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Posted 9/22/22

## **NOTICE OF WORKSHOP**

**To:** To All Interested Parties  
**From:** Shellie Hughes, Executive Director, Department of Taxation  
**Date:** September 22, 2022  
**Re:** Workshop on LCB Draft of Temporary Proposed Regulation T004-22

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The Department of Taxation will hold a workshop to solicit comments from interested parties on the following temporary proposed regulation:

LCB File No. T004-22 is a temporary proposed regulation, relating to taxation; concerning cannabis excise tax; and providing other matters properly relating thereto.

Existing law imposes an excise tax on each wholesale sale of cannabis by a medical cannabis cultivation facility or adult-use cannabis cultivation facility to another cannabis establishment and imposes an excise tax on each retail sale of cannabis or cannabis products by an adult-use cannabis retail store. (NRS 372A.290) Existing law also imposes an excise tax on sales of cannabis and cannabis products made by a cannabis consumption lounge. (AB 341, 2021)

This regulation clarifies how the excise tax shall be collected and reported to the Department, what records need to be retained by the cannabis establishment and how a claim for refund can be filed on any overpayment of excise tax on cannabis.

**Date and Time of Meeting:**    **October 12, 2022**                      **11:00 a.m.**

The workshop will be held at the following location:

**Place of Meeting:**

**Nevada Department of Taxation  
1550 College Parkway STE 115  
Large Conference Room  
Carson City, Nevada 89706**

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This meeting will also be available by zoom. Please use the link below to join the webinar:

<https://us02web.zoom.us/j/84296833757>

Or One tap mobile:

+16699009128, 84296833757# US (San Jose)

+17193594580, 84296833757# US

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 9128 or +1 719 359 4580 or +1 253 215 8782 or +1 346 248 7799 or +1 669 444 9171 or +1 564 217 2000 or +1 646 558 8656 or +1 646 931 3860 or +1 301 715 8592 or +1 309 205 3325 or +1 312 626 6799 or +1 386 347 5053

Webinar ID: **842 9683 3757**

International numbers available: <https://us02web.zoom.us/j/84296833757>

A copy of the regulation referenced above can be found on the Department's website at [https://tax.nv.gov/Boards/Public\\_Meetings/](https://tax.nv.gov/Boards/Public_Meetings/) and at the Nevada Legislature's website at <https://www.leg.state.nv.us/App/Notice/A/>.

All interested parties will have the opportunity to present their ideas. Please submit all suggestions in writing at least one week prior to the Workshop so the suggestions can be disseminated at the meeting. Written comments may be accepted at any time. Please email any comments to Tina Padovano at [tpadovano@tax.state.nv.us](mailto:tpadovano@tax.state.nv.us) so they may be posted to the Departments website. All public input will be considered in preparing a proposed regulation to be presented to the Nevada Tax Commission for adoption.

Members of the public who are disabled and require accommodations or assistance at the Workshop are requested to notify the Department of Taxation in writing or by calling 775-684-2096 no later than five working days prior to the Workshop.

**Notice has been posted at the following location:** The Department of Taxation - 1550 College Pkwy. Ste 115, Carson City.

**Notice has been EMAILED/MAILED for posting at the following locations:** Department of Taxation - 4600 Kietzke Lane, Building L, Ste 235, Reno; Department of Taxation - 700 E. Warm Springs Rd. Ste 200, Las Vegas; The Legislative Building - Capitol Complex, Carson City; The Nevada State Library -100 Stewart Street, Carson City; The County Public Library's, Interested Parties Group, and the Mailing List maintained by the Department. Notice of this meeting was posted on the Department of Taxation website at <https://tax.nv.gov/>, on the Legislative website at <https://www.leg.state.nv.us/>, and the Nevada Public Notice Website at <https://notice.nv.gov/>.

If you have any questions, please feel free to call Sarah Glazner at 775-684-2059.

# **Nevada Department of Taxation Regulatory Workshop** **Draft of Temporary Proposed Regulation T004-22**

NEVADA DEPARTMENT OF  
TAXATION  
1550 College Pkwy STE 115  
Large Conference Room  
Carson City, Nevada 89706

**October 12, 2022**  
**11:00 a.m.**

**Note: Items on this agenda may be taken in a different order than listed.**  
**Items may be combined for consideration by the Department of Taxation.**  
**Items may be pulled or removed from the agenda at any time.**

*Date and Time of Meeting:      October 12, 2022                      11:00 a.m.*

The workshop will be held at the following location:

**Place of Meeting:**

**Nevada Department of Taxation**  
**1550 College Parkway STE 115**  
**Large Conference Room**  
**Carson City, Nevada 89706**

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This meeting will also be available by zoom. Please use the link below to join the webinar:  
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+1 564 217 2000 or +1 646 558 8656 or +1 646 931 3860 or +1 301 715 8592 or +1 309 205 3325 or +1  
312 626 6799 or +1 386 347 5053

Webinar ID: **842 9683 3757**

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A copy of the regulation referenced above can be found on the Department's website at [https://tax.nv.gov/Boards/Public\\_Meetings/](https://tax.nv.gov/Boards/Public_Meetings/) and at the Nevada Legislature's website at <https://www.leg.state.nv.us/App/Notice/A/>.

- I. Public Comment – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes. Please email any comments to Tina Padovano at [tpadovano@tax.state.nv.us](mailto:tpadovano@tax.state.nv.us) so they may be posted to the Department's website.
- II. The Department will hold a workshop to solicit comments from interested parties on the following topic:

LCB File No. T004-22 is a temporary proposed regulation, relating to taxation; concerning cannabis excise tax; and providing other matters properly relating thereto.

Existing law imposes an excise tax on each wholesale sale of cannabis by a medical cannabis cultivation facility or adult-use cannabis cultivation facility to another cannabis establishment and imposes an excise tax on each retail sale of cannabis or cannabis products by an adult-use cannabis retail store. (NRS 372A.290) Existing law also imposes an excise tax on sales of cannabis and cannabis products made by a cannabis consumption lounge. (AB 341, 2021)

This regulation clarifies how the excise tax shall be collected and reported to the Department, what records need to be retained by the cannabis establishment and how a claim for refund can be filed on any overpayment of excise tax on cannabis.

- III. \*\*Public Comment – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.
- IV. Adjourn

\*\*This item is to receive public comment on any issue and any discussion of those issues, provided that comment will be limited to areas relevant to and within the authority of the Nevada Department of Taxation. No action will be taken on any items raised in the public comment period. Public Comment may not be limited based on viewpoint.

Please contact Tina Padovano at 775-684-2096 or [tpadovano@tax.state.nv.us](mailto:tpadovano@tax.state.nv.us) for any support materials. The support materials will be available at <https://tax.nv.gov/> and made available during the meeting located at the Nevada Department of Taxation, 1550 College Pkwy. Ste 115, Carson City.

Members of the public who are disabled and require accommodations or assistance at this workshop are requested to notify the Department of Taxation in writing or call 775-684-2096 no later than five working days prior to the workshop.

**Notice of this workshop has been posted at the following location:** The Department of Taxation - 1550 College Pkwy. Ste 115, Carson City.

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Taxation - 4600 Kietzke Lane, Building L, Ste 235, Reno; Department of Taxation - 700 E. Warm Springs Rd, Ste 200, Las Vegas; The Legislative Building - Capitol Complex, Carson City; The Nevada State Library -100 Stewart Street, Carson City; The County Public Library's, Interested Parties Group, and the Mailing List maintained by the Department. Notice of this meeting was posted on the Department of Taxation website at <https://tax.nv.gov/>, on the Legislative website at <https://www.leg.state.nv.us/>, and the Nevada Public Notice Website at <https://notice.nv.gov/>.

**SMALL BUSINESS IMPACT STATEMENT AS REQUIRED BY  
NRS 233B.0608 and NRS 233B.0609**

**LCB File No. T004-22**

**1. Background**

LCB File No. T004-22 is a temporary proposed regulation, relating to taxation; concerning cannabis excise tax; and providing other matters properly relating thereto.

Existing law imposes an excise tax on each wholesale sale of cannabis by a medical cannabis cultivation facility or adult-use cannabis cultivation facility to another cannabis establishment and imposes an excise tax on each retail sale of cannabis or cannabis products by an adult-use cannabis retail store. (NRS 372A.290) Existing law also imposes an excise tax on sales of cannabis and cannabis products made by a cannabis consumption lounge. (AB 341, 2021)

This regulation clarifies how the excise tax shall be collected and reported to the Department, what records need to be retained by the cannabis establishment and how a claim for refund can be filed on any overpayment of excise tax on cannabis.

**2. A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

The Department of Taxation prepared and disseminated a questionnaire seeking information from small businesses regarding the possible impact of LCB File No T004-22. The temporary proposed language and questionnaire were dispersed to the following:

- Emailed by the Department to 199 members of its interested parties list.
- Emailed by the Nevada Taxpayers Association to its list of interested taxpayers.

The content of the response is summarized below:

- No response was received for LCB Draft of temporary proposed regulation - File No. T004-22.

Anyone interested in obtaining a copy of the completed small business impact questionnaire used for this summary, can contact:

Sarah Glazner  
Nevada Department of Taxation  
1550 College Parkway Ste 115  
Carson City, NV 89706  
Phone: (775) 684-2059  
Fax: (775) 684-2020  
[sglazner@tax.state.nv.us](mailto:sglazner@tax.state.nv.us)

**3. The manner in which the analysis was conducted, including the methods used to determine the impacts of the temporary proposed regulation on small businesses.**

No response was received for LCB Draft of temporary proposed regulation T004-22. Since no response was received, the Department analyzed the temporary proposed language and used informed, reasonable judgment in determining that there will not be an impact on small businesses due to the nature of the regulatory changes.

**4. The estimated economic effect of the temporary proposed regulation on the small businesses which it is to regulate:**

**Direct and indirect adverse effects**

The Department finds that there is no reasonable, foreseeable or anticipated direct or indirect adverse economic effect on small businesses.

**Direct and indirect beneficial effects**

The Department finds that there is no reasonable, foreseeable or anticipated direct or indirect beneficial economic effect on small businesses.

**5. A description of the methods that the agency considered to reduce the impact of the temporary proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

The temporary proposed regulation presents no reasonable, foreseeable or anticipated adverse impact to small businesses; therefore, no efforts were required to reduce the impact on small businesses.

**6. The estimated cost to the agency for enforcement of the temporary proposed regulation.**

The temporary proposed regulation presents no significant foreseeable or anticipated cost or decrease in costs for enforcement.

- 7. If the temporary proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The temporary proposed permanent regulation does not include new fees or increase an existing fee.

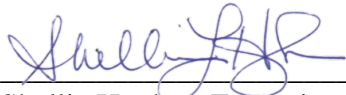
- 8. If the temporary proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

The temporary proposed regulation does not overlap or duplicate any regulation of other federal, state or local government entities.

- 9. The reasons for the conclusion of the agency regarding the impact of a regulation on small businesses.**

The Department has determined that there will be no adverse impacts to small businesses based on its analysis of comment received.

**I hereby certify, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the temporary proposed regulation on small businesses and that this statement was properly prepared and the information contained herein is accurate.**



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Shellie Hughes, Executive Director  
September 22, 2022



**TEMPORARY PROPOSED REGULATION OF THE  
NEVADA TAX COMMISSION**

**LCB File No. T004-22**

August 30, 2022

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

AUTHORITY: §1, NRS 360.090, NRS 372A.050, Assembly Bill (AB) 341 (2021).

A REGULATION relating to taxation; concerning cannabis excise tax; and providing other matters properly relating thereto.

**Digest:**

Existing law imposes an excise tax on each wholesale sale of cannabis by a medical cannabis cultivation facility or adult-use cannabis cultivation facility to another cannabis establishment and imposes an excise tax on each retail sale of cannabis or cannabis products by an adult-use cannabis retail store. (NRS 372A.290) Existing law also imposes an excise tax on sales of cannabis and cannabis products made by a cannabis consumption lounge. (AB 341, 2021)

This regulation clarifies how the excise tax shall be collected and reported to the Department, what records need to be retained by the cannabis establishment and how a claim for refund can be filed on any overpayment of excise tax on cannabis.

**Section 1.** Chapter 372A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive of this regulation.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 27 have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Adult- use cannabis establishment” means:*

- 1. An adult-use cannabis independent testing laboratory;*
- 2. An adult-use cannabis cultivation facility;*
- 3. An adult-use cannabis production facility;*
- 4. An adult-use cannabis retail store;*

*5. An adult-use cannabis distributor;*

*6. A retail cannabis consumption lounge; or*

*7. An independent cannabis consumption lounge.*

*Sec. 4. “Adult-use cannabis cultivation facility” has the meaning ascribed to it in NRS 678A.025.*

*Sec. 5. “Adult-use cannabis-infused product” has the meaning ascribed to it in NRS 678A.050.*

*Sec. 6. “Adult-use cannabis product” has the meaning ascribed to it in NRS 678A.055.*

*Sec. 7. “Adult-use cannabis retail store” has the meaning ascribed to it in NRS 678A.065.*

*Sec. 8. “Adult-use edible cannabis product” has the meaning ascribed to it in NRS 678A.070.*

*Sec. 9. “Cannabis” has the meaning ascribed to it in NRS 372A.015.*

*Sec. 10. “Cannabis Consumption lounge” means:*

*1. A retail cannabis consumption lounge; or*

*2. An independent cannabis consumption lounge.*

*Sec. 11. “Cannabis cultivation facility” has the meaning ascribed to it in NRS 678A.090.*

*Sec. 12. “Cannabis establishment” has the meaning ascribed to it in NRS 678A.095.*

*Sec. 13. “Cannabis product” has the meaning ascribed to it in NRS 678A.120.*

*Sec. 14. “Cannabis production facility” has the meaning ascribed to it in NRS 678A.125.*

*Sec. 15. “Cannabis sales facility” has the meaning ascribed to it in NRS 678A.130.*

*Sec. 16. “Excise Tax on cannabis” has the meaning ascribed to it in NRS 372A.220.*

*Sec. 17. “Independent cannabis consumption lounge” means a business that:*

*1. Is licensed by the Cannabis Compliance Board pursuant to NRS 678B.250;*

*2. Is not attached or immediately adjacent to an adult-use cannabis retail store; and*

*3. Allows single-use cannabis products or ready-to-consume cannabis products to be consumed on the premises of the business by persons 21 years of age or older.*

*Sec. 18. “Medical cannabis cultivation facility” has the meaning ascribed to it in NRS 678A.170.*

*Sec. 19. “Medical cannabis dispensary” has the meaning ascribed to it in NRS 678A.175.*

*Sec. 20. “Medical cannabis-infused product” has the meaning ascribed to it in NRS 678A.195.*

*Sec. 21. “Medical cannabis product” has the meaning ascribed to it in NRS 678A.200.*

*Sec. 22. “Medical edible cannabis product” has the meaning ascribed to it in NRS 678A.210.*

*Sec. 23. “Purchase” has the meaning ascribed to it in NRS 372.045.*

*Sec. 24. “Ready-to-consume cannabis product” means an adult-use edible cannabis product that is:*

- 1. Prepared on the premises of a cannabis consumption lounge;*
- 2. Presented in the form of a foodstuff or beverage;*
- 3. Sold in a heated or unheated state; and*
- 4. Intended for immediate consumption; or*
- 5. Further defined by the Cannabis Compliance Board by regulation.*

*Sec. 25. “Retail cannabis consumption lounge” means a business that:*

- 1. Is licensed by the Cannabis Compliance Board pursuant to NRS 678B.250;*
- 2. Is attached or immediately adjacent to an adult-use cannabis retail store; and*
- 3. Allows single-use cannabis products or ready-to-consume cannabis products to be consumed on the premises of the business by persons 21 years of age or older.*

**Sec. 26.** *“Retail Sale” has the meaning ascribed to it in NRS 372.050.*

**Sec. 27.** *“Retailer” has the meaning ascribed to it in NRS 372.055.*

**Sec. 28.** *“Single-use cannabis product” means a type of cannabis or adult-use cannabis product, other than a ready-to-consume cannabis product, that the Cannabis Compliance Board has determined to be appropriate for consumption in a cannabis consumption lounge as further defined by the Cannabis Compliance Board by regulation.*

**Sec. 29.** *Cannabis and adult-use cannabis products obtained by a retail cannabis consumption lounge from an adult-use cannabis retail store are not subject to the excise tax on cannabis and should not be included in the taxable measure on the return as provided in NAC 372A.160 until the retail cannabis consumption lounge sells the cannabis or adult-use cannabis products to a consumer.*

**Sec. 30.** *1. Cannabis and adult-use cannabis products purchased by an independent cannabis consumption lounge from an adult-use cannabis retail store to be resold by the independent cannabis consumption lounge are not subject to the excise tax until the adult-use cannabis product is sold by the independent cannabis consumption lounge to a consumer.*

*2. Sales by an adult-use cannabis retail store to an independent cannabis consumption lounge shall be reported by the adult-use cannabis retail store to the Department on a form prescribed by the Department and remitted with the return as provided in NAC 372A.160. These sales shall also be exempted from the taxable measure on the return.*

*3. Cannabis and adult-use cannabis products sold are subject to sales tax when sold at an adult-use retail store, a medical cannabis dispensary, a retail cannabis consumption lounge or an independent cannabis consumption lounge. These cannabis establishments must register*

*with the Department pursuant to NRS 372.125. Sales tax returns and payments must be submitted as provided in NRS 372.354 to 372.395, inclusive.*

**Sec. 31.** *Pursuant to NRS 372A.290, the excise tax imposed on each retail sale of cannabis or adult-use cannabis products by an adult-use cannabis retail store or cannabis consumption lounge is the obligation of the seller, whether an adult-use cannabis retail store or a cannabis consumption lounge. The sellers of cannabis or adult-use cannabis products are not statutorily authorized collection agents and therefore cannot collect this tax from the customer.*

**Sec. 32.** NAC 372A.020 is hereby amended to read as follows:

372A.020 1. Each dealer in controlled substances who purchases revenue stamps from the Department pursuant to NRS 372A.090 shall affix the stamps to each package, packet or container of a controlled substance he or she sells.

2. This section does not apply to any sale that is subject to an excise tax imposed by NRS 372A.~~[0.75]~~**290**.

**Sec. 33.** NAC 372A.110 is hereby amended to read as follows:

372A.110 “Excise tax on ~~[medical marijuana]~~ **cannabis**” means any of the excise taxes imposed by NRS 372A.~~[075]~~ **290 and any subsequent amendments thereto.**

**Sec. 34.** NAC 372A.120 is hereby amended to read as follows:

372A.120 Medical ~~[marijuana]~~ **cannabis**” means ~~[marijuana]~~ **cannabis**, edible~~—[marijuana]~~ **cannabis products and [marijuana] cannabis infused products sold for a medical use as authorized by chapter [453A] 678C of NRS.**

**Sec. 35.** NAC 372A.130 is hereby amended to read as follows:

372A.130 “Seller” means a taxpayer who makes any sale of ~~[medical marijuana]~~ **cannabis or cannabis product.**

**Sec. 36.** NAC 372A.140 is hereby amended to read as follows:

372A.140 “Taxpayer” means a:

1. *Cannabis* ~~[C]~~cultivation facility;
2. ~~[Facility for the production of edible marijuana products or marijuana-infused products;~~  
~~or] Adult-use Cannabis retail store;~~
3. ~~[Medical marijuana dispensary.]~~ *Retail cannabis consumption lounge; or*
4. *Independent cannabis consumption lounge.*

**Sec. 37.** NAC 372A.150 is hereby amended to read as follows:

372A.150 1. For the purposes of NRS 372A.~~[075]~~290, the Nevada Tax Commission will interpret the term “sales price” to mean the total amount for which ~~[medical marijuana]~~ *cannabis or cannabis products* ~~[is]~~ *are* sold, valued in money, whether received in money or otherwise, without any deduction for:

- (a) The cost to the seller for the ~~[medical marijuana]~~ *cannabis or cannabis products* sold;
- (b) The cost of materials used, the cost of labor or services, interest, losses, costs of transportation to the seller or any other expenses of the seller;
- (c) Any amount for which credit is given to the purchaser by the seller;
- (d) Any charges by the seller for any services necessary to complete the sale; or
- (e) Except as otherwise provided in this subsection, any tax imposed upon the seller or the seller’s predecessors in the supply chain.

~~Ê [The term does not include the amount of the seller’s obligation for the excise tax on medical marijuana.]~~

2. For the purposes of this section, the legal incidence of the excise tax on ~~[medical marijuana]~~ *cannabis* is deemed to be on the seller regardless of whether the seller passes the cost of the tax on to the purchaser *in the sales price*.

**Sec. 38.** NAC 372A.160 is hereby amended to read as follows:

372A.160 Each taxpayer shall, on or before the last day of the month immediately following each month for which the taxpayer is subject to the imposition of the excise tax on ~~[medical marijuana]~~ *cannabis or cannabis products*, file with the Department a return on a form prescribed by the Department and remit to the Department any tax due for the month covered by the return. Each taxpayer shall file a return even if the taxpayer has no liability for the tax.

*2. Each taxpayer shall pay the applicable excise tax to the Department based on either the retail or wholesale sales of cannabis or cannabis products to other cannabis establishments or consumers.*

*4. Each taxpayer shall keep all supporting documentation for verification that the applicable excise tax imposed by NRS 372A.290 was paid as based on either the retail or wholesale sales of cannabis or cannabis products.*

*5. The Department may require any cannabis establishment to submit a financial statement, as determined to be necessary by the Department, to ensure the collection of any taxes which may be owed by the cannabis establishment.*

**Sec. 39.** NAC 372A.170 is hereby amended as follows:

372A.170 ~~[Each taxpayer]~~ *Every cannabis establishment* shall:

1. Keep such records ~~[as are necessary]~~, *receipts, invoices and other pertinent papers in such form as required by the Department* to determine the amount of the liability of the taxpayer for the excise tax on ~~[medical marijuana]~~ *cannabis*;

*(a) Independent cannabis consumption lounges are required to contract with one or more adult-use cannabis retail stores to purchase cannabis and adult-use cannabis products. The records of each such contract must also be maintained and made available to the Department upon request by the Department.*

*(b) Each contract must contain language granting the seller the ability to sell, to the independent cannabis consumption lounge, single-use products for resale and granting any such lounge the ability to purchase and prepay for the ready-to-consume products for sale to customers.*

2. Preserve those records for not less than 4 years or until any proceedings pursuant to NRS 360.300 to 360.400, inclusive, are finally determined, whichever is longer; and

3. Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.

**Sec. 40.** NAC 372A.180 is hereby amended as follows:

372A.180 A taxpayer who believes that it has made an overpayment of the excise tax on ~~medical marijuana~~ *cannabis* may file with the Department a claim for a refund or credit of the amount of the alleged overpayment. The claim must be filed as prescribed by NRS 363B.150 for claims filed pursuant to chapter 363B of NRS. The Department shall process and administer the claim as prescribed by NRS 363B.140 to 363B.230, inclusive, for claims filed pursuant to chapter 363B of NRS.