SUMMARY—Revises provisions relating to the collection of debts owed to state agencies. (BDR 31-145)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

Effect on the State Highway Fund: No.

AN ACT relating to state financial administration; authorizing certain state agencies to develop and operate with financial institutions a system for matching data for the collection of certain debts owed to the State; authorizing the Department of Taxation to disclose certain confidential information in connection with the use of such a system; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each agency of the Executive Department of State Government to coordinate all its debt collection efforts through the State Controller. With certain exceptions, existing law requires an agency to assign a debt to the State Controller for collection within 60 days after the debt becomes past due or such other time agreed upon by the agency and the State Controller. Existing law requires the State Controller, upon the request of an agency, to waive the requirement for the agency to coordinate its collection efforts through the State Controller: (1) if the State Controller determines that the agency has the resources to engage in its own debt

collection efforts; or (2) for good cause shown. Existing law authorizes an agency that has received such a waiver from the State Controller or which has specific statutory authority to engage in its own collection efforts to exercise certain rights and remedies conferred on the State Controller to collect debts. (NRS 353C.195)

Existing law requires the State Controller to develop and operate a system for matching data with financial institutions to collect outstanding debts owed to the State. Financial institutions in this State are required by existing law to: (1) provide to the State Controller information on persons who maintain accounts at the financial institution who are identified by the State Controller as owing outstanding debts to the State; and (2) in response to the receipt of a notification of debt from the State Controller, encumber certain assets held in the financial institution by the debtors to pay their debts. (NRS 353C.240) Under existing law, agencies that engage in their own collection efforts under a waiver from the State Controller or specific statutory authority are not authorized to develop and operate such a system with financial institutions. (NRS 353C.195)

Section 1 of this bill authorizes any such agency to develop and operate a system for matching data with financial institutions to collect outstanding debts in the same manner as the State Controller.

Existing law makes the records and files of the Department of Taxation concerning the administration and collection of taxes, fees, assessments and other amounts required by law to be collected and the imposition of disciplinary action confidential and privileged, but authorizes the disclosure of such records and files under certain circumstances. (NRS 360.255) **Section 2** of this

bill authorizes the Department to disclose certain confidential information for the purpose of using a system for matching data with financial institutions to collect outstanding debts.

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

Section 1. NRS 353C.195 is hereby amended to read as follows:

353C.195 Except as otherwise provided in this section or by a specific statute or federal law:

1. The State Controller shall act as the collection agent for each agency.

2. An agency shall coordinate all its debt collection efforts through the State Controller.

3. Unless an agency and the State Controller agree on a different time, an agency shall assign a debt to the State Controller for collection not later than 60 days after the debt becomes past due.

4. An agency shall not assign a debt to the State Controller for collection if the debt is administratively contested by the debtor. For the purposes of this subsection, a debt is not administratively contested if:

(a) The debtor and the agency have agreed on the existence and amount of the debt;

(b) The debtor has failed to contest timely the existence or amount of the debt in accordance with the administrative procedures prescribed by the agency; or

(c) The debtor has timely contested the debt in accordance with the administrative procedures prescribed by the agency and the agency has issued a final decision concerning the existence and amount of the debt.

5. Upon the request of an agency, the State Controller shall waive a requirement of this section:

(a) If the State Controller determines that the agency has the resources to engage in its own debt collection efforts; or

(b) For good cause shown.

6. If the State Controller waives the requirements of subsection 1 or 2 for an agency, the agency may exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to ~~[353C.230,]~~ ***353C.240,*** inclusive, to collect a debt.

7. An agency that is authorized by specific statute to collect a debt on behalf of or in trust for a particular person or entity may assign the debt to the State Controller for collection pursuant to this section. If such an agency does not assign a debt to the State Controller pursuant to this section, the agency may, in addition to any right or remedy conferred on the agency by specific statute to collect a debt, exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to ~~[353C.230,]~~ ***353C.240,*** inclusive, to collect the debt.

Sec. 2. NRS 360.255 is hereby amended to read as follows:

360.255 1. Except as otherwise provided in this section and NRS 239.0115, 360.250 and 607.217, the records and files of the Department concerning the administration or collection of any tax, fee, assessment or other amount required by law to be collected or the imposition of disciplinary action are confidential and privileged. The Department, an employee of the Department and any other person engaged in the administration or collection of any tax, fee, assessment or other amount required by law to be collected or the imposition of disciplinary action or charged with the custody of any such records or files:

(a) Shall not disclose any information obtained from those records or files; and

(b) May not be required to produce any of the records or files for the inspection of any person or governmental entity or for use in any action or proceeding.

2. The records and files of the Department concerning the administration and collection of any tax, fee, assessment or other amount required by law to be collected or the imposition of disciplinary action are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding before the Nevada Tax Commission, the State Board of Equalization, the Department, a grand jury or any court in this State if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his or her authorized representative of a copy of any document filed by the person pursuant to the provisions of any law of this State.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases, or disclosure to any federal agency, state or local law enforcement agency, including, without limitation, the Cannabis Compliance Board, or local regulatory agency that requests the information for the use of the agency in a federal, state or local prosecution or criminal, civil or regulatory investigation.

(e) Disclosure in confidence to:

(1) The Governor or his or her agent in the exercise of the Governor's general supervisory powers;

(2) The Budget Division of the Office of Finance for use in the projection of revenue;

(3) Any person authorized to audit the accounts of the Department in pursuance of an audit;

(4) The Attorney General or other legal representative of the State in connection with an action or proceeding relating to a taxpayer or licensee; or

(5) Any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to an agreement between the Nevada Tax Commission and any county fair and recreation board or the governing body of any county, city or town.

(g) Upon written request made by a public officer of a local government, disclosure of the name and address of a taxpayer or licensee who must file a return with the Department. The request

must set forth the social security number of the taxpayer or licensee about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and privileged and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

(h) Disclosure of information as to amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties to successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested.

(i) Disclosure of relevant information as evidence in an appeal by the taxpayer from a determination of tax due if the Nevada Tax Commission has determined the information is not proprietary or confidential in a hearing conducted pursuant to NRS 360.247.

(j) Disclosure of the identity of a person and the amount of tax assessed and penalties imposed against the person at any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon the person a penalty for fraud or intent to evade a tax imposed by law becomes final or is affirmed by the Nevada Tax Commission.

(k) Disclosure of the identity of a licensee against whom disciplinary action has been taken and the type of disciplinary action imposed against the licensee at any time after a determination,

decision or order of the Executive Director or other officer of the Department imposing upon the licensee disciplinary action becomes final or is affirmed by the Nevada Tax Commission.

(l) Disclosure of information pursuant to subsection 2 of NRS 370.257.

(m) With respect to an application for a registration certificate to operate a medical marijuana establishment pursuant to chapter 453A of NRS, as that chapter existed on June 30, 2020, or a license to operate a marijuana establishment pursuant to chapter 453D of NRS, as that chapter existed on June 30, 2020, which was submitted on or after May 1, 2017, and on or before June 30, 2020, and regardless of whether the application was ultimately approved, disclosure of the following information:

(1) The identity of an applicant, including, without limitation, any owner, officer or board member of an applicant;

(2) The contents of any tool used by the Department to evaluate an applicant;

(3) The methodology used by the Department to score and rank applicants and any documentation or other evidence showing how that methodology was applied; and

(4) The final ranking and scores of an applicant, including, without limitation, the score assigned to each criterion in the application that composes a part of the total score of an applicant.

(n) Disclosure of the name of a licensee and the jurisdiction of that licensee pursuant to chapter 453A or 453D of NRS, as those chapters existed on June 30, 2020, and any regulations adopted pursuant thereto.

(o) Disclosure of information related to the computation by the Department of the gross yield and net proceeds for all minerals extracted in this State as provided in NRS 362.120.

(p) Disclosure of the identity of a person and the amount of tax, fee, assessment or other amount that the Department has assessed, plus any applicable penalties and interest, in connection with the use of a system for matching data developed and operated by the Department pursuant to NRS 353C.195 and 353C.240.

3. The Executive Director shall periodically, as he or she deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which the Executive Director has a record. The list must include the mailing address of the business as reported to the Department.

4. The Executive Director may request from any other governmental agency or officer such information as the Executive Director deems necessary to carry out his or her duties with respect to the administration or collection of any tax, fee, assessment or other amount required by law to be collected or the imposition of disciplinary action. If the Executive Director obtains any confidential information pursuant to such a request, he or she shall maintain the confidentiality of that information in the same manner and to the same extent as provided by law for the agency or officer from whom the information was obtained.

5. As used in this section:

(a) "Applicant" means any person listed on the application for a registration certificate to operate a medical marijuana establishment pursuant to chapter 453A of NRS, as that chapter existed on June 30, 2020, or a license to operate a marijuana establishment pursuant to chapter 453D of NRS, as that chapter existed on June 30, 2020.

(b) "Disciplinary action" means any suspension or revocation of a license, registration, permit or certificate issued by the Department pursuant to this title or chapter 453A or 453D of NRS, as those chapters existed on June 30, 2020, or any other disciplinary action against the holder of such a license, registration, permit or certificate.

(c) "Licensee" means a person to whom the Department has issued a license, registration, permit or certificate pursuant to this title or chapter 453A or 453D of NRS, as those chapters existed on June 30, 2020. The term includes, without limitation, any owner, officer or board member of an entity to whom the Department has issued a license.

(d) "Records" or "files" means any records and files related to an investigation or audit or a disciplinary action, financial information, correspondence, advisory opinions, decisions of a hearing officer in an administrative hearing and any other information specifically related to a taxpayer or licensee.

(e) "Taxpayer" means a person who pays any tax, fee, assessment or other amount required by law to the Department.

Sec. 3. This act becomes effective on July 1, 2027.