

Amendment No. 328

Assembly Amendment to Assembly Bill No. 430	(BDR 32-893)
<b>Proposed by:</b> Assembly Committee on Revenue	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 430 (§ 7).
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ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JDK/JFD



Date: 4/23/2023

A.B. No. 430—Revises provisions relating to cannabis. (BDR 32-893)





ASSEMBLY BILL NO. 430—COMMITTEE ON REVENUE

MARCH 27, 2023

Referred to Committee on Revenue

SUMMARY—Revises provisions relating to cannabis. (BDR 32-893)

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

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

AN ACT relating to taxation; revising the definition of “vapor product”; revising provisions governing the excise tax on cannabis; ~~imposing a tax on the sale at wholesale of cannabis products by cannabis production facilities;~~ requiring the Department of Taxation to adopt certain regulations; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law imposes a tax upon the receipt, purchase or sale of other tobacco products by a customer in this State at a rate of 30 percent of the wholesale price of those products. (NRS 370.450) Under existing law, vapor products, including electronic cigarettes, cigars, cigarillos, pipes, hookahs, vape pens and similar products or devices and their components are taxed as other tobacco products. (NRS 370.0318, 370.450) ~~Section~~ **Sections 1 and 1.7** of this bill ~~revises~~ **revise** the definition of “vapor product” to exclude ~~products~~ **cannabis vaporizers** which are ~~primarily~~ **products that: (1) are solely** designed or intended to be used for vaporizing, ingesting, inhaling or otherwise introducing cannabis or cannabis products into the human body ~~;~~ **; and (2) include a clear and conspicuous label that includes certain information. Section 1.3 makes a conforming change to indicate the proper placement of section 1 in the Nevada Revised Statutes.**

Existing law imposes an excise tax at the rate of 15 percent of the fair market value at wholesale upon each wholesale sale of cannabis by a medical cannabis cultivation facility or an adult-use cannabis cultivation facility to another cannabis establishment. (NRS 372A.290) Existing law imposes an excise tax at the rate of 10 percent of the sales price of each retail sale of cannabis or cannabis products by an adult-use cannabis retail store or cannabis consumption lounge. (NRS 372A.290) **Section 7** of this bill revises the excise tax on the wholesale sale of cannabis to apply the tax only to the first wholesale sale and to provide that the tax is at the rate of 15 percent of: (1) the fair market value at wholesale for sales made to an affiliate of the medical cannabis cultivation facility or adult-use cannabis cultivation facility; or (2) the sales price, if the sale is made to a cannabis establishment that is not an affiliate of the medical cannabis cultivation facility or adult-use cannabis cultivation facility.

~~Existing law provides for the licensing of adult-use cannabis production facilities and medical cannabis production facilities, which are authorized to acquire, possess, manufacture, deliver, transfer, supply or sell cannabis products to adult-use cannabis retail stores and medical cannabis dispensaries, respectively. (NRS 678A.060, 678A.205, 678B.210) Section 7 imposes an excise tax upon each wholesale sale of cannabis products by a cannabis production facility at a rate of 15 percent of: (1) the fair market value at wholesale for sales made to an affiliate of the cannabis production facility; or (2) the sales price, if the sale is made to a cannabis establishment that is not an affiliate of the cannabis production facility. Sections 5, 6~~

~~and 8 of this bill make conforming changes related to the imposition of the excise tax on cannabis production facilities. Section 2 of this bill defines “cannabis production facility” for the purposes of the provisions of this bill relating to excise taxes. Section 3 of this bill makes a conforming change to indicate the proper placement of section 2 in the Nevada Revised Statutes.~~

**Section 4** of this bill revises the definition of “sales price” to exclude the amount of any excise tax on cannabis or cannabis products.

Existing law requires the Department of Taxation to adopt regulations to establish procedures to determine the fair market value at wholesale of cannabis. (NRS 678B.640) **Section 9** of this bill ~~requires the Department to also adopt regulations establishing procedures to determine the wholesale value of cannabis products and~~ establishes certain additional requirements for the regulations adopted by the Department. **Section 9** requires the Cannabis Compliance Board to ensure that any computer software used for the seed-to-sale tracking of cannabis ~~and cannabis products~~ adopted by the Board includes a method to denote transfers of cannabis ~~for cannabis products~~ between affiliates.

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

**Section 1. Chapter 370 of NRS is hereby amended by adding thereto a new section to read as follows:**

**1. “Cannabis vaporizer” means a product that:**

**(a) Is solely designed or intended to be used for vaporizing, ingesting, inhaling or otherwise introducing cannabis, as defined in NRS 678A.085, or any cannabis product into the human body; and**

**(b) Includes a clear and conspicuous label which identifies the product as a cannabis vaporizer and states that the product is not for tobacco, nicotine, e-liquid or any synthetic nicotine substance.**

**2. The term does not include a product that may also be used for vaporizing, ingesting, inhaling or otherwise introducing nicotine into the human body.**

**Sec. 1.3. NRS 370.007 is hereby amended to read as follows:**

370.007 As used in NRS 370.007 to 370.430, inclusive, and section 1 of this act, and 370.505 to 370.530, inclusive, unless the context otherwise requires, the words and terms defined in NRS 370.008 to 370.055, inclusive, and section 1 of this act, have the meanings ascribed to them in those sections.

**Sec. 1.7. NRS 370.054 is hereby amended to read as follows:**

370.054 “Vapor product”:

1. Means any noncombustible product containing nicotine or any other substance that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of the shape or size thereof, that can be used to produce vapor from nicotine or any other substance in a solution or other form, the use or inhalation of which simulates smoking.

2. Includes, without limitation:

(a) An electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device; and

(b) The components of such a product or device, whether or not sold separately, including, without limitation, vapor cartridges or other container of nicotine or any other substance in a solution or other form that is intended to be used with or in an electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device, atomizers, cartomizers, digital displays, clearomizers, tank systems, flavors, programmable software or other similar products or devices.

As used in this paragraph, “component” means a product intended primarily or

1 exclusively to be used with or in an electronic cigarette, cigar, cigarillo, pipe,  
2 hookah, or vape pen, or a similar product or device.

3 3. Does not include any product:

4 (a) Regulated by the United States Food and Drug Administration pursuant to  
5 subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et  
6 seq.

7 (b) Subject to the excise tax on cannabis or cannabis products pursuant to NRS  
8 372A.200 to 372A.380, inclusive.

9 (c) Purchased by a person who holds a current, valid medical cannabis  
10 establishment license pursuant to chapter 678B of NRS.

11 ~~(d) Which is primarily designed or intended to be used for vaporizing,~~  
12 ~~ingesting, inhaling or otherwise introducing] a cannabis [as defined in NRS~~  
13 ~~678A.085, or any cannabis product, as defined in NRS 678A.120, into the human~~  
14 ~~body.] vaporizer.~~

15 **Sec. 2.** ~~[Chapter 372A of NRS is hereby amended by adding thereto a new~~  
16 ~~section to read as follows:~~

17 ~~“Cannabis production facility” has the meaning ascribed to it in NRS~~  
18 ~~678A.125.] (Deleted by amendment.)~~

19 **Sec. 3.** ~~[NRS 372A.200 is hereby amended to read as follows:~~

20 ~~372A.200 As used in NRS 372A.200 to 372A.380, inclusive, and section 2 of~~  
21 ~~this act, unless the context otherwise requires, the words and terms defined in NRS~~  
22 ~~372A.205 to 372A.250, inclusive, and section 2 of this act have the meanings~~  
23 ~~ascribed to them in those sections.] (Deleted by amendment.)~~

24 **Sec. 4.** NRS 372A.247 is hereby amended to read as follows:

25 372A.247 1. “Sales price” means the total amount for which tangible  
26 property is sold, valued in money, whether paid in money or otherwise, without any  
27 deduction on account of any of the following:

28 (a) The cost of the property sold.

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

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

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

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

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

35 3. “Sales price” does not include any of the following:

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

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

42 (c) The amount of any tax, not including any manufacturers’ or importers’  
43 excise tax, imposed by the United States upon or with respect to retail sales,  
44 whether imposed upon the retailer or the consumer.

45 ~~(d) The amount of any tax imposed pursuant to NRS 372A.200 to 372A.380,~~  
46 ~~inclusive, and section 2 of this act.]~~

47 **Sec. 5.** ~~[NRS 372A.250 is hereby amended to read as follows:~~

48 ~~372A.250 “Taxpayer” means a~~

49 ~~1. Cannabis cultivation facility;~~

50 ~~2. Cannabis production facility;~~

51 ~~3. Adult use cannabis retail store; or~~

52 ~~[3.] 4. Cannabis consumption lounge.] (Deleted by amendment.)~~

53 **Sec. 6.** ~~[NRS 372A.285 is hereby amended to read as follows:~~

~~372A.285 1. Each cannabis cultivation facility shall submit a report to the Department that includes the following information, reported separately for each calendar month included in the report:~~

- ~~(a) The current production of the cannabis cultivation facility;~~
- ~~(b) Sales by product type;~~
- ~~(c) Prices by product type; and~~
- ~~(d) Such other information as the Department may require.~~

~~2. Each cannabis production facility shall submit a report to the Department that includes the following information, reported separately for each calendar month included in the report:~~

- ~~(a) The amount of cannabis purchased;~~
- ~~(b) The amount of cannabis products produced;~~
- ~~(c) Sales by product type;~~
- ~~(d) Prices by product type; and~~
- ~~(e) Such other information as the Department may require.~~

~~3. Each cannabis sales facility shall submit a report to the Department that includes the following information, reported separately for each calendar month included in the report:~~

- ~~(a) The amount of cannabis purchased by the cannabis sales facility from cannabis cultivation facilities or cannabis production facilities;~~
- ~~(b) Sales to consumers by product type;~~
- ~~(c) Prices by product type; and~~
- ~~(d) Such other information as the Department may require.~~

~~4. The Department shall adopt regulations proscribing the frequency of the reports required pursuant to this section which must be submitted not less frequently than quarterly and not more frequently than monthly.~~

~~5. As used in this section:~~

- ~~(a) [“Cannabis production facility” has the meaning ascribed to it in NRS 678A.125.~~
- ~~(b) [“Cannabis products” has the meaning ascribed to it in NRS 678A.120.~~
- ~~[(c) (b) “Cannabis sales facility” has the meaning ascribed to it in NRS 678A.130.] **(Deleted by amendment.)**~~

**Sec. 7.** NRS 372A.290 is hereby amended to read as follows:

372A.290 1. An excise tax is hereby imposed on ~~each~~ *the first* wholesale sale in this State of cannabis by a medical cannabis cultivation facility to another cannabis establishment at the rate of 15 percent of ~~the~~ :

*(a) The fair market value at wholesale of the cannabis [ ], if the sale is made to an affiliate of the medical cannabis cultivation facility; or*

*(b) The sales price of the cannabis, if the sale is made to a cannabis establishment that is not an affiliate of the medical cannabis cultivation facility.*

↳ The excise tax imposed pursuant to this subsection is the obligation of the medical cannabis cultivation facility.

2. An excise tax is hereby imposed on ~~each~~ *the first* wholesale sale in this State of cannabis by an adult-use cannabis cultivation facility to another cannabis establishment at the rate of 15 percent of ~~the~~ :

*(a) The fair market value at wholesale of the cannabis [ ], if the sale is made to an affiliate of the adult-use cannabis cultivation facility; or*

*(b) The sales price of the cannabis, if the sale is made to a cannabis establishment that is not an affiliate of the adult-use cannabis cultivation facility.*

↳ The excise tax imposed pursuant to this subsection is the obligation of the adult-use cannabis cultivation facility.

1           3. ~~[An excise tax is hereby imposed on the first wholesale sale in this State~~  
 2 ~~of a cannabis product by a cannabis production facility to another cannabis~~  
 3 ~~establishment at the rate of 15 percent of:~~

4 ~~—(a) The fair market value at wholesale of the cannabis product, if the sale is~~  
 5 ~~made to an affiliate of the cannabis production facility; or~~

6 ~~—(b) The sales price of the cannabis product, if the sale is made to a cannabis~~  
 7 ~~establishment that is not an affiliate of the cannabis production facility.~~

8 ~~→ The excise tax imposed pursuant to this subsection is the obligation of the~~  
 9 ~~cannabis production facility.~~

10 ~~—4.] An excise tax is hereby imposed on each retail sale in this State of cannabis~~  
 11 ~~or cannabis products by an adult-use cannabis retail store or cannabis consumption~~  
 12 ~~lounge at the rate of 10 percent of the sales price of the cannabis or cannabis~~  
 13 ~~products. The excise tax imposed pursuant to this subsection:~~

14           (a) Is the obligation of the seller of the cannabis or cannabis product ~~[+] but~~  
 15 ~~may be recovered from the purchaser.~~

16           (b) Is separate from and in addition to any general state and local sales and use  
 17 taxes that apply to retail sales of tangible personal property.

18           4. ~~[5.]~~ The revenues collected from the excise tax imposed pursuant to  
 19 subsection 1 must be distributed:

20           (a) To the Cannabis Compliance Board and to local governments in an amount  
 21 determined to be necessary by the Board to pay the costs of the Board and local  
 22 governments in carrying out the provisions of chapter 678C of NRS; and

23           (b) If any money remains after the revenues are distributed pursuant to  
 24 paragraph (a), to the State Treasurer to be deposited to the credit of the State  
 25 Education Fund.

26           5. ~~[6.]~~ The revenues collected from the excise tax imposed pursuant to  
 27 subsection 2 must be distributed:

28           (a) To the Cannabis Compliance Board and to local governments in an amount  
 29 determined to be necessary by the Board to pay the costs of the Board and local  
 30 governments in carrying out the provisions of chapter 678D of NRS; and

31           (b) If any money remains after the revenues are distributed pursuant to  
 32 paragraph (a), to the State Treasurer to be deposited to the credit of the State  
 33 Education Fund.

34           6. ~~[7.]~~ For the purpose of subsections 4 ~~[5.]~~ and 5, ~~[6.]~~ a total amount of  
 35 \$5,000,000 of the revenues collected from the excise tax imposed pursuant to  
 36 subsection 1 and the excise tax imposed pursuant to subsection 2 in each fiscal year  
 37 shall be deemed sufficient to pay the costs of all local governments to carry out the  
 38 provisions of chapters 678C and 678D of NRS. The Board shall, by regulation,  
 39 determine the manner in which local governments may be reimbursed for the costs  
 40 of carrying out the provisions of chapters 678C and 678D of NRS.

41           7. ~~[8.]~~ The revenues collected from the excise tax imposed pursuant to  
 42 ~~subsection [subsections] 3 [and 4]~~ must be paid over as collected to the State  
 43 Treasurer to be deposited to the credit of the State Education Fund.

44           8. ~~[9.]~~ As used in this section:

45           (a) “Adult-use cannabis cultivation facility” has the meaning ascribed to it in  
 46 NRS 678A.025.

47           (b) “Affiliate” means a person who, directly or indirectly through one or  
 48 more intermediaries, controls, is controlled by or is under common control with,  
 49 a specified person. ~~[For the purposes of this paragraph, control exists if any~~  
 50 ~~person directly or indirectly owns, controls, holds with the power to vote or holds~~  
 51 ~~proxies representing 51 percent or more of the voting securities of any other~~  
 52 ~~person.]~~

53           (c) “Cannabis product” has the meaning ascribed to it in NRS 678A.120.

1 ~~(d)~~ (d) “Local government” has the meaning ascribed to it in NRS 360.640.  
 2 ~~(e)~~ (e) “Medical cannabis cultivation facility” has the meaning ascribed to it  
 3 in NRS 678A.170.

4 ~~(f)~~ (f) “Medical cannabis establishment” has the meaning ascribed to it in  
 5 NRS 678A.180.

6 ~~(g)~~ (g) “Wholesale sale” means ~~the first~~ **the first** sale or transfer of cannabis by a  
 7 cannabis cultivation facility ~~for a cannabis product by a cannabis production~~  
 8 ~~facility~~ to another cannabis establishment. The term does not include a transfer of  
 9 cannabis by a cannabis cultivation facility to another cannabis cultivation facility  
 10 when both cannabis cultivation facilities share identical ownership.

11 **Sec. 8.** ~~NRS 387.1212 is hereby amended to read as follows:~~

12 ~~387.1212 1. The State Education Fund is hereby created as a special~~  
 13 ~~revenue fund to be administered by the Superintendent of Public Instruction for the~~  
 14 ~~purpose of supporting the operation of the public schools in this State. The interest~~  
 15 ~~and income earned on the money in the Fund, excluding the direct legislative~~  
 16 ~~appropriation from the State General Fund required by subsection 3, must, after~~  
 17 ~~deducting any applicable charges, be credited to the Fund.~~

18 ~~2. Money which must be deposited for credit to the State Education Fund~~  
 19 ~~includes, without limitation:~~

20 ~~(a) All money derived from interest on the State Permanent School Fund, as~~  
 21 ~~provided in NRS 387.030;~~

22 ~~(b) The proceeds of the tax imposed pursuant to NRS 244.33561 and any~~  
 23 ~~applicable penalty or interest, less any amount retained by the county treasurer for the~~  
 24 ~~actual cost of collecting and administering the tax;~~

25 ~~(c) The proceeds of the tax imposed pursuant to subsection 1 of NRS 387.195;~~

26 ~~(d) The money identified in subsection 8 of NRS 120A.610;~~

27 ~~(e) The portion of the money in each special account created pursuant to~~  
 28 ~~subsection 1 of NRS 179.1187 which is identified in paragraph (d) of subsection 2~~  
 29 ~~of NRS 179.1187;~~

30 ~~(f) The money identified in paragraph (d) of subsection 6 of NRS 278C.250;~~

31 ~~(g) The money identified in subsection 1 of NRS 328.450;~~

32 ~~(h) The money identified in subsection 1 of NRS 328.460;~~

33 ~~(i) The money identified in paragraph (a) of subsection 2 of NRS 360.850;~~

34 ~~(j) The money identified in paragraph (a) of subsection 2 of NRS 360.855;~~

35 ~~(k) The money required to be transferred to the State Education Fund pursuant~~  
 36 ~~to NRS 362.100;~~

37 ~~(l) The money required to be paid over to the State Treasurer for deposit to the~~  
 38 ~~credit of the State Education Fund pursuant to subsection 4 of NRS 362.170;~~

39 ~~(m) The portion of the proceeds of the tax imposed pursuant to subsection 1 of~~  
 40 ~~NRS 372A.200 identified in paragraph (b) of subsection 4 of NRS 372A.200;~~

41 ~~(n) The proceeds of the tax imposed pursuant to [subsection] subsections 3~~  
 42 ~~and 4 of NRS 372A.200;~~

43 ~~(o) The proceeds of the fees, taxes, interest and penalties imposed pursuant to~~  
 44 ~~chapter 374 of NRS, or transferred pursuant to subsection 3 of NRS 374.785;~~

45 ~~(p) The money identified in subsection 5 of NRS 445B.640;~~

46 ~~(q) The money identified in paragraph (b) of subsection 4 of NRS 678B.300;~~

47 ~~(r) The portion of the proceeds of the excise tax imposed pursuant to~~  
 48 ~~subsection 1 of NRS 463.385 identified in paragraph (e) of subsection 5 of NRS~~  
 49 ~~463.385;~~

50 ~~(s) The money required to be distributed to the State Education Fund pursuant~~  
 51 ~~to subsection 3 of NRS 482.181;~~

52 ~~(t) The portion of the proceeds of the fee imposed pursuant to NRS 488.075~~  
 53 ~~identified in subsection 2 of NRS 488.075;~~



~~(u) The portion of the net profits of the grantee of a franchise, right or privilege identified in NRS 709.110;~~

~~(v) The portion of the net profits of the grantee of a franchise identified in NRS 709.230;~~

~~(w) The portion of the net profits of the grantee of a franchise identified in NRS 709.270;~~

~~(x) The money required to be distributed to the State Education Fund pursuant to NRS 363D.290; and~~

~~(y) The direct legislative appropriation from the State General Fund required by subsection 3.~~

~~3. In addition to money from any other source provided by law, support for the State Education Fund must be provided by direct legislative appropriation from the State General Fund in an amount determined by the Legislature to be sufficient to fund the operation of the public schools in this State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium. Money in the State Education Fund does not revert to the State General Fund at the end of a fiscal year, and the balance in the State Education Fund must be carried forward to the next fiscal year.~~

~~4. Money in the Fund must be paid out on claims as other claims against the State are paid. **(Deleted by amendment.)**~~

**Sec. 9.** NRS 678B.640 is hereby amended to read as follows:

678B.640 *1.* The Department of Taxation shall adopt regulations to establish procedures to determine the fair market value at wholesale of cannabis ~~and cannabis products.~~ *The regulations shall:*

*(a) Provide that the fair market value of cannabis ; ~~and cannabis products;~~*

*(1) Will be calculated and published by the Department on a quarterly basis not more than 30 days after the end of each calendar quarter; and*

*(2) ~~Must be determined based on the sales price of the cannabis or cannabis products; and~~*

*~~(3) Must be calculated using a weighted average, except~~ Is the median sales price for ~~foods~~ wholesale sales between cannabis cultivation facilities and ~~immature plants, which must be calculated by unit.~~ cannabis establishments that are not affiliates, per pound or each, during the period specified in subparagraph (1).*

*(b) Prescribe any information required by the Department to determine the fair market value at wholesale of cannabis . ~~for cannabis products.~~*

*2. The Board shall ensure that any computer software used for the seed-to-sale tracking of cannabis ~~and cannabis products~~ adopted by the Board includes a method to denote transfers of cannabis ~~for cannabis products~~ between affiliates.*

*3. The Board shall furnish the Department with such information as the Department determines to be necessary to adopt the regulations required by this section.*

*4. As used in this section, "affiliate" has the meaning ascribed to it in NRS 372A.290.*

**Sec. 10.** 1. This section becomes effective upon passage and approval.

2. Sections 1 to 9, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2024, for all other purposes.