**Amendment No. 145**

| Senate Amendment to Senate Bill No. 196 (BDR 32-19) |
|---|
| **Proposed by:** Senate Committee on Revenue and Economic Development |
| **Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes |

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from S.B. 196.

| ASSEMBLY ACTION | | Initial and Date | SENATE ACTION | | Initial and Date |
|---|---|---|---|---|---|
| Adopted ☐ | Lost ☐ | | Adopted ☐ | Lost ☐ | |
| Concurred In ☐ | Not ☐ | | Concurred In ☐ | Not ☐ | |
| Receded ☐ | Not ☐ | | Receded ☐ | Not ☐ | |

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.

BJF Date: 4/15/2025

S.B. No. 196—Authorizes a heavy equipment rental company to charge a recovery fee to offset taxes levied on certain heavy equipment. (BDR 32-19)

SENATE BILL NO. 196–SENATOR CANNIZZARO

FEBRUARY 10, 2025

Referred to Committee on Revenue and Economic Development

SUMMARY—Authorizes a heavy equipment rental company to charge a recovery fee to offset taxes levied on certain heavy equipment. (BDR 32-19)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

AN ACT relating to taxation; providing for the imposition, administration, collection and enforcement of a recovery fee to offset property taxes levied on certain heavy equipment; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, all property of every kind and nature in this State is subject to property taxes unless the property is exempt from such taxation. (NRS 361.045) In general, this bill authorizes a heavy equipment rental company that is primarily engaged in the business of renting heavy equipment, without an operator, from a location in this State to charge a recovery fee to offset the property taxes levied on such heavy equipment. [~~Sections 1, 17 and 18 of this bill clarify that such a recovery fee is not included in the price of the rental of the heavy equipment for the purpose of calculating the sales taxes imposed on the rental of the heavy equipment.~~] **Under existing regulations, such a recovery fee would be excluded from the sales or use tax charged for the rental of the heavy equipment. (NAC 372.940)**

**Section 13** of this bill authorizes such a heavy equipment rental company to charge a recovery fee in an amount [~~equal~~] **not** to **exceed** 2 percent of the rental charge for the rental of the heavy equipment. Under **section 13**, a heavy equipment rental company that charges a recovery fee is required to: (1) separately state on the invoice provided to the renter the amount of the recovery fee charged to the renter; (2) hold the recovery fee in a separate account; and (3) use the proceeds of the recovery fee to offset the property taxes levied on heavy equipment rental property. **Section 14** of this bill exempts from the charging of a recovery fee the rental of any heavy equipment rental property to certain governmental entities.

**Section 15** of this bill requires a heavy equipment rental company to submit to the Department of Taxation an annual report stating the amount of the recovery fees collected by the heavy equipment rental company during the immediately preceding fiscal year and the amount of the property taxes levied on the heavy equipment rental property of the heavy equipment rental company for the immediately preceding fiscal year. [~~Under section 15, if the amount of the recovery fees collected by the heavy equipment rental company during the immediately preceding fiscal year exceeds the taxes levied on the heavy equipment rental property of the heavy equipment rental company for the immediately preceding fiscal year, the heavy equipment rental company is required to pay the excess, on a pro rata basis, to the~~

~~county treasurer of each county that levied property taxes on the heavy equipment rental property. Finally, section 15: (1) requires each county treasurer receiving such a payment to apportion the payment to the State and local governments in the same manner that property taxes are apportioned; and (2) provides that the requirement for a heavy equipment rental company to pay excess recovery fees to a county treasurer is enforced in the same manner as the payment of property taxes.]~~

**Sections 4-10** of this bill define certain terms relating to the imposition of the recovery fee on the rental of heavy equipment rental property. **Section 3** of this bill establishes the applicability of those definitions.

**Sections 11 and 12** of this bill establish provisions governing the retention and examination of records relevant to the recovery fee. **Section 16** of this bill provides that a person who submits a false or fraudulent report concerning the recovery fee or falsifies entries in or keeps more than one set of books, records or accounts**,** , with intent to ~~[evade the tax]~~ **defraud in violation of the requirement to use the recovery fees only to offset property taxes,** is guilty of a gross misdemeanor.

---

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

**Section 1.** ~~[NRS 360B.480 is hereby amended to read as follows:~~

~~360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:~~

~~(a) The seller's cost of the property sold;~~

~~(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;~~

~~(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges which are not stated separately pursuant to subsection 1 of NRS 360B.290 and excluding any installation charges which are stated separately pursuant to subsection 2 of NRS 360B.290; and~~

~~(d) Except as otherwise provided in subsection 2, any credit for any trade-in.~~

~~2. The term does not include:~~

~~(a) Any delivery charges which are stated separately pursuant to subsection 1 of NRS 360B.290;~~

~~(b) Any installation charges which are stated separately pursuant to subsection 2 of NRS 360B.290;~~

~~(c) Any credit for any trade-in which is:~~

~~(1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and~~

~~(2) Stated separately pursuant to subsection 2 of NRS 360B.290;~~

~~(d) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;~~

~~(e) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to subsection 2 of NRS 360B.290;~~

~~(f) Any taxes legally imposed directly on the consumer which are stated separately pursuant to subsection 2 of NRS 360B.290; [and]~~

~~(g) The complimentary portion of any food, meals or nonalcoholic drinks provided on a complimentary basis, in whole or in part, to the employees, patrons or guests of a retailer~~ ~~[.] ; and~~

~~*(h) Any recovery fee imposed pursuant to section 13 of this act which is separately stated in accordance with that section.*~~

~~3. The term includes consideration received by a seller from a third party if:~~

~~(a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;~~

~~(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;~~

~~(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and~~

~~(d) Any of the following criteria is satisfied:~~

~~(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.~~

~~(2) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.~~

~~(3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.~~**]** **(Deleted by amendment.)**

**Sec. 2.** Chapter 361 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 16, inclusive, of this act.

**Sec. 3.** ***As used in sections 3 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 10, inclusive, of this act have the meanings ascribed to them in those sections.***

**Sec. 4.** ***1. "Affiliate" means a person who, directly or indirectly, through one or more persons or intermediaries, controls, is controlled by or is under common control with a specified person.***

***2. As used in this section, "control" means:***

***(a) Direct or indirect ownership, control or possession of 50 percent or more of the equity ownership of a person; or***

***(b) Possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or through other means.***

**Sec. 5.** ***1. "Heavy equipment rental company" means a person who is classified under 532412 or 532310 of the North American Industry Classification System, and is primarily engaged in the business of renting heavy equipment rental property, without an operator, to the public from a location in this State.***

***2. The term does not include a person who is:***

***(a) Engaged in the business of renting heavy equipment rental property primarily to related persons or affiliates who operate or drive, or both operate and drive, such equipment, regardless of the NAICS code that applies to the business; or***

***(b) Primarily engaged in the business of renting heavy equipment rental property with an operator.***

**Sec. 6.** ***"Heavy equipment rental property" means property, machinery and equipment held in the inventory of a heavy equipment rental company for sale or rental in the regular course of business. The term includes, without limitation, property, machinery and equipment that is customarily used or designed for***

*construction and industrial purposes, including, without limitation, earthmoving equipment, lift equipment, material handling equipment, pumps, generators, compressors, portable power equipment, heating, ventilation and air conditioning equipment, portable offices, containers, tank trailers and self-propelled equipment.*

**Sec. 7.** *"North American Industry Classification System" or "NAICS" means the 2022 North American Industry Classification System, as published by the Bureau of the Census of the United States Department of Commerce.*

**Sec. 8.** *"Rent," "rental" or "renting" means entering into an agreement with a heavy equipment rental company for the use of heavy equipment rental property in exchange for consideration for a period:*

*1. Not to exceed 365 days; or*

*2. That is open-ended under the terms of the rental contract with no specified end date.*

**Sec. 9.** *1. "Rental charge" means the total amount of consideration, including, without limitation, cash, credit, property and services, charged by a heavy equipment rental company for the rental of heavy equipment rental property, valued in money, whether received in money or otherwise, and without any deduction for:*

*(a) The cost of the heavy equipment rental property to the heavy equipment rental company;*

*(b) The cost of materials used, labor or service cost, interest paid, losses, the cost of transportation to the heavy equipment rental company, taxes imposed on the heavy equipment rental company or any other expense of the heavy equipment rental company; and*

*(c) Any charges by the heavy equipment rental company for any services necessary to complete the rental, including, without limitation, any delivery charges which are not stated separately and any installation charges which are not stated separately.*

*2. The term does not include:*

*(a) Any fees or charges for the delivery or transportation of heavy equipment rental property which are stated separately;*

*(b) Any installation or other service charges which are stated separately;*

*(c) Any discounts, including, without limitation, those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by the heavy equipment rental company and taken by the renter on a rental;*

*(d) Any interest, financing or carrying charges from credit extended on the rental of heavy equipment rental property, if stated separately;*

*(e) Any taxes legally imposed directly on the renter which are stated separately; and*

*(f) Any other separately stated charges or fees ~~[.]~~ , including, without limitation, any separately stated fee for recovery of property taxes imposed on heavy equipment rental property pursuant to this chapter.*

**Sec. 10.** *"Renter" means a person who rents heavy equipment rental property from a heavy equipment rental company in this State.*

**Sec. 11.** *1. Each person responsible for maintaining the records of a heavy equipment rental company shall:*

*(a) Keep such records as may be necessary to determine the compliance of the heavy equipment rental company with the provisions of section 15 of this act;*

*(b) Preserve such records for 5 years or until any litigation or prosecution related to compliance with section 15 of this act is finally determined, whichever is longer; and*

*(c) Make such records available for inspection by the Department upon demand at reasonable times during regular business hours.*

*2. The Department may adopt regulations specifying the types of records which must be kept to determine the compliance of a heavy equipment rental company with the provisions of section 15 of this act.*

**Sec. 12.** *To verify the accuracy of any report filed pursuant to section 15 of this act or, if no such report is filed, to determine the compliance of a heavy equipment rental company with section 15 of this act, the Department, or any person authorized in writing by the Department, may examine the books, papers and records of any person who is required to comply with section 15 of this act.*

**Sec. 13.** *1. Except as otherwise provided in section 14 of this act, a heavy equipment rental company may impose a recovery fee in an amount ~~[equal]~~ not to exceed 2 percent of the rental charge for the rental of heavy equipment rental property to a renter.*

*2. The amount of any recovery fee imposed pursuant to subsection 1 must be separately stated on an invoice provided to a renter of heavy equipment rental property.*

*3. A heavy equipment rental company that imposes a recovery fee pursuant to subsection 1 shall:*

*(a) Hold the amount of all recovery fees collected in a separate account; and*

*(b) Use the money in the separate account only to offset any taxes imposed pursuant to this chapter on heavy equipment rental property . ~~[and make any payment required by section 15 of this act.]~~*

**Sec. 14.** *A heavy equipment rental company shall not charge a recovery fee pursuant to section 13 of this act for the rental of any heavy equipment rental property to:*

*1. The United States, 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, its unincorporated agencies and instrumentalities;*

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

*5. Any other person or entity that this State is prohibited from taxing under the United States Constitution, laws or treaties of the United States or the Nevada Constitution.*

**Sec. 15.** *~~[1.]~~ Not later than August 15 of each calendar year, a heavy equipment rental company that imposes a recovery fee pursuant to section 13 of this act shall file with the Department, on a form prescribed by the Department, a report which separately states the amount of:*

*~~[(a)]~~ 1. The recovery fees collected by the heavy equipment rental company during the immediately preceding fiscal year; and*

*~~[(b)]~~ 2. The taxes imposed pursuant to this chapter on the heavy equipment rental property of the heavy equipment rental company for the immediately preceding fiscal year.*

*~~[2. If, based on the report filed pursuant to subsection 1, the amount of the recovery fees collected by the heavy equipment rental company during the immediately preceding fiscal year exceeds the amount of taxes imposed pursuant to this chapter on the heavy equipment rental property of the heavy equipment rental company for the immediately preceding fiscal year, the heavy equipment rental company must, not later than 30 days after the due date of the report, pay a pro rata amount of the excess to the county treasurer of each county in this State that imposed taxes pursuant to this chapter on the heavy equipment rental property of the heavy equipment rental company for the immediately preceding~~*

~~*fiscal year. The amount paid to the county treasurer of a county pursuant to this subsection must be based on the amount of taxes imposed pursuant to this chapter by the county on the heavy equipment rental property of the heavy equipment rental company for the immediately preceding fiscal year in relation to the total amount of taxes imposed pursuant to this chapter statewide on the heavy equipment rental property of the heavy equipment rental company for the immediately preceding fiscal year.*~~

~~*3. A county treasurer who receives a payment pursuant to subsection 2 shall apportion the amount of the money paid in the same manner that taxes imposed pursuant to this chapter are apportioned pursuant to NRS 361.745 and 361.755.*~~

~~*4. Any late payment of an amount required to be paid by subsection 2 is subject to the same interest and penalties as a late payment of any tax imposed pursuant to this chapter, and any amount required to be paid by subsection 2 may be collected in the same manner as any tax imposed pursuant to this chapter.]*~~

**Sec. 16.** *1. A person shall not:*

*(a) Make, cause to be made or permit to be made any false or fraudulent report or false statement in any report* ~~*[,]*~~ *with intent to defraud* ~~*[or to evade payment of any amount required to be paid pursuant to]*~~ ***in violation of the requirements of subsection 3 of*** *section* ~~*[15]*~~ ***13*** *of this act;*

*(b) Make, cause to be made or permit to be made any false entry in books, records or accounts with intent to defraud* ~~*[or to evade the payment of any amount required to be paid pursuant to]*~~ ***in violation of the requirements of subsection 3 of*** *section* ~~*[15]*~~ ***13*** *of this act; or*

*(c) Keep, cause to be kept or permit to be kept more than one set of books, records or accounts with intent to defraud* ~~*[or to evade the payment of any amount required to be paid pursuant to]*~~ ***in violation of the requirements of subsection 3 of*** *section* ~~*[15]*~~ ***13*** *of this act.*

*2. Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.*

**Sec. 17.** ~~[Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. In administering the provisions of this chapter, a recovery fee imposed pursuant to section 13 of this act must be deemed not to be included in the sales price for the rental of heavy equipment rental property to a renter.*~~

~~*2. As used in this section:*~~

~~*(a) "Heavy equipment rental property" has the meaning ascribed to it in section 6 of this act.*~~

~~*(b) "Rental" has the meaning ascribed to it in section 8 of this act.*~~

~~*(c) "Renter" has the meaning ascribed to it in section 10 of this act.]~~~~ **(Deleted by amendment.)**

**Sec. 18.** ~~[NRS 374.070 is hereby amended to read as follows:~~

~~374.070 1. "Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:~~

~~(a) The cost of the property sold.~~

~~(b) The cost of the materials used, labor or service cost, interest charged, losses, or any other expenses.~~

~~(c) The cost of transportation of the property before its purchase.~~

~~2. The total amount for which property is sold includes all of the following:~~

~~(a) Any services that are a part of the sale.~~

~~(b) Any amount for which credit is given to the purchaser by the seller.~~

~~3. "Sales price" does not include any of the following:~~

~~(a) Cash discounts allowed and taken on sales.~~

~~(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded in cash or credit, except that this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.~~

~~(c) The amount charged for labor or services rendered in installing or applying the property sold.~~

~~(d) The amount of any tax, not including any manufacturers' or importers' excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.~~

~~(e) The amount of any tax imposed by the State of Nevada upon or with respect to the storage, use or other consumption of tangible personal property purchased from any retailer.~~

~~(f) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle or vessel which is taken in trade on the purchase of another vehicle or vessel.~~

~~*(g) The amount of a recovery fee imposed pursuant to section 13 of this act which is separately stated in accordance with that section.]*~~ **(Deleted by amendment.)**

**Sec. 19.** This act becomes effective on July 1, 2025.