

Amendment No. 766

Senate Amendment to Senate Bill No. 457	(BDR S-1163)
Proposed by: Senate Committee on Finance	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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

JFD/BJF



Date: 5/25/2021

S.B. No. 457—Revises provisions governing the State Highway Fund.
(BDR S-1163)



SENATE BILL NO. 457—COMMITTEE ON FINANCE

MAY 24, 2021

Referred to Committee on Finance

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

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Executive Budget.

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

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

Legislative Counsel’s Digest:

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

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

~~— As a general rule, the Legislature may cure constitutional defects in a prior legislative act by reenacting or amending its provisions in a subsequent legislative act in a manner that remedies the constitutional defects. (McCormick v. Sixth Jud. Dist. Ct., 69 Nev. 214, 221 (1952) (citing State v. Silver Bow Ref. Co., 252 P. 301, 304 (Mont. 1926)); County of Clark~~

v. City of Las Vegas, 97 Nev. 260, 263 (1981)) In addition, the Legislature may, by a subsequent legislative act, ratify actions taken by the executive branch or a local governmental entity under a prior legislative act declared to be invalid and thereby give such actions retroactive validity. (Swayne & Hoyt, Ltd. v. United States, 300 U.S. 297, 299-303 (1937); Hodges v. Snyder, 261 U.S. 600, 601-04 (1923); Charlotte Harbor & N. Ry. v. Welles, 260 U.S. 8, 9-12 (1922); Rafferty v. Smith, Bell & Co., 257 U.S. 226, 231-32 (1921); United States v. Heinszen, 206 U.S. 370, 382-91 (1907))

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4. [Any actions taken by the Department of Motor Vehicles or any other agency, officer or employee of the State of Nevada from and after June 30, 2020, to carry out the provisions of section 5 of chapter 394, Statutes of Nevada 2015, at page 2212, including, without limitation, any actions relating to the costs of administration for the collection of the proceeds deposited in the State Highway Fund pursuant to that section, are hereby authorized, validated and ratified, and such authorization, validation and ratification applies retroactively from and after June 30, 2020.] (Deleted by amendment.)

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

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

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

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

4 (b) Excise tax on gasoline or other motor vehicle fuel,
5 must be deposited in the State Highway Fund and must, except for costs of
6 administering the collection thereof, be used exclusively for the administration,
7 construction, reconstruction, improvement and maintenance of highways as
8 provided for in this chapter.

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

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

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

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

24 7. The money deposited in the State Highway Fund pursuant to NRS
25 244A.637 and 354.59815 must be maintained in a separate account for the county
26 from which the money was received. The interest and income on the money in the
27 account, after deducting any applicable charges, must be credited to the account.
28 Any money remaining in the account at the end of each fiscal year does not revert
29 to the State Highway Fund but must be carried over into the next fiscal year. The
30 money in the account:

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

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

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

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

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

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

48 **Sec. 5. ~~[This]~~**

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

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