

ASSEMBLY BILL NO. 4—COMMITTEE OF THE WHOLE

JULY 18, 2003

Referred to Committee of the Whole

SUMMARY—Makes various changes concerning state financial administration. (BDR 32-46)

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

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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 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:



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1 **Section 1.** Chapter 360 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

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

5 1. *The electronic submission of returns to the Department;*
6 *and*

7 2. *The payment of taxes, fees, interest and penalties to the*
8 *Department through the use of credit cards, debit cards and*
9 *electronic transfers of money.*

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

11 360.095 In the adoption of regulations, policies of
12 enforcement, and policies for auditing of taxpayers, with respect to
13 all taxes and fees for whose administration the Department is
14 responsible, the Nevada Tax Commission shall apply the following
15 principles:

16 1. Forms, instructions and regulations governing the
17 computation of the amount of tax due must be brief and easily
18 understood.

19 2. In cases where another authority, such as the United States
20 or a local government, also imposes a tax upon the same property or
21 revenue, the mechanism for collecting the tax imposed by the State
22 must be as nearly compatible with the collection of the other taxes
23 as is feasible.

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

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

30 (a) Equitably among eligible taxpayers; and

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

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

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

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

41 360A.020 The Department shall adopt ~~such~~ :

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

44 2. *Regulations providing for:*



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

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

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

8 369.370 1. For the privilege of importing, possessing, storing
9 or selling liquors, all licensed importers and manufacturers of liquor
10 in this state shall pay the excise tax imposed and established by this
11 chapter.

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

20 3. The excise tax imposed by this chapter is due on or before
21 the 20th day of the following month. If all such taxes are paid on or
22 before the 15th day of the following month, a discount in the
23 amount of ~~1.5~~ 0.5 percent of the tax must be allowed to the taxpayer.
24 The Department may, for good cause, extend for not more than 15
25 days after the date the tax is due the time for paying the tax if a
26 request for such an extension of time is received by the Department
27 on or before the date the tax was due. If such an extension is
28 granted, interest accrues from the original date the tax was due.

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

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

35 370.220 In the sale of any cigarette revenue stamps or any
36 metered machine settings to a licensed cigarette dealer, the
37 Department and its agents shall allow the purchaser a discount of ~~1.5~~
38 0.5 percent against the amount of excise tax otherwise due for the
39 services rendered in affixing cigarette revenue stamps or metered
40 machine impressions to the cigarette packages.

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

42 370.450 1. Except as otherwise provided in subsection 2,
43 there is hereby imposed upon the purchase or possession of products
44 made from tobacco, other than cigarettes, by a customer in this state
45 a tax of 30 percent of the wholesale price of those products.



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

- 3 (a) Shipped out of the State for sale and use outside the State; or
4 (b) Displayed or exhibited at a trade show, convention or other
5 exhibition in this state by a manufacturer or wholesale dealer who is
6 not licensed in this state.

7 3. This tax must be collected and paid by the wholesale dealer
8 to the Department, in accordance with the provisions of NRS
9 370.465, after the sale or distribution of those products by the
10 wholesale dealer. The wholesale dealer is entitled to retain ~~24~~ 0.5
11 percent of the taxes collected to cover the costs of collecting and
12 administering the taxes ~~if~~ *if the taxes are paid in accordance with*
13 *the provisions of NRS 370.465.*

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

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

18 370.490 1. The Department shall allow a credit of 30 percent
19 of the wholesale price, less a discount of ~~24~~ 0.5 percent for the
20 services rendered in collecting the tax, for products made from
21 tobacco, other than cigarettes, upon which the tax has been paid
22 pursuant to NRS 370.450 and that may no longer be sold. If the
23 products have been purchased and delivered, a credit memo of the
24 manufacturer is required for proof of returned merchandise.

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

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

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

34 372.130 At the time of making an application, the applicant
35 must pay to the Department a permit fee of ~~14~~ \$5 for each permit.

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

37 372.140 A seller whose permit has been previously suspended
38 or revoked must pay the Department a fee of ~~14~~ \$5 for the renewal
39 or issuance of a permit.

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

41 372.220 1. Every retailer who sells tangible personal
42 property for storage, use or other consumption in this state shall
43 register with the Department and give:

44 ~~14~~ (a) The name and address of all agents operating in this
45 state.



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

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

4 2. Every business that purchases tangible personal property
5 for storage, use or other consumption in this state shall, at the
6 time the business obtains a business license pursuant to NRS
7 364A.130, register with the Department on a form prescribed by
8 the Department. As used in this section, "business" has the
9 meaning ascribed to it in NRS 364A.020.

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

11 372.370 ~~The taxpayer shall~~ If the taxes imposed by this
12 chapter are paid in accordance with NRS 372.355, the taxpayer
13 may deduct and withhold from the taxes otherwise due from him
14 ~~1.25~~ 0.5 percent of ~~the~~ those taxes to reimburse himself for the
15 cost of collecting the tax.

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

17 374.135 At the time of making an application, the applicant
18 shall pay to the Department a permit fee of ~~\$1~~ \$5 for each permit.

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

20 374.145 A seller whose permit has been previously suspended
21 or revoked shall pay the Department a fee of ~~\$1~~ \$5 for the renewal
22 or issuance of a permit.

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

24 374.375 ~~The taxpayer shall~~ If the taxes imposed by this
25 chapter are paid in accordance with NRS 374.360, the taxpayer
26 may deduct and withhold from the taxes otherwise due from him
27 ~~1.25~~ 0.5 percent thereof to reimburse himself for the cost of
28 collecting the tax.

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

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

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

41 353.1465 1. Upon approval of the State Board of Finance, a
42 state agency may enter into contracts with issuers of credit cards or
43 debit cards or operators of systems that provide for the electronic
44 transfer of money to provide for the acceptance of credit cards, debit
45 cards or electronic transfers of money by the agency:



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

3 (b) In payment for goods or services.

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

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

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

20 5. *The Director of the Department of Administration shall*
21 *adopt regulations providing for the submission of payments to*
22 *state agencies pursuant to contracts authorized by this section.*
23 *The regulations must not conflict with a regulation adopted*
24 *pursuant to NRS 360A.020 or section 1 of this act.*

25 6. As used in this section:

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

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

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

38 (d) "Electronic transfer of money" has the meaning ascribed to it
39 in NRS 463.01473.

40 (e) "Issuer" means a business organization, financial institution
41 or authorized agent of a business organization or financial institution
42 that issues a credit card or debit card.

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

44 353.210 1. Except as otherwise provided in subsection 6, on
45 or before September 1 of each even-numbered year, all departments,



1 institutions and other agencies of the Executive Department of the
2 State Government, and all agencies of the Executive Department of
3 the State Government receiving state money, fees or other money
4 under the authority of the State, including those operating on money
5 designated for specific purposes by the *Nevada* Constitution or
6 otherwise, shall prepare, on blanks furnished them by the Chief, and
7 submit to the Chief ~~estimates~~ :

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

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

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

22 3. The Budget Division of the Department of Administration
23 shall give advance notice to the Fiscal Analysis Division of the
24 Legislative Counsel Bureau of any conference between the Budget
25 Division of the Department of Administration and personnel of
26 other state agencies regarding budget estimates. A fiscal analyst of
27 the Legislative Counsel Bureau or his designated representative may
28 attend any such conference.

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

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

44 6. Agencies, bureaus, commissions and officers of the
45 Legislative Department, the Public Employees' Retirement System



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1 and the Judicial Department of the State Government shall submit to
2 the Chief for his information in preparing the proposed executive
3 budget the budgets which they propose to submit to the Legislature.

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

8 Sec. 188.1. Chapter 90 of NRS is hereby amended by
9 adding thereto the provisions set forth as sections 188.2 to
10 188.6, inclusive, of this act.

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

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

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

22 *(b) Issue a no-action letter relating to a proposed*
23 *transaction. Such a letter must not be issued in any case in*
24 *which the issue presented may be resolved through a careful*
25 *reading of the relevant provisions of this chapter or the*
26 *regulations adopted pursuant thereto or through an*
27 *interpretation of those provisions by competent counsel.*

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

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

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

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

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

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



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

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

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

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

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

13 Sec. 188.4. 1. A person who files a notice of claim of
14 exemption from the registration requirements of NRS
15 90.460 may request expeditious processing of the claim by
16 paying an additional fee per filing for the expeditious
17 processing.

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

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

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

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

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

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

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

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

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



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

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

6 90.360 1. An applicant for licensing shall pay a
7 nonrefundable licensing fee, due annually in the following
8 amounts:

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

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

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

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

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

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

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

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

36 90.540 **1.** The Administrator by regulation or order
37 may:

38 ~~1-1~~ **(a)** Exempt any other security or transaction or class
39 of securities or transactions from NRS 90.460 and 90.560.

40 ~~2-1~~ **(b)** Adopt a transactional exemption for limited
41 offerings that will further the objectives of compatibility with
42 the exemptions from securities registration authorized by the
43 Securities Act of 1933 and uniformity among the states.



~~3.1~~ (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.

