

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
Informational Statement
LCB FILE NO. R121-23
(NRS 671 Money Transmission)**

The following statement is submitted for adoption of regulations pertaining to Nevada Administrative Code (“NAC”) Chapter 671, Money Transmission.

1. A clear and concise explanation of the need for the adopted regulation.

The regulation is required as a result of the passage of Assembly Bill 21 (“A.B. 21”) during the 82nd Session of the Nevada Legislature. Existing law governs money transmission and authorizes the Commissioner of the Financial Institutions Division to adopt regulations for the administration and enforcement of existing law.

This regulation is needed to revise current application and licensure fees, incorporate the federal safeguard rule, and repeal sections no longer relevant due to the passage of A.B.21.

2. A description of how public comment was solicited, a summary of public response, and explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulation, notice of workshop, small business impact statement, and notice of intent to act upon the regulation were emailed to the Division licensees, Division’s rulemaking contact list, persons who were known to have an interest in the regulation as well as any person who had specifically requested such notice. These documents were also made available on the Financial Institutions Division’s website at <http://fid.nv.gov/> on the Nevada Public Notice website at <https://notice.nv.gov/gov> and on the Nevada Legislature website: <https://www.leg.state.nv.us/App/Notice/A/>; posted at the Division’s principal office in Las Vegas; and provided to the Nevada State Library & Archives.

On August 30, 2023, via email, the Division notified 249 individuals, this included its licensees and persons on the Division’s rulemaking contact list concerning the proposed regulation, provided a copy of the proposed regulation, and solicited written comments concerning whether it would impose a direct and significant economic burden upon a small business that is subject to NRS 671, or directly restrict the formation operation, or expansion of a small business that is subject to NRS 671.

In response to the August 30, 2023, solicitation, the Division’s record reflects receipt of twelve (12) small business impact surveys. Five (5) with comments, two (2) responded N/A, and five (5) with over 150 employees. Attached summary of comments received from the small business impact survey are attached hereto as “Exhibit A.”

On November 9, 2023, the Division issued and posted a notice of the workshop, and sent via email to 265 individuals, this included its licensees and persons on the rulemaking contact list. The workshop was held on November 28, 2023, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Webex. Minutes of the workshop are attached hereto as “Exhibit B.” The minutes reflect receipt of any verbal and/or written comments.

On December 1, 2023, the Division issued and posted a notice of a second workshop, and sent via email to 266 individuals, this included its licensees and persons on the rulemaking contact list. The workshop was held December 19, 2023, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Webex. Minutes of the second workshop are attached hereto as “Exhibit C”. The minutes reflect receipt of any verbal and/or written comments.

The Legislative Counsel Bureau (LCB) posted its draft of proposed regulation R121-23 on January 8, 2024. On January 29, 2024, the Division issued and posted a notice of intent to act upon regulation based upon LCB draft proposed regulation R121-23, along with a notice of public meeting and solicited further written comments on the proposed regulation. On the same day, the Division sent via email to 343 individuals, this included its licensees and persons on the rulemaking contact list. The adoption hearing was held on March 1, 2024, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Webex. Minutes of the hearing are attached hereto as “Exhibit D”. The minutes reflect receipt of any verbal and/or written comments.

3. The number of persons who:

Attendees that signed in at the November 28, 2023 workshop: 37

Testified at the workshop: 4

Submitted written comments: 2

Attendees that signed in at the December 19, 2023 workshop: 21

Testified at the hearing: 2

Submitted written comments: 0

Attendees that signed in at the March 1, 2024 adoption hearing: 22

Testified at the hearing: 1

Submitted written comments: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified in #3, above, as provided to the agency.

Attended the November 28, 2023 workshop:

Name	Company or Organization	Email/Phone #
Chase Adams	Rippling Payments, Inc.	cadams@rippling.com
Nick Zuppas	Stateside Associates	mnz@stateside.com
Melody Loudin	Coinme Inc.	melody.loudin@coinme.com
Brian Montgomery	Pillsbury Winthrop Shaw Pittman	brian.montgomery@pillsburylaw.com
Brian Reeder	Ferrari Reeder Public Affairs on behalf of Intuit	brian@ferrarireeder.com
MICHAEL DAY	BLACKHAWK NETWORK	michae.day@bhnetwork.com
John Laramie	Robinhood Crypto, LLC	john.laramie@robinhood.com
Gina Anderson	DolEx Dollar Express, Inc.	gina.anderson@dolex.com
Jennifer Hill	IRIS	jennifer.hill@irisglobal.com
Christina Calandro	TKC Holdings, Inc	christina.calandro@tkcholdings.com
Brendan Brady	RAM Payment, LLC	bbrady@reliantpayment.com
Kathy Tomasofsky	Money Services Business Association	kathy.tomasofsky@msbassociation.org
Evelyn Rodriguez	TouchPay Holdings, LLC	evelyn.rodriguez@viapath.com
Gilberto Orozco	Maxitransfers LLC	grorozco@maxillc.com
Jimmy Lau	Ferrari Reeder Public Affairs on behalf of Intuit	
Chip Meyers	Hilt Ventures	
Adam		afleisher@cooley.com
Alex Oliver		alexandra.oliver@aexp.com
Betty Ennis		betty.ennis@westernunion.com
Bob		14gamechanger@gmail.com
Christine		christine.chau@robinhood.com
Cindy		chunter@keefegroup.com
Cynthia Corral		ccorral@maxill.com
Esmeralda Marcos		emarcosj@intercambioexpress.com
Jillian Pevo Coughenour		jillian.pevo@westernunion.com
Kara Kuchar		kara.kuchar@srz.com
Isalazar@intermexusa.com		LORETO SALAZAR
Laura Estrada		lgestrada@maxillc.com
Wendy		wendy.knutson@wu.com
Yong Yi		yong.yi@pingpongx.us
Isswift		lswift@visa.com
		+13057****69
		+16507****59
		+17742****03
		+17757****16
		+19014****37
		+19258****36

Attended the December 19, 2023 workshop:

Name	Company or Organization	Email/Phone #
Lea Case	Belz & Case Government Affairs	lc@belzcase.com
Michael Chhu	Coinstructive	mvchhu@coinstructive.com
Brian Montgomery	Pillsbury	brian.montgomery@pillsburylaw.com
Michael Day	Blackhawk Network, Inc.	michael.day@bhentwork.com
Jimmy Lau	Intuit/FRPA	jimmy@ferraripa.com
Sabrina Schnur	Belz & Case	ss@belzcase.com
Areli Alarcon		areli@carraranv.com
Breanna		bnierlich@monexusa.com
Brian Reeder		brian@ferrarireeder.com
Carlin McCrory		carlin.mccrory@troutman.com
Chase		cadams@rippling.com
Genevieve Kaplan		gek@stateside.com
Iris		ilaing@mlhuillierusa.com
Keith Barnett		keith.barnett@troutman.com
Maribel		mgarcia@mlhuillierusa.com
Noemi		noemi.pesina@inter.co
Nuveen Dhingra		nuveen@stripe.com
Obsidian us-mtv-cl3		fake@test.com
Sam Russell		samantha@ftassociation.org
chip meyers		chip@hiltventures.com
lswift		lswift@visa.com

Attended the March 1, 2024 hearing:

Name	Company or Organization	Email/Phone #
Andrea		andrea.thomas@taptapsend.com
Anna Tang		anna.tang@gusto.com
Areli		areli@carraranv.com
Betty Ennis		betty.ennis@westernunion.com
Brian Montgomery		brian.montgomery@pillsburylaw.com
Chase Adams		cadams@rippling.com
Christa		christa.fazzi@zerohash.com
Genevieve Kaplan		gek@stateside.com
Iris		ilaing@mlhuillierusa.com
Jaylene Alvarado		jaylene.alvarado@crypto.com
Jimmy Lau		jimmy@ferrqrireeder.com
Johnathan H		johnathan.hutton@affirm.com
Kathy Tomasofsky		kathy.tomasofsky@msbassociation.org
Kelsey Sullivan		kesulliv@visa.com
Luma Z		luma.zayad@gusto.com
Michelle Hathcock		michelle.hathcock@ankura.com
Nicole Ayres		nicole.ayres@westernunion.com
Randolph Hall		randolph.w.hall@aexp.com
Reginald Brown		r.brown@paysend.com
Wendy Knutson		wendy.knutson@wu.com
Yujing Yu		yujing.yue@zerohash.com
rosemary gallagher		rosemary.gallagher@westernunion.com

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public (see item 2 above). A summary of responses can be found in the minutes to the workshops and the hearing (Exhibits B, C and D) and small business impact statement (Exhibit A). Copies of these materials can be obtained by contacting Mary Young, Financial Institutions Division at fidmaster@fid.state.nv.us or mmyoung@fid.state.nv.us or 702-486-4120 or by visiting the Division website: www.fid.nv.gov

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The initial agency draft regulation, after considering comments from the small business impact survey, was submitted to LCB on November 9, 2023 (see “Exhibit E”). LCB completed its review and provided its draft regulation dated January 8, 2024.

At the conclusion of the noticed public hearing on March 1, 2024, the permanent regulation was adopted in the form proposed and reflected in the LCB Draft of Proposed Regulation R121-23 dated January 8, 2024.

7. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.**

(a) Both adverse and beneficial effects.

Adverse effects. The industry's biggest concern was requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, first the Division amended the proposed regulation to allow licensees to request an exemption from this provision if the information and documentation provided to the Division is sufficient to determine such exemption should be granted. After receiving additional comments, the Division removed the requirement for the custodial or trust account since A.B.21 requires it only in certain circumstances as covered in the legislation.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already licenses payroll processors as money transmitters in this state, A.B.21 just provides clarification and definition.

The other comments were more directed at A.B. 21 and not the proposed regulation, or items already in current law, which the proposed regulations just expand and support the statutory language.

Beneficial effects. The industry is in favor of the Division removing the requirement to maintain a trust or custodial bank account in the state of Nevada.

(b) Both immediate and long-term effects.

The immediate effect or long-term economic effect on regulated entities and to the public is the industry is in favor of removing the need to maintain a custodial or trust account.

8. **The estimated cost to the agency for the enforcement of the adopted regulation.**

The estimated cost to the Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by the Division. The Division does not foresee the need for any additional funding or budget increase.

9. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the**

duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

To the best of the Division's knowledge, there are no other state regulations known by the Division that the proposed regulation overlaps or duplicates. The Division incorporated federal law 16 C.F.R. Part 314, Standards for Safeguarding Customer Information, into one section to ensure the Division's licensees are following this law and grants authority to the Division to examine for compliance with the law.

10. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

To the best of the Division's knowledge, the adopted regulation does not include provisions which are known to be more stringent than a federal regulation which regulates the same activity.

11. If the regulation provides a new fee or increase an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The Division is proposing a minimal increase in application and licensing fees, up to the maximum allowable amount in statute.

The 1st Year → \$65,600 (Based on the application fee of \$500.00 and initial licensing fee of \$400.00 for excepted 20 new licensees and the renewal fee of \$400.00 for the current 119 licensees).

The 2nd Year → \$73,600 (Based on yearly renewal fee of \$400.00 for 119 current licensees and 20 new licensees from year one, and application fee of \$500.00 and initial licensing fee of \$400 for an excepted 20 new licensees in year two.)

The fees collected will be used by the Division to regulate the industry at the most economical method possible with the Division's established objective to maintain fees at a level to cover agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees.

(Note: all figures provided above are best estimates and/or approximations based on information currently available)

Enclosed:

Exhibit A – Small Business Impact Statement

Exhibit B – Minutes of November 28, 2023 Workshop on R121-23

Exhibit C - Minutes of December 19, 2023 Second Workshop on R121-23

Exhibit D – Minutes of March 1, 2024, Adoption Hearing on R121-23

Exhibit E – Initial Draft of Proposed Regulation Submitted to LCB on November 9, 2023

“EXHIBIT A”

**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS BY
THE FINANCIAL INSTITUTIONS DIVISION (Division)
TO ASSEMBLY BILL (AB) 21
MONEY TRANSMITTERS
September 13, 2023**

1. Small Business Impact Statement pursuant to NRS 233B.0609:

(a) 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.

(I) Solicitation of affected small businesses.

The Division sought comments in accordance with NRS 233B.0608 for the purpose of considering whether as a result of the proposed regulations, there may be a direct and significant economic burden upon small business (defined as fewer than 150 employees) or if the regulations will directly restrict the formation, operation or expansion of a small business seeking to engage in or who desire to engage in the business of money transmission, to ensure that there is established in this state an adequate, efficient and competitive service available to the general public.

The Division composed the solicitation list from current licensees under Nevada Revised Statutes chapter 671 and all known interested parties. In turn, the Division solicited comments on the proposed regulations for Assembly Bill 21 (A.B.21) from the above lists by emailing a notice and questionnaire. Additionally, a copy of the full text of the proposed regulations was emailed and posted to the Division’s website. The solicited comments were used to formulate this Small Business Impact Statement.

(II) Summary of responses.

See attached spreadsheet.

(III) Obtain a copy of the summary.

This Small Business Impact Statement was posted on the NFID website dated November 13, 2023, along with a Notice of Workshop for November 28, 2023. Interested persons may also obtain a copy of the Small Business Impact Statement by contacting the:

**Office of the Commissioner
Financial Institutions Division
3300 W. Sahara Avenue, Suite 250
Las Vegas, NV 89102
Email: FIDMaster@fid.state.nv.us
Telephone: (702) 486-4120
Website: <http://fid.nv.gov>**

(b) The manner in which the analysis was conducted.

Pursuant to NRS 233B.0608(1), the Division made a concerted effort to determine whether the proposed regulations are likely to impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business. For this effort, the Division sent a copy of the draft regulations and a Small Business Impact Questionnaire to all known interested parties for review and invited written comment regarding the impact to the entities, NFID took all comments submitted into consideration.

Following review and analysis of the authorizing statutory language A.B.21 and written comment from the industry, the Division has determined that the proposed regulation is unlikely to impose a direct and significant economic burden upon a small business; result in any direct or indirect adverse effects on small business; or directly restrict the formation, operation, or expansion of a small business.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate including, without limitation:

(1) Both Adverse and Beneficial effects:

(I) ADVERSE EFFECTS:

The industry's biggest concern was requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, the Division amended the proposed regulation to allow licensees to request an exemption from this provision if the information and documentation provided to the Division is sufficient to determine such exemption should be granted.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already license payroll processors as money transmitters in this state, A.B.21 just provides clarification and definition.

The other comments were more directed at A.B. 21 and not the proposed regulation, or items already in current law, which the proposed regulations just expand and support the statutory language.

(II) BENEFICIAL EFFECTS:

The industry is in favor of the Division removing the requirement to maintain a trust or custodial bank account in the state of Nevada. This allows licensees the option to seek a banking relationship with banks outside of Nevada, with a depository institution in the same state as the licensee, as long as the depository institution is federally or privately insured.

(2) Both Direct and Indirect effects:

(I) DIRECT EFFECTS:

The industry's biggest concern was requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, the Division amended the proposed regulation to allow licensees to request an exemption from this provision if the information and documentation provided to the Division is sufficient to determine such exemption should be granted.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already license payroll processor as money transmitters in this state, A.B.21 just provides clarification and definition.

The other comments were more directed at A.B. 21 and not the proposed regulation, or items already in current law, which the proposed regulations just expand and support the statutory language.

(II) INDIRECT EFFECTS:

The industry's biggest concern was requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, the Division amended the proposed regulation to allow licensees to request an exemption from this provision if the information and documentation provided to the Division is sufficient to determine such exemption should be granted.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already license payroll processor as money transmitters in this state, A.B.21 just provides clarification and definition.

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

The Division sent out 249 small business questionnaires to all known interested parties. It received a total of twelve (12) responses to the solicitation. Five (5) small business provided comment, two (2) responded with N/A or no impact, and five (5) responded with no comment because they were over the small business threshold of 150 employees. The Division has considered and analyzed all submitted comments and addressed those comment in the attached summary of response spreadsheet.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

The estimated cost to the Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by the Division. The Division does not foresee the need for any additional funding or budget increase.

(f) If the 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 Division is proposing a minimal increase in application and licensing fees, up to the maximum allowable amount in statute.

The 1st Year → \$65,600 (Based on the application fee of \$500.00 and initial licensing fee of \$400.00 for excepted 20 new licensees and the renewal fee of \$400.00 for the current 119 licensees).

The 2nd Year → \$73,600 (Based on yearly renewal fee of \$400.00 for 119 current licensees and 20 new licensees from year one, and application fee of \$500.00 and initial licensing fee of \$400 for an excepted 20 new licensees in year two.)

The fees collected will be used by the Division to regulate the industry at the most economical method possible with the Division's established objective to maintain fees at a level to cover agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees.

(g) If the 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.

To the Division's knowledge, the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity.

(h) The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.

This is a result of the passage of new legislation, A.B. 21. The Division can only lessen the impact on small business by proposing regulation that provides clarification to the industry. The regulation itself does not impose an economy burden to small business.

To the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this Small Business Impact Statement was prepared properly and accurate.

A blue ink signature of Sandy O'Laughlin is written over a circular official seal of the State of Nevada. The seal features the state coat of arms and the text "STATE OF NEVADA" and "DEPARTMENT OF BUSINESS AND INDUSTRY".

Sandy O'Laughlin
Commissioner
Financial Institutions Division
State of Nevada, Department of Business and Industry

**AB21- Money Transmission- Direct or Indirect
Impact Item From Small Businesses**

**Number/
and %**

**Direct or
Indirect**

**Adverse or
Beneficial**

NFID Answer/Mitigation

A custodial, trust account should not be required for money transmitters dealing only in cryptocurrency assets, holding no customer cash liabilities. If a cryptocurrency company does not offer cash custody or have customer cash liabilities, a licensee cannot get a bank account for purposes other than the intended use of the account. Therefore, a licensee cannot get a custody/trust account without a business need for such account, and in return cannot comply with Nevada law.

2
(40.00%)

Direct

Adverse

The Division has added proposed language in the regulation, which will allow for a licensee to request an exemption from the Division.

It is difficult for MSBs to establish banking relationships in the first place and particularly difficult when the requirement does not align to our business model.

It is suggested the regulations provide the Commissioner of the FID the authority to grant exceptions to regulatory requirements where appropriate according to the business model of a prospective institutional applicant. Such as business models where the licensee can demonstrate when the funds are not customer funds. Some other state jurisdictions have granted similar exceptions.

Because of the need of a trust account, the state examiners are rigidly bound by this requirement and have cited us for illegal comingling in the trust account in the past. This has forced us to incur additional follow-up examination costs (direct and indirect) as well as outside counsel costs to address with the Commissioner to find a reasonable outcome.

<p>There should be exceptions to tangible net worth requirements for companies that are publicly traded on the NYSE or NASDAQ.</p>	<p>1 (20.00%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>This is a requirement per AB21 and not in the proposed regulation. The Division cannot change language in AB21 and AB21 does not allow for an exemption from the tangible net worth provision.</p>

<p>Sec. 9. NAC 671.075 Maintenance of separate custodial or trust account and related records. While the intent is clear from subsequent language that this requirement pertains to the custody of customer funds, this section vaguely refers only to "money collected," rather than specifically limiting it to assets collected and held on behalf of customers. For purposes of this section, it should also be clear that this refers to fiat currency. More importantly, a company which does not accept, receive or otherwise hold fiat money belonging to customers, has already been subject to burdensome requests from regulatory bodies in states with similarly vague language seeking to enforce a requirement that is not applicable to a specific business model. In every instance, the regulators have agreed with the company that a trust/custodial account is not necessary since they do not accept or hold customer funds (USD); however, the decision has always been treated as an exception. The proposed language (i.e., "shall at all times maintain a separate custodial or trust account") focuses on the requirement to have an account, rather than on the protection of customer assets. Suggest clarifying the above requirement so that such an account is required only to the extent a business accepts or holds fiat monies on behalf of its customers. For example: "Funds collected or held on behalf of customers must, at all times, be kept in a custodial or trust account, separate from the licensee's own general or operating accounts, at a federally or privately insured bank or credit union." Language such as this would make it easier for licensees that do not collect any such funds on behalf of customers to avoid having to try to maintain empty and unused bank accounts.</p>	<p>1 (20.00%)</p>	<p>Indirect</p>	<p>Adverse</p>	<p>The Division has added proposed language in the regulation, which will allow for a licensee to request an exemption from the Division.</p>

<p>The proposed rule for authorized delegates to maintain a separate custodial or trust account will negatively affect our ability to obtain new authorized delegates. This requirement will be an unnecessary burden on our authorized delegates and will duplicate efforts since the licensee is already segregating these funds.</p>	<p>1 (20.00%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>This is a requirement per AB21, the Division cannot change the language in AB21. The Division drafted regulations to further expand and support the provisions in AB21. In addition, current law NRS 671 required an agent/authorized delegate to remit funds to a licensee or deposit into the licensee's account not later than the third business day following its receipt, and these funds collected by the agent/authorized delegate could not be commingled with its operating account or other assets. Therefore, these funds were to be held in trust until remitted to the licensee. This 3-day rule has been removed but the trust account remains.</p>
<p>Removing the requirement for a local bank in favor of an FDIC insured national bank allows licensees to consolidate treasury management to be more effective and incur fewer costs.</p>	<p>1 (20.00%)</p>	<p>Direct</p>	<p>Beneficial</p>	<p>No response is required since this comment does not have an adverse impact on small business.</p>

<p>Section 20, 2., which states that the definition of money transmission "includes payroll processing services." Section 26, which defines the term "payroll processing services". If payroll processors are classified as money transmitters, they are subject to licensing, capital requirements and restrictions, examination and reporting designed for an entirely different industry, serving different customer base and posing risks not present among payroll processors. This will increase costs for payment processors, including obtaining a surety bond.</p>	<p>1 (20.00%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>Before AB21 was adopted, payroll processors were required to obtain a license under NRS chapter 671. The new language in AB21 (Money Transmission Modernization Act-MTMA) provides more detail than current language by defining certain terms such as "money transmission" and "payroll processing services" but it did not change the fact that payroll processors always needed a license under NRS chapter 671.</p> <p>In addition, section 20.2 is language in AB21 not the proposed regulation, the Division cannot change the language in AB21. Even without this definition, the Division would continue to license payroll processors under NRS 671 such as other states do.</p>
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<p>Section 20, 2., which states that the definition of money transmission "includes payroll processing services." Section 26, which defines the term "payroll processing services". If payroll processors are classified as money transmitters, they are subject to licensing, capital requirements and restrictions, examination and reporting designed for an entirely different industry, serving different customer base and posing risks not present among payroll processors. This will increase costs for payment processors, including obtaining a surety bond.</p>	<p>1 (20.00%)</p>	<p>Indirect</p>	<p>Adverse</p>	<p>Before AB21 was adopted, payroll processors were required to obtain a license under NRS chapter 671. The new language in AB21 (Money Transmission Modernization Act-MTMA) provides more detail than current language by defining certain terms such as "money transmission" and "payroll processing services" but it did not change the fact that payroll processors always needed a license under NRS chapter 671.</p> <p>In addition, section 20.2 is language in AB21 not the</p>
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				<p>proposed regulation, the Division cannot change the language in AB21. Even without this definition, the Division would continue to license payroll processors under NRS 671 such as other states do.</p>
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SBI Response Summary:

Total Known Interested Parties Solicited: 249

Total Responded with Comments: 5

Total Responded with N/A: 2

Total Responded with over 150 Employees (outside the small business threshold): 5

Total Comments Impacting the SBI % (Total Known Interested Parties Solicited - N/A - over 150 Employees=): 242

% Responded/Total Solicited (12/249): 4.82%

% Responded with Comments/Total Comments Impacting SBI (5/242): 2.07%

"EXHIBIT B"

JOE LOMBARDO
Governor

STATE OF NEVADA



DR. KRISTOPHER SANCHEZ
Director

SANDY O'LAUGHLIN
Commissioner

**DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

**Minutes of Workshop to Solicit Comments on
Proposed Regulations A.B.21- Money Transmission**

Date: Tuesday, November 28, 2023

Time: 10:00 a.m.

Locations:

Physical in-person location:

Nevada State Business Center, Nevada Room, 4th Floor
3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The workshop to consider A.B.21 was called to order Tuesday, November 28th at 10:09 a.m. The purpose of the workshop was to receive input with respect to the proposed regulations pertaining to Chapter 671 of the Nevada Administrative Code and A.B. 21, as described by the Notice of Workshop dated and posted on November 9, 2023.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Senior Deputy Attorney General Louis Csoka
Examiner Jennifer Ramsay
Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There were two comments during this general public comment period.

- Jimmy Lau, Ferrari Reeder Public Affairs, representing Intuit. Would like to thank the Division for the work they have done to pass AB21 and the regulations here today.

Mary Young, FID. Thank you for your comment.

- Chip Meyers, Hilt. Has operated Hilt for the past 6 years, Nevada's largest bitcoin ATM operator and the first operator of these services licensed by FID. There was an audit report done on the Division issued online on May 2, 2018. That was the most recent audit performed, and corrective action was required but that was not made public. Next risk assessment will be in fall 2024, over 6 years. 6 years is a long time to not hold an agency accountable to consumers of Nevada. There is a lack of transparency on what FID does and how FID operates. This needs to be addressed next session. (Mr. Meyers read FID's mission statement). He stated despite this mission statement, in 2022 Nevada was top ranking state in fraud per capita. UNLV Chair of Accounting Department says it's because there are not enough financial literate residents in Nevada. FID should squarely focus on educating residents and teach them how to protect themselves financially and for FID to educate their own staff on how to transparency protect consumers and not stifle business innovation.
- Mary Young, FID. Thank you for your comment.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

A summary of each section of the proposed regulations was read during the workshop.

Regulation Comments per Section:

Sections 3, 4, and 5. There were comments specifically on these sections.

- Chip Meyers, Hilt. He wants to comment on section 43.

Mary Young, FID. We are taking comments on the regulation not the Bill, section 43 is in the Bill.

Sections 6, 7, and 8. There were no comments on these sections.

Sections 9, 10, and 11. There were two comments on section 9.

Comments provided during the workshop:

- Brian Montgomery, Law Firm of Pillsbury Winthrop Shaw Pittman. Section 9. This requirement should be deleted because contrary to language in AB21 and model law which AB21 was modeled after and could cause real life consequences.

Mary Young, FID. Thank you for your comment. That is one of the sections we are still considering of revising and appreciate your comments and will take those comments under consideration.

- Chip Meyers, Hilt. Section 9. If an account is a non-custodial account. The exemption process under subsection 5 needs to be explained in detail, which it is not. What do they need to do, lack of information on FID portal. What is the timing? The FID is already aware of a licensee's business model and examined them in detail.

Mary Young, FID. That would all be hashed out if we do adopt that language. As stated to the gentleman on the phone, that whole section is being reviewed and we may change the whole section. If it is adopted as is, we will notify all licensees and applicants of what is required. Business models do change of our licensee so that will be looked at during an examination, and of course at initial application we will look at the business plan, flow of funds and any questions. The process will be laid out very clearly to our applicants and licensees. We appreciate your comment, thank you.

Agenda Item 4. Public Comments:

- Question from the Webex chat. If we provided written comments, did you want us to restate them?

Mary Young, FID. You can if you want. This is general comment, you can comment if you wish.

- Question from the Webex chat. What about the other sections?

Mary Young, FID. We went through the sections of the regulations, section 1-11. Did you have any questions on those sections?

Bob: On AB21.

Mary Young, FID. We cannot make any changes to the Bill, only the regulations, do you have any comments?

Bob: No

- Chip Meyers. Hilt. So, this is for other sections that already passed?

Mary Young, FID. This is general public comment.

Louis Csoka, Attorney General's Office. You can still comment but if has to do with the statute and not the regulation, the Division cannot consider those comments.

Chip Meyers. Hilt. Few comments on sections I guess were passed already. Section 43. The receipts. (Mr. Meyers reads the language in statute). FID is mandating that all customer receipts obtain this language. Is the FID now in the customer service business with doing compliance for operators like us? Was the intention of the FID to accept all complaints and

questions from customers. This is wasting FID resources, which are now needed to fight crime. FID maintains a database for complaints that negatively impact the licensee's rating. In over 5 years, we never had a complaint. Any one can file a complaint even about third parties. I received a letter from FID about a month ago regarding a verified consumer complaint. The complaint wasn't verified. It was about third parties. There was no police report with the complaint. Why is FID acting as a middleman?

Louis Csoka, Attorney General's Office. Mr. Meyers, let me clarify a couple of things. One is that the legislation you are looking at was enacted by the Nevada Legislators. This body would have no ability to change the law already enacted. The only thing being considered is the proposed regulations. The other thing, we enjoy and want to hear your comments, but the Division cannot act on your public comment, they will take note of it but they can't comment back because this is considering of regulations, you are getting into other matters that is not on today's agenda

Chip Meyers. Hilt. How was this proposed in legislation?

Louis Csoka, Attorney General's Office. Legislation is done in Carson City by the Legislators. It goes through the legislative process. We are here today to consider regulations for adoption.

Chip Meyers. Hilt. Who created this receipt requirement?

Mary Young, FID. It was through legislation, but the Conference of State Bank Supervisors (CSBS) and industry put the language together in the money transmission modernization act. We presented to the Legislators on behalf of industry and CSBS and the Legislators passed it. We proposed the language in the regulations that we discussed today in sections 1-11.

Chip Meyers. Hilt. So public comment on other sections, this is not the proper place?

Louis Csoka, Attorney General's Office. You can make public comment, but the legislation is what it is already, and we are here for the proposed regulations.

Chip Meyers. Hilt. I thought FID proposed this language to the Legislators. This is the governing body I assume. FID put the receipt language in the Bill.

Mary Young, FID. It was CSBS, for all money transmitters to operate on the same playing field across the country. We adopted the modernization act that CSBS and industry put together. We proposed that language to the Legislators and they approved it.

Chip Meyers. Hilt. In other states, you are not required to have that language.

Sandy O'Laughlin, Commissioner. Have those states adopted model law?

Mary Young, FID. The model law is still being adopted across the country. At some point and time, this language will be in all states.

Sandy O’Laughlin, Commissioner. If there was a comment during session, there would have been a comment added to the file.

Chip Meyers. Hilt. There was comment prior to legislative process?

Sandy O’Laughlin, Commissioner. You could have certainly put that through.

Mary Young, FID. We cannot change the language that is in Assembly Bill 21.

Chip Meyers. Hilt. So that will need to be revised next legislative session?

Mary Young, FID. Correct.

- Bob from Webex chat. Can FID change any language?

Mary Young, FID. We are open to comments to change the regulation. Provide any comments or suggested changes to us in writing and if not contrary to AB21, we will consider it.

Agenda Item 5. Close Workshop (Adjournment):

The workshop pertaining to Assembly Bill 21 was closed and adjourned on November 28, 2023, at 10:36 a.m.

To review and/or listen to comments in their entirety, please refer to the attached written comments and/or the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](https://www.nv.gov/proposed-regulations)



**DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

**Minutes of Second Workshop to Solicit Comments on
Proposed Regulations A.B.21- Money Transmission**

Date: Tuesday, December 19, 2023

Time: 1:00 p.m.

Locations:

Physical in-person location:
Nevada State Business Center, Nevada Room, 4th Floor
3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:
Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The second workshop to consider A.B.21 was called to order Tuesday, December 19th at 1:01 p.m. The purpose of the workshop was to receive input with respect to the proposed regulations pertaining to Chapter 671 of the Nevada Administrative Code and A.B. 21, as described by the Notice of Workshop dated and posted on December 1, 2023.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Senior Deputy Attorney General Louis Csoka
Examiner Jennifer Ramsay
Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There were two comments during this general public comment period.

- Chip Meyers, Hilt Ventures. At the last workshop, the Division added proposed language for an exemption of the trust account, but this was struck from this workshop. Was there a particular reason why?

Mary Young, FID. That whole section is being removed from NAC.

Chip Meyers, Hilt Ventures. So, it's no longer applicable?

Mary Young, FID- That is correct.

Chip Meyers, Hilt Ventures. So, there is a need for a trust account still or not?

Mary Young, FID. As stated in the workshop packet, the whole the section regarding the trust account has been stricken from NAC.

Chip Meyers, Hilt Ventures. So, no trust acct necessary?

Mary Young, FID. Under the proposed regulation it's been removed but LCB still has approve the language.

- Jimmy Lau, Ferrari Reeder Public Affairs, representing Intuit. He would like to thank Commissioner O'Laughlin and Deputy Commissioner Young for all their work to bring the MTMA to Nevada as well as making sure the NAC reflects the statutory changes and is well aligned. Thank you for your efforts and we greatly appreciate it.

Mary Young, FID. Thank you for your comment.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

Summary of the two changes made to the proposed regulation was read during the second workshop.

Regulation Comments per Section:

Section 9 and section 12. There were no comments on these sections.

Agenda Item 4. Public Comments:

There were no comments during this general public comment period.

Agenda Item 5. Close Workshop (Adjournment):

The workshop pertaining to Assembly Bill 21 was closed and adjourned on December 19, 2023, at 1:08 p.m.

To review and/or listen to comments in their entirety, please refer to the attached written comments and/or the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](#)

"EXHIBIT D"

JOE LOMBARDO
Governor

STATE OF NEVADA



DR. KRISTOPHER SANCHEZ
Director

SANDY O'LAUGHLIN
Commissioner

**DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

**Minutes of Adoption Hearing to Solicit Comments on
Proposed Regulations A.B.21- NRS/NAC 671**

Date: Friday, March 1, 2024

Time: 11:30 a.m.

Locations:

Physical in-person location:

Nevada State Business Center, Nevada Room, 4th Floor
3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The hearing to consider A.B.21 was called to order Friday, March 1, 2024, at 11:31 a.m. The purpose of the adoption hearing was to receive input with respect to the proposed regulations pertaining to Chapter 671 of the Nevada Administrative Code ("NAC"), as provided by Assembly Bill No. 21, as described by the Notice of Intent to Act Upon a Regulation and Hearing Agenda dated and posted on January 29, 2024.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Senior Deputy Attorney General Louis Csoka
Deputy Attorney General Jessica Guerra
Intern Attorney General Shannon Chao
Examiner Jennifer Ramsay
Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There was one comment during this general public comment period.

- Jimmy Lau, Ferrari Reeder Public Affairs representing Intuit. He would like to thank the Division, specifically Commissioner O’Laughlin and Deputy Commissioner Young for all their work on passing the MTMA during the Legislative session, as well as all their continued work throughout this regulatory process.

Mary Young, FID. Thank you for your comment.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

Each section of the proposed regulation being adopted today was read into the record.

Sections 1 through 7. There were no comments received on Sections 1 through 7.

Agenda Item 4. Adoption of Proposed Regulation:

The Financial Institutions Division hereby adopts regulation R121-23, which pertains to Chapter 671 of the Nevada Administrative Code and Assembly Bill 21, as described in the Legislative Counsel Bureau draft dated January 8, 2024.

Agenda Item 5. Public Comments:

There were no comments during this general public comment period.

Agenda Item 6. Close Workshop (Adjournment):

The adoption hearing for R121-23 pertaining to Assembly Bill 21 and Chapter 671 of the Nevada Administrative Code was closed and adjourned on March 1, 2024, at 11:40am.

To review and/or listen to comments in their entirety, please refer to the attached written comments and/or the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](https://www.nv.gov/proposed-regulations)

DRAFT PROPOSED REGULATION OF THE

COMMISSIONER OF THE FINANCIAL INSTITUTIONS DIVISION (“Division”)

The following document is the initial draft regulation proposed by the Division. The Division solicited comments from the industry on the proposed regulations pursuant to NRS 233B.0608(1) to determine whether the regulations would likely impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

The Division considered all comments and revised language and/or requirements that would cause unnecessary efforts on the part of licensees, if it did not impact the consumer protection responsibility of the Division.

The revisions and/or omissions are in the following proposed regulations.

Purpose: To adopt regulations under the Nevada Administrative Code to implement Assembly Bill No. 21 (2023), which amends Nevada Revised Statutes Chapter 671 by adding provisions related to money transmission.

Authority: NRS 671.030

Explanation: Material in *blue bold italics* is new language; material in **[bold brackets]** is to be omitted from current regulation. All comments received from the small business impact notice were considered but not all could be addressed. The matters addressed are referenced in this draft as *italics* for revised and matters in brackets **[omitted material]** is language to be omitted.

Section 1. *Chapter 671 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.*

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in this chapter have the meanings ascribed to them in those sections and sections 4 through 32 of Assembly Bill 21.*

Sec. 3. *All licensees shall create and maintain an information security program to safeguard the nonpublic personal information of customers to the extent required by 16 C.F.R. Part 314 (the "Safeguards Rule"). The Division may review, to the extent applicable, licensee's information security programs, risk assessments, incident response plans, and other required elements of the Safeguards Rule.*

Sec. 4. ~~[NAC 671.005 "Licensee" defined. (NRS 671.030) As used in this chapter, unless the context otherwise requires, "licensee" means any person licensed pursuant to this chapter and chapter 671 of NRS.]~~

Sec. 5. ~~[NAC 671.007 Requirements for issuance of license to business entity. (NRS 671.030, 671.055) If an application for a license is submitted by a business entity, the Commissioner will not issue a license to the applicant unless each partner, principal officer, director and trustee, whichever are applicable to the business entity, satisfies the requirements of NRS 671.055.]~~

Sec. 6. **NAC 671.020 Fees: Application for license.** An application for a license submitted pursuant to NRS 671.050 must be accompanied by:

1. A nonrefundable *application* fee of ~~[\$375]~~ \$500; and
2. A *license* fee of ~~[\$300]~~ \$400, ~~[prorated by the Commissioner].~~

Sec. 7. NAC 671.030 Fees: Renewal of license; reinstatement of expired license.

1. A licensee shall pay annually to the Division a fee of ~~[\$300]~~ \$400 for the renewal of his or her license.
2. If the Commissioner reinstates an expired license, the licensee shall pay a reinstatement fee of ~~[\$300]~~ \$400 in addition to the renewal fee prescribed in subsection 1.

~~Sec.8. [NAC 671.040 Fees: Application and license for agent of licensee. (NRS 671.030, 671.090) An agent who must be licensed pursuant to NRS 671.090 shall pay to the Division:~~

- ~~1. An application fee of \$250; and~~
- ~~2. A license fee of \$250.]~~

Sec. 9. NAC 671.075 Maintenance of separate custodial or trust account and related records. (NRS 671.030)

1. *Except as provided in subsection 7, ~~[Every]~~ a* licensee shall at all times maintain a separate custodial or trust account in a bank or credit union that is *federally or privately insured* in which must be deposited all money collected by the licensee. ~~[The account must be maintained in a bank or credit union located in this State and bear some title]~~ *The title of the account must be sufficient to distinguish it from the licensee's personal or general checking account and to designate it as a trust account, such as "customer's trust ~~[fund]~~ account" or "for the benefit of customers."* The account must at all times contain sufficient money to pay all money due or owing to all customers, and no disbursement may be made from the account except to customers or to pay costs advanced for those customers, except that a licensee may periodically withdraw from the account such money as may accrue to the licensee from collections deposited or from adjustments resulting from costs advanced and payments made directly to customers.

2. Every authorized delegate shall at all times maintain a separate custodial or trust account in a bank or credit union that is federally or privately insured in which must be deposited all money collected on behalf of the licensee. The title of the account must be sufficient to distinguish it from the authorized delegate's personal or general checking account and to designate it as a trust account or for the benefit of account, such as "for the benefit of [licensee's name]." An authorized delegate must remit and handle money, credits and monetary value in accordance with the terms of the contract with the licensee.

~~[2.]~~ *3. Every licensee and authorized delegate maintaining a separate custodial or trust account shall keep a record of all money deposited in the account, which must indicate clearly the date and from whom the money was received, the date deposited, the dates of withdrawals and other pertinent information concerning the transaction, and which must show clearly for whose account the money is deposited and to whom the money belongs. The records and money are subject to inspection by the Commissioner or an authorized representative of the Commissioner. The records must be maintained ~~[at the premises in this State at which the licensee is authorized to conduct business.]~~ in accordance with NRS 671.*

~~[3.]~~ *4. The licensee and authorized delegate shall reconcile each custodial or trust account established pursuant to subsection 1 on a monthly basis.*

~~[4.]~~ *5. If the Commissioner finds that a licensee's or authorized delegates records are not maintained pursuant to subsections 2 and 3, the Commissioner may require the licensee or authorized delegate to deliver an audited financial statement prepared from the records of the licensee or authorized delegate by a certified public accountant who is in good standing in the state where the report is prepared. ~~[holds a certificate to engage in the practice of public accounting in this State.]~~ The statement must be submitted within 60 days after the Commissioner*

requests it. The Commissioner may grant a reasonable extension for the submission of the financial statement if an extension is requested before the statement is due.

~~[5.]~~ 6. If money in a custodial or trust account of a licensee *or authorized delegate* becomes presumed abandoned pursuant to NRS 120A.500, the licensee shall comply with the provisions of chapter 120A of NRS with respect to the money.

7. If a licensee does not collect money or credit belonging to another, an exemption from subsection 1 may be granted by submitting a request to the Commissioner along with their business model and any other documentation demonstrating the money or credit does not belong to another. The Commissioner may request additional information or documentation that may be needed to process the request.

Sec. 10. ~~[NAC 671.090 Inspection of documents filed with Division. (NRS 671.030) Except as otherwise provided in NAC 671.100 and 671.130 and NRS 671.170, all papers, documents, reports and other written instruments filed with the Division pursuant to this chapter and chapter 671 of NRS are open to public inspection unless the Commissioner determines that the information is required to be withheld to protect the public welfare or the welfare of a licensee.]~~

Sec. 11. NAC 671.095 Confidentiality of records. (NRS 671.030) *In addition to the records deemed confidential in sections 37 and 78 of Assembly Bill 21, [An] an* application for a license and financial records ~~[, if any,]~~ submitted by an applicant pursuant to the provisions of this chapter and chapter 671 of NRS, financial records or other documents submitted by a licensee pursuant to an audit or examination conducted by the Division and any report of examination made by the Division are confidential and may be disclosed only to:

1. The Division, an authorized employee of the Division or an agency of this State, any other state or the Federal Government that is investigating the activities of an applicant or a licensee; or
2. Any person if the Commissioner determines, in the Commissioner's sole discretion, that the public interest in disclosure of the information outweighs the interest of the applicant or licensee.

DRAFT