

CHAPTER.....

AN ACT relating to state financial administration; requiring the Nevada Tax Commission to adopt regulations for the electronic submission of returns to the Department of Taxation and the payment of taxes, fees, interest and penalties using credit cards, debit cards and electronic transfers of money; reduces various allowances for the collection of sales and use taxes and taxes on intoxicating liquor and cigarettes; requiring a business that purchases tangible personal property for storage, use or other consumption in this state to register with the Department of Taxation at the time it obtains a business license; requiring an executive agency to submit to the Chief of the Budget Division of the Department of Administration the number of positions within the agency that have been vacant for a certain time and the reasons for each vacancy; authorizing the Securities Division of the Office of the Secretary of State to waive the enforcement of provisions governing the sale of securities; imposing certain additional fees for the privilege of selling securities in this state; 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.** Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Nevada Tax Commission shall adopt regulations providing for:*

- 1. The electronic submission of returns to the Department; and*
- 2. The payment of taxes, fees, interest and penalties to the Department through the use of credit cards, debit cards and electronic transfers of money.*

**Sec. 2.** NRS 360.095 is hereby amended to read as follows:

360.095 In the adoption of regulations, policies of enforcement, and policies for auditing of taxpayers, with respect to all taxes and fees for whose administration the Department is responsible, the Nevada Tax Commission shall apply the following principles:

1. Forms, instructions and regulations governing the computation of the amount of tax due must be brief and easily understood.
2. In cases where another authority, such as the United States or a local government, also imposes a tax upon the same property or

revenue, the mechanism for collecting the tax imposed by the State must be as nearly compatible with the collection of the other taxes as is feasible.

3. Unless a change is made necessary by statute or to preserve compatibility with a tax imposed by another authority, the forms, instructions and regulations must remain the same from year to year, to make the taxpayer's liability as predictable as is feasible.

4. Exemptions or waivers, where permitted by statute, must be granted:

(a) Equitably among eligible taxpayers; and

(b) As sparingly as is consistent with the legislative intent, to retain the broadest feasible base for the tax affected.

5. Audits and other procedures for enforcement must be applied as uniformly as is feasible, not only as among persons subject to a particular tax but also as among different taxes ~~[.]~~, *but must consider a weighting of indicators of noncompliance.*

6. Collection of taxes due must be pursued in an equitable manner, so that every taxpayer pays the full amount imposed by law.

**Sec. 3.** NRS 360A.020 is hereby amended to read as follows:

360A.020 The Department shall adopt ~~[such]~~ :

*1. Such regulations as are necessary to carry out the provisions of this chapter.*

*2. Regulations providing for:*

*(a) The electronic submission of returns to the Department; and*

*(b) The payment to the Department of any amount required to be paid pursuant to this chapter or chapter 365, 366 or 373 of NRS, or NRS 590.120 or 590.840 through the use of credit cards, debit cards and electronic transfers of money.*

**Sec. 4.** NRS 369.370 is hereby amended to read as follows:

369.370 1. For the privilege of importing, possessing, storing or selling liquors, all licensed importers and manufacturers of liquor in this state shall pay the excise tax imposed and established by this chapter.

2. If, after the tax is paid on any such liquor, satisfactory evidence is presented to the Department that the imports have been actually exported and sold outside this state in a manner not in conflict with the law of the place of sale, the Department shall direct that a refund or credit of the tax so paid be made to the taxpayer. The taxpayer shall report all such exports and imports, and pay the tax on the imports monthly, on forms and subject to regulations prescribed by the Department.

3. The excise tax imposed by this chapter is due on or before the 20th day of the following month. If all such taxes are paid on or before the 15th day of the following month, a discount in the

amount of ~~13~~ 0.5 percent of the tax must be allowed to the taxpayer. The Department may, for good cause, extend for not more than 15 days after the date the tax is due the time for paying the tax if a request for such an extension of time is received by the Department on or before the date the tax was due. If such an extension is granted, interest accrues from the original date the tax was due.

4. The Department shall allow refunds or credits on any shipments lost, stolen or damaged in transit, or damaged or spoiled on the premises, may require all claims in connection therewith to be sworn to and may make ratable tax adjustments, credits or refunds to effectuate the purposes of this chapter.

**Sec. 5.** NRS 370.220 is hereby amended to read as follows:

370.220 In the sale of any cigarette revenue stamps or any metered machine settings to a licensed cigarette dealer, the Department and its agents shall allow the purchaser a discount of ~~13~~ 0.5 percent against the amount of excise tax otherwise due for the services rendered in affixing cigarette revenue stamps or metered machine impressions to the cigarette packages.

**Sec. 6.** NRS 370.450 is hereby amended to read as follows:

370.450 1. Except as otherwise provided in subsection 2, there is hereby imposed upon the purchase or possession of products made from tobacco, other than cigarettes, by a customer in this state a tax of 30 percent of the wholesale price of those products.

2. The provisions of subsection 1 do not apply to those products which are:

(a) Shipped out of the State for sale and use outside the State; or

(b) Displayed or exhibited at a trade show, convention or other exhibition in this state by a manufacturer or wholesale dealer who is not licensed in this state.

3. This tax must be collected and paid by the wholesale dealer to the Department, in accordance with the provisions of NRS 370.465, after the sale or distribution of those products by the wholesale dealer. The wholesale dealer is entitled to retain ~~12~~ 0.5 percent of the taxes collected to cover the costs of collecting and administering the taxes ~~if the taxes are paid in accordance with the provisions of NRS 370.465.~~

4. Any wholesale dealer who sells or distributes any of those products without paying the tax provided for by this section is guilty of a misdemeanor.

**Sec. 7.** NRS 370.490 is hereby amended to read as follows:

370.490 1. The Department shall allow a credit of 30 percent of the wholesale price, less a discount of ~~12~~ 0.5 percent for the services rendered in collecting the tax, for products made from tobacco, other than cigarettes, upon which the tax has been paid pursuant to NRS 370.450 and that may no longer be sold. If the

products have been purchased and delivered, a credit memo of the manufacturer is required for proof of returned merchandise.

2. A credit must also be granted for any products made from tobacco, other than cigarettes, shipped from this state and destined for retail sale and consumption outside the State on which the tax has previously been paid. A duplicate or copy of the invoice is required for proof of the sale outside the State.

3. A wholesale dealer may claim a credit by filing with the Department the proof required by this section. The claim must be made on a form prescribed by the Department.

**Sec. 8.** NRS 372.130 is hereby amended to read as follows:

372.130 At the time of making an application, the applicant must pay to the Department a permit fee of ~~[\$1]~~ \$5 for each permit.

**Sec. 9.** NRS 372.140 is hereby amended to read as follows:

372.140 A seller whose permit has been previously suspended or revoked must pay the Department a fee of ~~[\$1]~~ \$5 for the renewal or issuance of a permit.

**Sec. 10.** NRS 372.220 is hereby amended to read as follows:

372.220 **1.** Every retailer who sells tangible personal property for storage, use or other consumption in this state shall register with the Department and give:

~~[(1)]~~ **(a)** The name and address of all agents operating in this state.

~~[(2)]~~ **(b)** The location of all distribution or sales houses or offices or other places of business in this state.

~~[(3)]~~ **(c)** Such other information as the Department may require.

**2.** *Every business that purchases tangible personal property for storage, use or other consumption in this state shall, at the time the business obtains a business license pursuant to NRS 364A.130, register with the Department on a form prescribed by the Department. As used in this section, "business" has the meaning ascribed to it in NRS 364A.020.*

**Sec. 11.** NRS 372.370 is hereby amended to read as follows:

372.370 ~~[(The taxpayer shall)]~~ *If the taxes imposed by this chapter are paid in accordance with NRS 372.355, the taxpayer may deduct and withhold from the taxes otherwise due from him ~~[(1.25)]~~ 0.5 percent of ~~[(t)]~~ those taxes to reimburse himself for the cost of collecting the tax.*

**Sec. 12.** NRS 374.135 is hereby amended to read as follows:

374.135 At the time of making an application, the applicant shall pay to the Department a permit fee of ~~[\$1]~~ \$5 for each permit.

**Sec. 13.** NRS 374.145 is hereby amended to read as follows:

374.145 A seller whose permit has been previously suspended or revoked shall pay the Department a fee of ~~[\$1]~~ \$5 for the renewal or issuance of a permit.

**Sec. 14.** NRS 374.375 is hereby amended to read as follows:

374.375 ~~[(The taxpayer shall)]~~ *If the taxes imposed by this chapter are paid in accordance with NRS 374.360, the taxpayer may deduct and withhold from the taxes otherwise due from him ~~[-25]~~ 0.5 percent thereof to reimburse himself for the cost of collecting the tax.*

**Sec. 15.** Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

*A public body shall include in each contract for the construction, alteration or repair of any public work a clause requiring each contractor, subcontractor and other person who provides labor, equipment, materials, supplies or services for the public work to comply with the requirements of all applicable state and local laws, including, without limitation, any applicable licensing requirements and requirements for the payment of sales and use taxes on equipment, materials and supplies provided for the public work.*

**Sec. 16.** NRS 353.1465 is hereby amended to read as follows:

353.1465 1. Upon approval of the State Board of Finance, a state agency may enter into contracts with issuers of credit cards or debit cards or operators of systems that provide for the electronic transfer of money to provide for the acceptance of credit cards, debit cards or electronic transfers of money by the agency:

(a) For the payment of money owed to the agency for taxes, interest, penalties or any other obligation; or

(b) In payment for goods or services.

2. Before a state agency may enter into a contract pursuant to subsection 1, the agency must submit the proposed contract to the State Treasurer for his review and transmittal to the State Board of Finance.

3. Except as otherwise provided in subsection 4, if the issuer or operator charges the state agency a fee for each use of a credit card or debit card or for each electronic transfer of money, the state agency may require the cardholder or the person requesting the electronic transfer of money to pay a fee ~~[-]~~ which must not exceed the amount charged to the state agency by the issuer or operator.

4. A state agency that is required to pay a fee charged by the issuer or operator for the use of a credit card or debit card or for an electronic transfer of money may, pursuant to NRS 353.148, file a claim with the Director of the Department of Administration for reimbursement of the fees paid to the issuer or operator during the immediately preceding quarter.

5. *The Director of the Department of Administration shall adopt regulations providing for the submission of payments to state agencies pursuant to contracts authorized by this section.*

*The regulations must not conflict with a regulation adopted pursuant to NRS 360A.020 or section 1 of this act.*

6. As used in this section:

(a) “Cardholder” means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued by an issuer.

(b) “Credit card” means any instrument or device, whether known as a credit card or credit plate ~~or~~ or by any other name, issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value on credit.

(c) “Debit card” means any instrument or device, whether known as a debit card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds.

(d) “Electronic transfer of money” has the meaning ascribed to it in NRS 463.01473.

(e) “Issuer” means a business organization, financial institution or authorized agent of a business organization or financial institution that issues a credit card or debit card.

**Sec. 17.** NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the *Nevada* Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief ~~estimates~~:

(a) *The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy; and*

(b) *Estimates* of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the

Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A fiscal analyst of the Legislative Counsel Bureau or his designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in his office or which he may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

**Sec. 18.** Senate Bill No. 2 of the 20th Special Session of the Nevada Legislature is hereby amended by adding thereto new sections to be designated as sections 188.1 to 188.6, inclusive, to read, respectively, as follows:

Sec. 188.1. Chapter 90 of NRS is hereby amended by adding thereto the provisions set forth as sections 188.2 to 188.6, inclusive, of this act.

Sec. 188.2. *1. Except as otherwise provided in this section, the Division shall interpret strictly the provisions of this chapter and the regulations adopted pursuant thereto and shall not waive the enforcement of any such provision.*

*2. Subject to the provisions of this section and at the sole discretion of the Administrator, the Division may:*

*(a) Grant a waiver of the enforcement of any provision of this chapter or the regulations adopted pursuant thereto if the Administrator determines that the waiver is appropriate under the circumstances and is clearly within the authority of the Division to grant.*

*(b) Issue a no-action letter relating to a proposed transaction. Such a letter must not be issued in any case in which the issue presented may be resolved through a careful*



*reading of the relevant provisions of this chapter or the regulations adopted pursuant thereto or through an interpretation of those provisions by competent counsel.*

*3. A request for a waiver or no-action letter must be submitted in writing to the office of the Administrator, accompanied by a fee of \$200.*

*4. Except under extraordinary circumstances, the Division shall not respond to any request:*

*(a) Involving the antifraud provisions of this chapter or the regulations adopted pursuant thereto; or*

*(b) Relating to a transaction that has been consummated.*

*5. Unless otherwise specified in writing by the Division, a waiver or no-action letter is limited to the specific security, case, matter or transaction at hand and has no precedential value in any other context.*

*6. As used in this section, "no-action letter" means a written communication issued by the Division by which a person is advised that a transaction carried out under a set of assumed facts will not result in a recommendation by the staff of the Division that an enforcement action be taken.*

*Sec. 188.3. 1. For any inspection of records conducted pursuant to NRS 90.410, the Administrator shall impose a fee of not more than:*

*(a) One thousand dollars for an inspection within this state;*

*(b) Five thousand dollars for an inspection in which any part of the inspection occurs outside this state; or*

*(c) The actual cost to the Division of performing the inspection, whichever is less.*

*2. The fee must be paid within 60 days after the receipt of a request for payment from the Administrator.*

*Sec. 188.4. 1. A person who files a notice of claim of exemption from the registration requirements of NRS 90.460 may request expeditious processing of the claim by paying an additional fee per filing for the expeditious processing.*

*2. For a fee of \$100 per filing, the Administrator shall issue a notification of acceptance within 24 hours after receipt of the filing.*

*3. For a fee of \$200 per filing, the Administrator shall issue a notification of acceptance on the same date on which the filing is received, if the filing is received by the Administrator before noon Pacific Standard Time.*



Sec. 188.5. *An offering of securities is exempt from the provisions of NRS 90.460 and 90.560 if:*

*1. The securities are set forth in subparagraph (2) of paragraph (b) of section 18 of the Securities Act of 1933, 15 U.S.C. § 77r(b)(2); and*

*2. Before the initial offering in this state of the securities:*

*(a) A copy of the issuer's federal registration statement is filed with the Securities and Exchange Commission; or*

*(b) A notice on Form NF or Form N-9, as prescribed by the Administrator, is filed with the Administrator with a fee of \$500.*

Sec. 188.6. *1. If, pursuant to NRS 90.540, the Administrator by regulation or order exempts from the provisions of NRS 90.460 and 90.560 an offer to sell or the sale of a security by an issuer to persons who are or the issuer believes are accredited investors, the issuer shall, within 15 days after the first sale in this state, file with the Administrator a fee of \$500.*

*2. As used in this section, "accredited investor" has the meaning ascribed to it in 17 C.F.R § 230.501(a).*

**Sec. 19.** Section 189 of Senate Bill No. 2 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 189. NRS 90.360 is hereby amended to read as follows:

90.360 1. An applicant for licensing shall pay a nonrefundable licensing fee, due annually in the following amounts:

(a) Broker-dealer, ~~[\$150.]~~ \$300.

(b) Sales representative, ~~[\$55.]~~ \$110.

(c) Investment adviser, ~~[\$150.]~~ \$300.

(d) Representative of an investment adviser, ~~[\$55.]~~ \$110.

2. The Administrator by regulation ~~{may}~~ *shall* require licensing of branch offices . ~~{and impose a fee for the licensing and an annual fee.}~~ *A broker-dealer who desires to obtain a branch office license must, in addition to complying with any other requirements established by the Administrator for such a license, submit an application for the license and pay a fee of \$100. If any change occurs in the information set forth in an application made pursuant to this subsection, the applicant shall, within 30 days after the change, file an amendment to the application and pay a fee of \$50. A license obtained pursuant to this subsection expires on December 31 of each year. The license must be*

*renewed annually on or before December 31 by paying a fee of \$100.*

3. For the purpose of this section, a "branch office" means any place of business in this state other than the principal office in the state of the broker-dealer, from which one or more sales representatives transact business.

**Sec. 20.** Section 195 of Senate Bill No. 2 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 195. NRS 90.540 is hereby amended to read as follows:

90.540 *1.* The Administrator by regulation or order may:

~~1.~~ *(a)* Exempt any other security or transaction or class of securities or transactions from NRS 90.460 and 90.560.

~~2.~~ *(b)* Adopt a transactional exemption for limited offerings that will further the objectives of compatibility with the exemptions from securities registration authorized by the Securities Act of 1933 and uniformity among the states.

~~3.~~ *(c)* Require the filing of a notice ~~and the payment of a fee not greater than \$250~~ for an exemption adopted pursuant to this section.

*2. Except as otherwise provided in section 188.5 or 188.6 of this act, the Administrator shall require the payment of a fee of not less than \$300 and not more than \$500 for an exemption adopted pursuant to this section.*

**Sec. 21.** Section 208 of Senate Bill No. 2 of the 20th Special Session of the Nevada Legislature is hereby amended to read as follows:

Sec. 208. 1. This section and sections 188.1 to 195, inclusive, and 203 of this act become effective on September 1, 2003.

2. Sections 1 to 188, inclusive, 196 to 202, inclusive, and 204 to 207, inclusive, of this act become effective:

(a) Except as otherwise provided in paragraph (b) or (c), on November 1, 2003.

(b) On January 1, 2004, for the purpose of requiring a resident agent who desires to resign to file a statement of resignation for each artificial person formed, organized, registered or qualified pursuant to the provisions of title 7 of NRS for which the resident agent is unwilling to continue to act as the resident agent for the service of process.

(c) On January 1, 2004, for the purpose of requiring a resident agent to file a certificate of name change of resident agent if the name of the resident agent is changed as a result

of a merger, conversion, exchange, sale, reorganization or amendment.

**Sec. 22.** The provisions of section 15 of this act do not apply to any contracts made before the effective date of that section.

**Sec. 23.** 1. This section and sections 1, 2, 3, 8, 9, 10, 12, 13, 15, 16, 17 and 22 of this act become effective upon passage and approval.

2. Sections 11 and 14 of this act become effective upon passage and approval and apply retroactively to July 1, 2003.

3. Sections 4 to 7, inclusive, of this act become effective on August 1, 2003.

4. Sections 18 to 21, inclusive, of this act become effective upon passage and approval only if Senate Bill No. 2 of the 20th Special Session of the Nevada Legislature is enacted by the Nevada Legislature.