, district or other political subdivision of this State.

Sec. 1.3. NRS 368A.010 is hereby amended to read as follows:

368A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 368A.020 to 368A.115, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

~~[Section 1.]~~ *Sec. 1.7.* NRS 368A.200 is hereby amended to read as follows:

368A.200 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided and on the charge for live entertainment provided by an escort at one or more locations in this State. The rate of the tax is:

(a) Except as otherwise provided in paragraph (b), for admission to a facility in this State where live entertainment is provided, 9 percent of the admission charge to the facility.

(b) For live entertainment provided by an escort who is escorting one or more persons at a location or locations in this State, 9 percent of the total amount, expressed in terms of money, of consideration paid for the live entertainment provided by the escort.

2. Amounts paid for:

(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section, only if the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500. ~~*[5,000.]*~~

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided are not taxable pursuant to this section.

(c) Fees imposed, collected and retained by an independent financial institution in connection with the use of credit cards or debit cards to pay the admission charge to a facility where live entertainment is provided are not taxable pursuant to this section. As used in this paragraph, "independent financial institution" means a financial institution that is not the taxpayer or an owner or operator of the facility where the live entertainment is provided or an affiliate of any of those persons.

3. The tax imposed by this section must be added to and collected from the purchaser at the time of purchase, whether or not the admission for live entertainment is purchased for resale. Each ticket for admission to a facility where live entertainment is provided must show on its face the admission charge or the seller of the admission shall prominently display a notice

disclosing the admission charge at the box office or other place where the charge is made.

4. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Live entertainment that is governed by the Nevada Interscholastic Activities Association pursuant to chapter 385B of NRS or is provided or sponsored by an elementary school, junior high school, middle school or high school, if only pupils or faculty provide the live entertainment.

(c) An athletic contest, event, tournament or exhibition provided by an institution of the Nevada System of Higher Education, if students of such an institution are contestants in the contest, event, tournament or exhibition.

(d) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, only if the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500. *[5,000.]*

(e) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

(f) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

(g) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

(h) Live entertainment that is provided at a trade show.

(i) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

(j) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

(k) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

(l) Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.

(m) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be

deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:

(1) Not the predominant element of the attraction; and

(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.

(n) A race scheduled at a race track in this State and sanctioned by the National Association for Stock Car Auto Racing, if two or more such races are held at that race track during the same calendar year.

(o) An athletic contest, event or exhibition conducted by a professional team based in this State if the professional team based in this State is a participant in the contest, event or exhibition.

(p) Live entertainment that is provided by or entirely for the benefit of a governmental entity.

5. As used in this section:

(a) "Affiliate" has the meaning ascribed to it in NRS 463.0133.

(b) "Maximum occupancy" means, in the following order of priority:

(1) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

(2) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or

(3) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.

(c) "Operator" includes, without limitation, a person who operates a facility where live entertainment is provided or who presents, produces or otherwise provides live entertainment.

Sec. 2. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Sec. 3. This act becomes effective ~~[on July 1, 2021.]~~ upon passage and approval.

Senator Neal moved the adoption of the amendment.

Remarks by Senator Neal.

Amendment No. 816 to Senate Bill No. 367 establishes a definition for "governmental entity." It also restores original language that was in the statute and adds clarifying language around what is live entertainment for government benefit.

Amendment adopted.
Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 220.
Bill read second time and ordered to third reading.

Assembly Bill No. 270.
Bill read second time and ordered to third reading.

Assembly Bill No. 460.
Bill read second time.
The following amendment was proposed by the Committee on Finance:
Amendment No. 812.
SUMMARY—Makes an appropriation to the Division of Museums and History of the Department of Tourism and Cultural Affairs to restore the school bus program to reimburse transportation costs for public school students to visit state museums. (BDR S-1116)
AN ACT making an appropriation to the Division of Museums and History of the Department of Tourism and Cultural Affairs to restore the school bus program to reimburse transportation costs for public school students to visit state museums; and providing other matters properly relating thereto.
THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
Section 1. 1. There is hereby appropriated from the State General Fund to the Division of Museums and History of the Department of Tourism and Cultural Affairs the sum of ~~[$100,000]~~ $200,000 to restore the school bus program to reimburse transportation costs for public school students to visit state museums.
2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2023, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 15, 2023, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 15, 2023.
Sec. 2. This act becomes effective upon passage and approval.
Senator Brooks moved the adoption of the amendment.
Remarks by Senator Brooks.
Amendment No. 812 to Assembly Bill No. 460 amends section 1 to increase the amount of General File appropriations from $100,000 to $200,000 to restore the school bus program to reimburse transportation costs for public school students to visit State museums.

Amendment adopted.
Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 485.
Bill read second time and ordered to third reading.

UNFINISHED BUSINESS
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 94, 458; Assembly Bills Nos. 3, 7, 8, 61, 86, 132, 182, 186, 195, 251, 253, 257, 301, 320, 333, 343, 359, 396, 463, 471, 479, 481; Assembly Joint Resolution No. 1.

Senator Cannizzaro moved that the Senate adjourn until Saturday, May 29, 2021, at 11:00 a.m.

Motion carried.

Senate adjourned at 5:35 p.m.

Approved: KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate