

ASSEMBLY BILL NO. 393—ASSEMBLYWOMAN KIRKPATRICK

MARCH 17, 2015

Referred to Committee on Taxation

SUMMARY—Revises provisions relating to the Live Entertainment Tax. (BDR 41-591)

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 provisions relating to the imposition of the tax on live entertainment on facilities located at licensed gaming establishments; revising provisions governing the exemptions and exclusions from the Live Entertainment Tax; revising the rate of the tax on live entertainment; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law imposes an excise tax on admission to certain facilities where live
2 entertainment is provided. (Chapter 368A of NRS) Under existing law, if live
3 entertainment is provided at an establishment that is not a licensed gaming
4 establishment or certain smaller licensed gaming establishments, the tax is imposed
5 only if consideration is collected for admission to the area or premises where live
6 entertainment is provided. However, if live entertainment is provided at certain
7 larger licensed gaming establishments, the tax is imposed whenever live
8 entertainment is provided, whether or not consideration is collected for admission
9 to the area or premises where the live entertainment is provided. (NRS 368A.060)

10 **Sections 2-33** of this bill reenact the provisions governing the tax on live
11 entertainment provided at licensed gaming establishments as a new chapter in the
12 title of existing law that governs gaming. Under **sections 7 and 17**, the tax on live
13 entertainment provided at a licensed gaming establishment is imposed only if
14 consideration is collected for admission to the area or premises where live
15 entertainment is provided.

16 Existing law excludes from the tax on admission to facilities where live
17 entertainment is provided the following activities: (1) music in a restaurant, lounge
18 or similar area if the music does not routinely rise to the volume that interferes with
19 casual conversation and if such music would not generally cause patrons to watch
20 as well as listen; (2) occasional performances by employees whose primary job
21 function is that of preparing, selling or serving food, refreshments or beverages to
22 patrons, if such performances are not advertised as entertainment to the public;



23 (3) performances by performers who stroll continuously throughout certain larger
24 gaming establishments; (4) performances in certain areas of larger gaming
25 establishments if seating provided in immediate area of the performers is limited to
26 seating at slot machines or gaming tables; (5) certain occasional activities,
27 including, without limitation, dancing, which primarily serve to provide ambience
28 to a facility; (6) music performed by musicians who move constantly through the
29 audience if no other form of live entertainment is provided to the patrons; (7) live
30 entertainment that is incidental to certain amusement rides; and (8) live
31 entertainment that is provided in a restaurant or which only serves as ambience if
32 there is no charge to the patrons for that entertainment. **Sections 9 and 17** remove
33 these exclusions and, thus, pursuant to **sections 7 and 17**, these activities if
34 conducted at a licensed gaming establishment would be subject to the tax on live
35 entertainment if they constitute live entertainment and consideration is collected for
36 admission to the facility where the activity is provided.

37 Under existing law: (1) if live entertainment is provided at a facility with a
38 maximum occupancy of less than 7,500 persons, the rate of the tax is 10 percent of
39 the admission charge to the facility plus 10 percent of any amounts paid for food,
40 refreshments and merchandise purchased at the facility; and (2) if live
41 entertainment is provided at a facility with a maximum occupancy of at least 7,500
42 persons, the rate of the tax is 5 percent of the admission charge to the facility. (NRS
43 368A.200) **Sections 17 and 52** of this bill revise the rate of the tax so that the tax is
44 not imposed on purchases of merchandise. **Sections 17 and 52** further provide that:
45 (1) if live entertainment is provided at a facility with a maximum occupancy of less
46 than 7,500 persons, the rate of the tax is 8 percent of the admission charge to the
47 facility plus 8 percent of any amounts paid for food, beverages and other
48 refreshments purchased at the facility or for consumption in the facility; and (2) if
49 live entertainment is provided at a facility with a maximum occupancy of at least
50 7,500 persons, the rate of the tax is 8 percent of the admission charge to the facility.

51 Existing law requires the State Gaming Control Board to make investigations
52 and to initiate a hearing by filing a complaint with the Nevada Gaming Commission
53 if the Board is satisfied that a person or entity which is licensed, registered, found
54 suitable or found preliminarily suitable or which previously obtained approval for
55 an activity for which Commission approval was required or permitted should be
56 limited, conditioned, suspended, revoked or fined. (NRS 463.310) **Section 38** of
57 this bill similarly requires the Board to make investigations and to initiate a hearing
58 by filing a complaint with the Commission if the Board is satisfied that such a
59 person or entity has violated certain provisions relating to the tax on live
60 entertainment.

61 Existing law also: (1) requires a licensed gaming establishment to maintain
62 records relating to, report, pay and truthfully account for the tax on live
63 entertainment; and (2) prohibits certain practices relating to falsifying information
64 or books, records or accounts relating to the tax on live entertainment. (NRS
65 368A.160, 368A.350, 368A.360) **Section 32** of this bill provides that a violation of
66 such provisions by a licensed gaming establishment is an unsuitable method of
67 operation and is subject to investigation and disciplinary proceedings by the Board
68 and Commission.

69 **Sections 43-65** of this bill remove from existing law references applicable to
70 the tax on live entertainment provided at licensed gaming establishments so that
71 **sections 2-33** govern that tax.



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

1 **Section 1.** Title 41 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 33, inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 11,*
6 *inclusive, of this act have the meaning ascribed to them in those*
7 *sections.*

8 **Sec. 3.** *“Admission charge” means the total amount,*
9 *expressed in terms of money, of consideration paid for the right or*
10 *privilege to have access to a facility where live entertainment is*
11 *provided including, without limitation, an entertainment fee, cover*
12 *charge, table reservation fee, membership dues or fees or a*
13 *required minimum purchase of food, beverages or other*
14 *refreshments.*

15 **Sec. 4.** *“Board” means the State Gaming Control Board.*

16 **Sec. 5.** *“Casual assemblage” includes, without limitation:*

17 1. *Participants in conventions, business meetings or*
18 *tournaments governed by chapter 463 of NRS, and their guests; or*

19 2. *Persons celebrating a friend’s or family member’s*
20 *wedding, birthday, anniversary, graduation, religious ceremony or*
21 *similar occasion that is generally recognized as customary for*
22 *celebration.*

23 **Sec. 6.** *“Commission” means the Nevada Gaming*
24 *Commission.*

25 **Sec. 7.** *“Facility” means any area or premises where live*
26 *entertainment is provided and for which consideration is collected*
27 *for the right or privilege of entering that area or those premises if*
28 *the live entertainment is provided at a licensed gaming*
29 *establishment.*

30 **Sec. 8.** *“Licensed gaming establishment” has the meaning*
31 *ascribed to it in NRS 463.0169.*

32 **Sec. 9.** 1. *“Live entertainment” means any activity provided*
33 *for pleasure, enjoyment, recreation, relaxation, diversion or other*
34 *similar purpose by a person or persons who are physically present*
35 *when providing that activity to a patron or group of patrons who*
36 *are physically present.*

37 2. *The term:*

38 (a) *Includes, without limitation, any one or more of the*
39 *following activities:*

40 (1) *Music or vocals provided by one or more professional or*
41 *amateur musicians or vocalists;*



1 (2) *Dancing performed by one or more professional or*
2 *amateur dancers or performers;*

3 (3) *Acting or drama provided by one or more professional*
4 *or amateur actors or players;*

5 (4) *Acrobatics or stunts provided by one or more*
6 *professional or amateur acrobats, performers or stunt persons;*

7 (5) *Animal stunts or performances induced by one or more*
8 *animal handlers or trainers, except as otherwise provided in*
9 *subparagraph (3) of paragraph (b);*

10 (6) *Athletic or sporting contests, events or exhibitions*
11 *provided by one or more professional or amateur athletes,*
12 *sportsmen or sportswomen;*

13 (7) *Comedy or magic provided by one or more professional*
14 *or amateur comedians, magicians, illusionists, entertainers or*
15 *performers;*

16 (8) *A show or production involving any combination of the*
17 *activities described in subparagraphs (1) to (7), inclusive; and*

18 (9) *A performance involving one or more of the activities*
19 *described in this paragraph by a disc jockey who presents recorded*
20 *music. For the purposes of this subparagraph, a disc jockey shall*
21 *not be deemed to have engaged in a performance involving one or*
22 *more of the activities described in this paragraph if the disc jockey*
23 *generally limits his or her interaction with patrons to introducing*
24 *the recorded music, making announcements of general interest to*
25 *patrons, and explaining, encouraging or directing participatory*
26 *activities between patrons.*

27 **(b) Excludes, without limitation, any one or more of the**
28 **following activities:**

29 (1) *Television, radio, closed circuit or Internet broadcasts*
30 *of live entertainment;*

31 (2) *Entertainment provided by a patron or patrons,*
32 *including, without limitation, singing by patrons or dancing by or*
33 *between patrons; and*

34 (3) *Animal behaviors induced by animal trainers or*
35 *caretakers primarily for the purpose of education and scientific*
36 *research.*

37 **Sec. 10. "Taxpayer" means the person licensed to conduct**
38 **gaming at a licensed gaming establishment.**

39 **Sec. 11. "Trade show" means an event of limited duration**
40 **primarily attended by members of a particular trade or industry**
41 **for the purpose of exhibiting their merchandise or services or**
42 **discussing matters of interest to members of that trade or industry.**

43 **Sec. 12. 1. The Board shall collect the tax imposed by this**
44 **chapter. The Commission shall adopt such regulations as are**
45 **necessary to carry out the provisions of this subsection. The**



1 regulations must be adopted in accordance with the provisions of
2 chapter 233B of NRS and must be codified in the Nevada
3 Administrative Code.

4 2. For the purposes of subsection 1, the provisions of chapter
5 463 of NRS relating to the payment, collection, administration and
6 enforcement of gaming license fees and taxes, including, without
7 limitation, any provisions relating to the imposition of penalties
8 and interest, shall be deemed to apply to the payment, collection,
9 administration and enforcement of the taxes imposed by this
10 chapter to the extent that those provisions do not conflict with the
11 provisions of this chapter.

12 3. To ensure that the tax imposed by NRS 368A.200 and
13 section 17 of this act is collected fairly and equitably, the
14 Commission and the Board shall:

15 (a) Coordinate with the Department of Taxation concerning
16 the administration and collection of the tax and the regulation of
17 taxpayers who are liable for the payment of the tax imposed
18 pursuant to those sections.

19 (b) Upon request, assist the other agencies in the collection of
20 the tax imposed pursuant to those sections.

21 **Sec. 13.** 1. If the Board determines that a taxpayer is taking
22 any action with intent to defraud the State or to evade the payment
23 of the tax or any part of the tax imposed by this chapter, the Board
24 shall establish an amount upon which the tax imposed by this
25 chapter must be based.

26 2. The amount established by the Board pursuant to
27 subsection 1 must be based upon the tax liability of licensed
28 gaming establishments that are deemed comparable by the Board
29 to that of the taxpayer.

30 **Sec. 14.** 1. Each person responsible for maintaining the
31 records of a taxpayer shall:

32 (a) Keep such records as may be necessary to determine the
33 amount of the liability of the taxpayer pursuant to the provisions
34 of this chapter;

35 (b) Preserve those records for at least 5 years or until any
36 litigation or prosecution pursuant to this chapter is finally
37 determined, whichever is longer; and

38 (c) Make the records available for inspection by the Board
39 upon demand at reasonable times during regular business hours.

40 2. The Commission may adopt regulations specifying the
41 types of records which must be kept to determine the amount of
42 the liability of a taxpayer for the tax imposed by this chapter.

43 3. Any agreement that is entered into, modified or extended
44 after January 1, 2004, for the lease, assignment or transfer of any
45 premises upon which any activity subject to the tax imposed by this



1 *chapter is, or thereafter may be, conducted shall be deemed to*
2 *include a provision that the taxpayer required to pay the tax must*
3 *be allowed access to, upon demand, all books, records and*
4 *financial papers held by the lessee, assignee or transferee which*
5 *must be kept pursuant to this section. Any person conducting*
6 *activities subject to the tax imposed by section 17 of this act who*
7 *fails to maintain or disclose his or her records pursuant to this*
8 *subsection is liable to the taxpayer for any penalty paid by the*
9 *taxpayer for the late payment or nonpayment of the tax caused by*
10 *the failure to maintain or disclose records.*

11 *4. A person who violates any provision of this section is guilty*
12 *of a misdemeanor.*

13 **Sec. 15.** *1. To verify the accuracy of any report filed or, if*
14 *no report is filed by a taxpayer, to determine the amount of tax*
15 *required to be paid, the Board, or any person authorized in writing*
16 *by the Board, may examine the books, papers and records of any*
17 *licensed gaming establishment that may be liable for the tax*
18 *imposed by this chapter.*

19 *2. Any person who may be liable for the tax imposed by this*
20 *chapter and who keeps outside of this State any books, papers and*
21 *records relating thereto shall pay to the Board an amount equal to*
22 *the allowance provided for state officers and employees generally*
23 *while traveling outside of the State for each day or fraction thereof*
24 *during which an employee of the Board is engaged in examining*
25 *those documents, plus any other actual expenses incurred by the*
26 *employee while the employee is absent from his or her regular*
27 *place of employment to examine those documents.*

28 **Sec. 16.** *1. Except as otherwise provided in this section and*
29 *NRS 239.0115, 463.120 and 463.3407, the records and files of the*
30 *Board concerning the administration of this chapter are*
31 *confidential and privileged. The Board and any employee of the*
32 *Board engaged in the administration of this chapter or charged*
33 *with the custody of any such records or files shall not disclose any*
34 *information obtained from the records or files of the Board or*
35 *from any examination, investigation or hearing authorized by the*
36 *provisions of this chapter. The Board and any employee of the*
37 *Board may not be required to produce any of the records, files and*
38 *information for the inspection of any person or for use in any*
39 *action or proceeding.*

40 *2. The records and files of the Board concerning the*
41 *administration of this chapter are not confidential and privileged*
42 *in the following cases:*

43 *(a) Testimony by a member or employee of the Board and*
44 *production of records, files and information on behalf of the*
45 *Board or a taxpayer in any action or proceeding pursuant to the*



1 *provisions of this chapter, if that testimony or the records, files or*
2 *information, or the facts shown thereby, are directly involved in*
3 *the action or proceeding.*

4 *(b) Delivery to a taxpayer or his or her authorized*
5 *representative of a copy of any report or other document filed by*
6 *the taxpayer pursuant to this chapter.*

7 *(c) Publication of statistics so classified as to prevent the*
8 *identification of a particular person or document.*

9 *(d) Exchanges of information with the Internal Revenue*
10 *Service in accordance with compacts made and provided for in*
11 *such cases.*

12 *(e) Disclosure in confidence to the Governor or his or her*
13 *agent in the exercise of the Governor's general supervisory*
14 *powers, or to any person authorized to audit the accounts of the*
15 *Board in pursuance of an audit, or to the Attorney General or*
16 *other legal representative of the State in connection with an action*
17 *or proceeding pursuant to this chapter, or to any agency of this or*
18 *any other state charged with the administration or enforcement of*
19 *laws relating to taxation.*

20 **Sec. 17. 1. Except as otherwise provided in this section,**
21 **there is hereby imposed an excise tax on admission to any facility**
22 **where live entertainment is provided. If the live entertainment is**
23 **provided at a facility with a maximum occupancy of:**

24 *(a) Less than 7,500 persons, the rate of the tax is 8 percent of*
25 *the admission charge to the facility plus 8 percent of any amounts*
26 *paid for food, beverages and other refreshments purchased at the*
27 *facility or for consumption in the facility.*

28 *(b) At least 7,500 persons, the rate of the tax is 8 percent of the*
29 *admission charge to the facility.*

30 **2. Amounts paid for:**

31 *(a) Admission charges collected and retained by a nonprofit*
32 *religious, charitable, fraternal or other organization that qualifies*
33 *as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by*
34 *a nonprofit corporation organized or existing under the provisions*
35 *of chapter 82 of NRS, are not taxable pursuant to this section.*

36 *(b) Gratuities directly or indirectly remitted to persons*
37 *employed at a facility where live entertainment is provided or for*
38 *service charges, including those imposed in connection with the*
39 *use of credit cards or debit cards, which are collected and retained*
40 *by persons other than the taxpayer are not taxable pursuant to this*
41 *section.*

42 **3. A licensed gaming establishment where live entertainment**
43 **that is taxable pursuant to subsection 1 is provided is liable for the**
44 **tax imposed, but is entitled to collect reimbursement from any**
45 **person paying the tax.**



1 4. *Any ticket for live entertainment must state whether the tax*
2 *imposed by this section is included in the price of the ticket. If the*
3 *ticket does not include such a statement, the taxpayer shall pay the*
4 *tax based on the face amount of the ticket.*

5 5. *The tax imposed by subsection 1 does not apply to:*

6 (a) *Live entertainment that this State is prohibited from taxing*
7 *under the Constitution, laws or treaties of the United States or the*
8 *Nevada Constitution.*

9 (b) *Live entertainment that is provided by or entirely for the*
10 *benefit of a nonprofit religious, charitable, fraternal or other*
11 *organization that qualifies as a tax-exempt organization pursuant*
12 *to 26 U.S.C. § 501(c), or a nonprofit corporation organized or*
13 *existing under the provisions of chapter 82 of NRS.*

14 (c) *Any boxing contest or exhibition governed by the*
15 *provisions of chapter 467 of NRS.*

16 (d) *Live entertainment that is provided at a facility with a*
17 *maximum occupancy of less than 200 persons.*

18 (e) *Merchandise sold outside the facility in which the live*
19 *entertainment is provided, unless the purchase of the merchandise*
20 *entitles the purchaser to admission to the entertainment.*

21 (f) *Live entertainment that is provided at a trade show.*

22 (g) *Live entertainment that is provided at private meetings or*
23 *dinners attended by members of a particular organization or by a*
24 *casual assemblage if the purpose of the event is not primarily for*
25 *entertainment.*

26 6. *As used in this section, "maximum occupancy" means, in*
27 *the following order of priority:*

28 (a) *The maximum occupancy of the facility in which live*
29 *entertainment is provided, as determined by the State Fire*
30 *Marshal or the local governmental agency that has the authority*
31 *to determine the maximum occupancy of the facility;*

32 (b) *If such a maximum occupancy has not been determined,*
33 *the maximum occupancy of the facility designated in any permit*
34 *required to be obtained in order to provide the live entertainment;*
35 *or*

36 (c) *If such a permit does not designate the maximum*
37 *occupancy of the facility, the actual seating capacity of the facility*
38 *in which the live entertainment is provided.*

39 **Sec. 18. 1.** *Except as otherwise provided in this section,*
40 *each taxpayer shall file with the Board, on or before the 15th day*
41 *of each month, a report showing the amount of all taxable receipts*
42 *for the preceding month or the month in which the taxable events*
43 *occurred. The report must be in a form prescribed by the Board.*

44 2. *The Board, if it deems it necessary to ensure payment to or*
45 *facilitate the collection by the State of the tax imposed by*



1 *section 17 of this act, may require reports to be filed not later than*
2 *10 days after the end of each calendar quarter.*

3 *3. Each report required to be filed by this section must be*
4 *accompanied by the amount of the tax that is due for the period*
5 *covered by the report.*

6 *4. The Board shall deposit all taxes, interest and penalties it*
7 *receives pursuant to this chapter in the State Treasury for credit to*
8 *the State General Fund.*

9 **Sec. 19.** *Upon written application made before the date on*
10 *which payment must be made, the Board may, for good cause,*
11 *extend by 30 days the time within which a taxpayer is required to*
12 *pay the tax imposed by this chapter. If the tax is paid during the*
13 *period of extension, no penalty or late charge may be imposed for*
14 *failure to pay at the time required, but the taxpayer shall pay*
15 *interest at the rate of 0.75 percent per month from the date on*
16 *which the amount would have been due without the extension*
17 *until the date of payment.*

18 **Sec. 20. 1.** *If a taxpayer:*

19 *(a) Is unable to collect all or part of an admission charge or*
20 *charges for food, beverages and other refreshments which were*
21 *included in the taxable receipts reported for a previous reporting*
22 *period; and*

23 *(b) Has taken a deduction on its federal income tax return*
24 *pursuant to 26 U.S.C. § 166(a) for the amount which the taxpayer*
25 *is unable to collect,*

26 *↳ the taxpayer is entitled to receive a credit for the amount of tax*
27 *paid on account of that uncollected amount. The credit may be*
28 *used against the amount of tax that the taxpayer is subsequently*
29 *required to pay pursuant to this chapter.*

30 *2. If the Internal Revenue Service disallows a deduction*
31 *described in paragraph (b) of subsection 1 and the taxpayer*
32 *claimed a credit on a return for a previous reporting period*
33 *pursuant to subsection 1, the taxpayer shall include the amount of*
34 *that credit in the amount of taxes reported pursuant to this chapter*
35 *in the first return filed with the Board after the deduction is*
36 *disallowed.*

37 *3. If a taxpayer collects all or part of an admission charge or*
38 *charges for food, beverages and other refreshments for which the*
39 *taxpayer claimed a credit on a return for a previous reporting*
40 *period pursuant to subsection 2, the taxpayer shall include:*

41 *(a) The amount collected in the charges reported pursuant to*
42 *paragraph (a) of subsection 1; and*

43 *(b) The tax payable on the amount collected in the amount of*
44 *taxes reported,*

45 *↳ in the first return filed with the Board after that collection.*



1 4. Except as otherwise provided in subsection 5, upon
2 determining that a taxpayer has filed a return which contains one
3 or more violations of the provisions of this section, the Board
4 shall:

5 (a) For the first return of any taxpayer that contains one or
6 more violations, issue a letter of warning to the taxpayer which
7 provides an explanation of the violation or violations contained in
8 the return.

9 (b) For the first or second return, other than a return
10 described in paragraph (a), in any calendar year which contains
11 one or more violations, assess a penalty equal to the amount of the
12 tax which was not reported.

13 (c) For the third and each subsequent return in any calendar
14 year which contains one or more violations, assess a penalty of
15 three times the amount of the tax which was not reported.

16 5. For the purposes of subsection 4, if the first violation of
17 this section by any taxpayer was determined by the Board through
18 an audit which covered more than one return of the taxpayer, the
19 Board shall treat all returns which were determined through the
20 same audit to contain a violation or violations in the manner
21 provided in paragraph (a) of subsection 4.

22 **Sec. 21.** If the Board determines that any tax, penalty or
23 interest it is required to collect has been paid more than once or
24 has been erroneously or illegally collected or computed, the Board
25 shall set forth that fact in its records and shall certify to the State
26 Board of Examiners the amount collected in excess of the amount
27 legally due and the person from whom it was collected or by whom
28 it was paid. If approved by the State Board of Examiners, the
29 excess amount collected or paid must, after being credited against
30 any amount then due from the person, be refunded to the person
31 or his or her successors in interest.

32 **Sec. 22. 1.** No refund may be allowed unless a claim for it
33 is filed with the Board within 3 years after the last day of the
34 month following the reporting period for which the overpayment
35 was made.

36 2. No credit may be allowed after the expiration of the period
37 specified for filing claims for refund unless a claim for credit is
38 filed with the Board within that period.

39 3. Each claim must be in writing and must state the specific
40 grounds upon which the claim is founded.

41 4. Failure to file a claim within the time prescribed in this
42 chapter constitutes a waiver of any demand against the State on
43 account of overpayment.

44 5. Within 30 days after rejecting any claim in whole or in
45 part, the Board shall serve notice of its action on the claimant in



1 *the manner prescribed for service of notice of a deficiency*
2 *determination.*

3 **Sec. 23.** 1. *Interest must be paid upon any overpayment of*
4 *any amount of the tax imposed by this chapter in accordance with*
5 *the provisions of section 12 of this act.*

6 2. *If the Board determines that any overpayment has been*
7 *made intentionally or by reason of carelessness, the Board shall*
8 *not allow any interest on the overpayment.*

9 **Sec. 24.** 1. *No injunction, writ of mandate or other legal or*
10 *equitable process may issue in any suit, action or proceeding in*
11 *any court against this State or against any officer of the State to*
12 *prevent or enjoin the collection under this chapter of the tax*
13 *imposed by this chapter or any amount of tax, penalty or interest*
14 *required to be collected.*

15 2. *No suit or proceeding may be maintained in any court for*
16 *the recovery of any amount alleged to have been erroneously or*
17 *illegally determined or collected unless a claim for refund or credit*
18 *has been filed.*

19 **Sec. 25.** 1. *Within 90 days after a final decision upon a*
20 *claim filed pursuant to this chapter is rendered by the*
21 *Commission, the claimant may bring an action against the Board*
22 *on the grounds set forth in the claim.*

23 2. *An action brought pursuant to subsection 1 must be*
24 *brought in a court of competent jurisdiction in Carson City, the*
25 *county of this State where the claimant resides or maintains his or*
26 *her principal place of business or a county in which any relevant*
27 *proceedings were conducted by the Board, for the recovery of the*
28 *whole or any part of the amount with respect to which the claim*
29 *has been disallowed.*

30 3. *Failure to bring an action within the time specified*
31 *constitutes a waiver of any demand against the State on account of*
32 *alleged overpayments.*

33 **Sec. 26.** 1. *If the Board fails to mail notice of action on a*
34 *claim within 6 months after the claim is filed, the claimant may*
35 *consider the claim disallowed and file an appeal with the*
36 *Commission within 30 days after the last day of the 6-month*
37 *period.*

38 2. *If the claimant is aggrieved by the decision of the*
39 *Commission rendered on appeal, the claimant may, within 90 days*
40 *after the decision is rendered, bring an action against the Board*
41 *on the grounds set forth in the claim for the recovery of the whole*
42 *or any part of the amount claimed as an overpayment.*

43 3. *If judgment is rendered for the plaintiff, the amount of the*
44 *judgment must first be credited towards any tax due from the*
45 *plaintiff.*



1 4. *The balance of the judgment must be refunded to the*
2 *plaintiff.*

3 **Sec. 27.** *In any judgment, interest must be allowed at the rate*
4 *of 3 percent per annum upon the amount found to have been*
5 *illegally collected from the date of payment of the amount to the*
6 *date of allowance of credit on account of the judgment, or to a*
7 *date preceding the date of the refund warrant by not more than 30*
8 *days. The date must be determined by the Board.*

9 **Sec. 28.** *A judgment may not be rendered in favor of the*
10 *plaintiff in any action brought against the Board to recover any*
11 *amount paid when the action is brought by or in the name of an*
12 *assignee of the person paying the amount or by any person other*
13 *than the person who paid the amount.*

14 **Sec. 29. 1.** *The Board may recover a refund or any part*
15 *thereof which is erroneously made and any credit or part thereof*
16 *which is erroneously allowed in an action brought in a court of*
17 *competent jurisdiction in Carson City or Clark County in the*
18 *name of the State of Nevada.*

19 2. *The action must be tried in Carson City or Clark County*
20 *unless the court, with the consent of the Attorney General, orders*
21 *a change of place of trial.*

22 3. *The Attorney General shall prosecute the action, and the*
23 *provisions of NRS, the Nevada Rules of Civil Procedure and the*
24 *Nevada Rules of Appellate Procedure relating to service of*
25 *summons, pleadings, proofs, trials and appeals are applicable to*
26 *the proceedings.*

27 **Sec. 30. 1.** *If any amount in excess of \$25 has been*
28 *illegally determined, either by the person filing the return or by the*
29 *Board, the Board shall certify this fact to the State Board of*
30 *Examiners, and the latter shall authorize the cancellation of the*
31 *amount upon the records of the Board.*

32 2. *If an amount not exceeding \$25 has been illegally*
33 *determined, either by the person filing a return or by the Board,*
34 *the Board, without certifying this fact to the State Board of*
35 *Examiners, shall authorize the cancellation of the amount upon*
36 *the records of the Board.*

37 **Sec. 31. 1.** *A person shall not:*

38 (a) *Make, cause to be made or permit to be made any false or*
39 *fraudulent return or declaration or false statement in any report*
40 *or declaration, with intent to defraud the State or to evade*
41 *payment of the tax or any part of the tax imposed by this chapter.*

42 (b) *Make, cause to be made or permit to be made any false*
43 *entry in books, records or accounts with intent to defraud the State*
44 *or to evade the payment of the tax or any part of the tax imposed*
45 *by this chapter.*



1 (c) *Keep, cause to be kept or permit to be kept more than one*
2 *set of books, records or accounts with intent to defraud the State*
3 *or to evade the payment of the tax or any part of the tax imposed*
4 *by this chapter.*

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

7 **Sec. 32.** 1. *Any licensed gaming establishment liable for*
8 *the payment of the tax imposed by section 17 of this act who*
9 *willfully fails to report, pay or truthfully account for the tax is*
10 *subject to the investigatory or disciplinary proceedings that are set*
11 *forth in NRS 463.310 to 463.318, inclusive, and may have its*
12 *gaming license revoked by the Commission.*

13 2. *A violation of any provision of this chapter, or any*
14 *regulation adopted pursuant thereto, by a licensed gaming*
15 *establishment is:*

16 (a) *An unsuitable method of operation; and*

17 (b) *Subject to the investigatory and disciplinary proceedings*
18 *that are set forth in NRS 463.310 to 463.318, inclusive, and shall*
19 *be punished as provided in those sections.*

20 **Sec. 33.** *The remedies of the State provided for in this*
21 *chapter are cumulative, and no action taken by the Commission,*
22 *the Board or the Attorney General constitutes an election by the*
23 *State to pursue any remedy to the exclusion of any other remedy*
24 *for which provision is made in this chapter.*

25 **Sec. 34.** NRS 463.0136 is hereby amended to read as follows:

26 463.0136 “Associated equipment” means:

27 1. Any equipment or mechanical, electromechanical or
28 electronic contrivance, component or machine used remotely or
29 directly in connection with gaming or mobile gaming, any game,
30 race book or sports pool that would not otherwise be classified as a
31 gaming device, including dice, playing cards, links which connect to
32 progressive slot machines, equipment which affects the proper
33 reporting of gross revenue, computerized systems of betting at a
34 race book or sports pool, computerized systems for monitoring slot
35 machines and devices for weighing or counting money; or

36 2. A computerized system for recordation of sales for use in an
37 area subject to the tax imposed pursuant to ~~NRS 368A.200.~~
38 *section 17 of this act.*

39 **Sec. 35.** NRS 463.145 is hereby amended to read as follows:

40 463.145 1. Except as otherwise provided in ~~NRS 368A.140.~~
41 *section 12 of this act,* the Commission shall, pursuant to NRS
42 463.150, adopt, amend and repeal regulations in accordance with the
43 following procedures:



1 (a) At least 30 days before a meeting of the Commission at
2 which the adoption, amendment or repeal of a regulation is
3 considered, notice of the proposed action must be:

- 4 (1) Posted on the Commission's Internet website;
5 (2) Mailed to every person who has filed a request therefor
6 with the Commission; and
7 (3) When the Commission deems advisable, mailed to any
8 person whom the Commission believes would be interested in the
9 proposed action, and published in such additional form and manner
10 as the Commission prescribes.

11 (b) The notice of proposed adoption, amendment or repeal must
12 include:

- 13 (1) A statement of the time, place and nature of the
14 proceedings for adoption, amendment or repeal;
15 (2) Reference to the authority under which the action is
16 proposed; and
17 (3) Either the express terms or an informative summary of
18 the proposed action.

19 (c) On the date and at the time and place designated in the
20 notice, the Commission shall afford any interested person or his or
21 her authorized representative, or both, the opportunity to present
22 statements, arguments or contentions in writing, with or without
23 opportunity to present them orally. The Commission shall consider
24 all relevant matter presented to it before adopting, amending or
25 repealing any regulation.

26 (d) Any interested person may file a petition with the
27 Commission requesting the adoption, amendment or repeal of a
28 regulation. The petition must state, clearly and concisely:

- 29 (1) The substance or nature of the regulation, amendment or
30 repeal requested;
31 (2) The reasons for the request; and
32 (3) Reference to the authority of the Commission to take the
33 action requested.

34 ➔ Upon receipt of the petition, the Commission shall within 45 days
35 deny the request in writing or schedule the matter for action
36 pursuant to this subsection.

37 (e) In emergencies, the Commission may summarily adopt,
38 amend or repeal any regulation if at the same time it files a finding
39 that such action is necessary for the immediate preservation of the
40 public peace, health, safety, morals, good order or general welfare,
41 together with a statement of the facts constituting the emergency.

42 2. In any hearing held pursuant to this section, the Commission
43 or its authorized representative may administer oaths or
44 affirmations, and may continue or postpone the hearing from time to
45 time and at such places as it prescribes.



1 3. The Commission may request the advice and assistance of
2 the Board in carrying out the provisions of this section.

3 **Sec. 36.** NRS 463.15995 is hereby amended to read as
4 follows:

5 463.15995 1. The Commission shall, with the advice and
6 assistance of the Board, adopt regulations authorizing a gaming
7 licensee to charge a fee for admission to an area in which gaming is
8 conducted in accordance with the provisions of this section.

9 2. The regulations adopted by the Commission pursuant to this
10 section must include, without limitation, provisions that:

11 (a) A gaming licensee may not charge a fee pursuant to this
12 section unless:

13 (1) The Chair of the Board grants administrative approval of
14 a request by a gaming licensee to charge such a fee; and

15 (2) Such administrative approval is not revoked or suspended
16 by the Chair of the Board.

17 (b) The Chair of the Board may, in the Chair's sole and absolute
18 discretion, grant, deny, limit, condition, restrict, revoke or suspend
19 any administrative approval of a request by a gaming licensee to
20 charge a fee pursuant to this section. In considering such a request,
21 the Chair of the Board shall consider all relevant factors, including,
22 without limitation:

23 (1) The size of the area;

24 (2) The amount of gaming that occurs within the area;

25 (3) The types and quantity of gaming offered;

26 (4) The business purpose of the area;

27 (5) Other amenities that are offered within the area;

28 (6) The amount of the costs and expenses incurred in
29 creating the area;

30 (7) The benefit to the State in having gaming conducted
31 within the area;

32 (8) The amount of the fee charged and whether the fee
33 charged is unreasonable as compared to the prevailing practice
34 within the industry; and

35 (9) Whether the area should more appropriately be treated as
36 a gaming salon.

37 ➤ The decision of the Chair of the Board regarding such a request
38 may be appealed by the gaming licensee to the Commission
39 pursuant to its regulations.

40 (c) A gaming licensee who charges a fee pursuant to this
41 section:

42 (1) Shall deposit with the Board and thereafter maintain a
43 refundable revolving fund in an amount determined by the
44 Commission to pay the expenses of admission of agents of the



1 Board or Commission to the area for which a fee for admission is
2 charged.

3 (2) Shall arrange for access by agents of the Board or
4 Commission to the area for which a fee for admission is charged.

5 (3) Shall, at all times that a fee is charged for admission to an
6 area pursuant to this section in an establishment for which a
7 nonrestricted license has been issued, provide for the public at least
8 the same number of gaming devices and games in a different area
9 for which no fee is charged for admission.

10 (4) Shall, at all times that a fee is charged for admission to an
11 area pursuant to this section in an establishment for which a
12 restricted license has been issued, post a sign of a suitable size in a
13 conspicuous place near the entrance of the establishment that
14 provides notice to patrons that they do not need to pay an admission
15 fee or cover charge to engage in gaming.

16 (5) Shall not use a fee charged for admission to create a
17 private gaming area that is not operated in association or
18 conjunction with a nongaming activity, attraction or facility.

19 (6) Shall not restrict admission to the area for which a fee for
20 admission is charged to a patron on the ground of race, color,
21 religion, national origin or disability of the patron, and any
22 unresolved dispute with a patron concerning restriction of admission
23 shall be deemed a dispute as to the manner in which a game is
24 conducted pursuant to NRS 463.362 and must be resolved pursuant
25 to NRS 463.362 to 463.366, inclusive.

26 (d) If a gaming licensee who holds a nonrestricted license
27 charges a fee pursuant to this section, unless the area for which a fee
28 for admission is charged is otherwise subject to the excise tax on
29 admission to any facility *at a licensed gaming establishment* in this
30 State where live entertainment is provided pursuant to ~~chapter~~
31 ~~368A of NRS,~~ *sections 2 to 33, inclusive, of this act,* the
32 determination of the amount of the liability of the gaming licensee
33 for that tax:

34 (1) Includes the fees charged for admission pursuant to this
35 section; and

36 (2) Does not include charges for food, *beverages and other*
37 refreshments ~~and merchandise~~ collected in the area for which
38 admission is charged.

39 **Sec. 37.** NRS 463.270 is hereby amended to read as follows:

40 463.270 1. Subject to the power of the Commission to deny,
41 revoke, suspend, condition or limit licenses, any state license in
42 force may be renewed by the Commission for the next succeeding
43 license period upon proper application for renewal and payment of
44 state license fees and taxes as required by law and the regulations of
45 the Commission.



1 2. All state gaming licenses are subject to renewal on the first
2 day of each January and all quarterly state gaming licenses on the
3 first day of each calendar quarter thereafter.

4 3. Application for renewal must be filed with the Commission,
5 and all state license fees and taxes required by law, including,
6 without limitation, NRS ~~368A.200,~~ 463.370, 463.373 to 463.3855,
7 inclusive, 463.660, 464.015 and 464.040, *and section 17 of this act*,
8 must be paid to the Board on or before the dates respectively
9 provided by law for each fee or tax.

10 4. Application for renewal of licenses for slot machines only
11 must be made by the operators of the locations where such machines
12 are situated.

13 5. Any person failing to pay any state license fees or taxes due
14 at the times respectively provided shall pay in addition to such
15 license fees or taxes a penalty of not less than \$50 or 25 percent of
16 the amount due, whichever is the greater, but not more than \$1,000
17 if the fees or taxes are less than 10 days late and in no case in excess
18 of \$5,000. The penalty must be collected as are other charges,
19 license fees and penalties under this chapter.

20 6. Any person who operates, carries on or exposes for play any
21 gambling game, gaming device or slot machine or who
22 manufactures, sells or distributes any gaming device, equipment,
23 material or machine used in gaming after the person's license
24 becomes subject to renewal, and thereafter fails to apply for renewal
25 as provided in this section, is guilty of a misdemeanor and, in
26 addition to the penalties provided by law, is liable to the State of
27 Nevada for all license fees, taxes and penalties which would have
28 been due upon application for renewal.

29 7. If any licensee or other person fails to renew his or her
30 license as provided in this section, the Commission may order the
31 immediate closure of all his or her gaming activity until the license
32 is renewed by the payment of the necessary fees, taxes, interest and
33 any penalties. Except for a license for which fees are based on the
34 gross revenue of the licensee, failure to renew a license within 30
35 days after the date required by this chapter shall be deemed a
36 surrender of the license.

37 8. The voluntary surrender of a license by a licensee does not
38 become effective until accepted in the manner provided in the
39 regulations of the Commission. The surrender of a license does not
40 relieve the former licensee of any penalties, fines, fees, taxes or
41 interest due.

42 **Sec. 38.** NRS 463.310 is hereby amended to read as follows:

43 463.310 1. The Board shall make appropriate investigations:



1 (a) To determine whether there has been any violation of this
2 chapter or chapter 462, 464, 465 or 466 of NRS *or sections 2 to 33,*
3 *inclusive, of this act* or any regulations adopted thereunder.

4 (b) To determine any facts, conditions, practices or matters
5 which it may deem necessary or proper to aid in the enforcement of
6 any such law or regulation.

7 (c) To aid in adopting regulations.

8 (d) To secure information as a basis for recommending
9 legislation relating to this chapter or chapter 462, 464, 465 or 466 of
10 NRS ~~H~~ *or sections 2 to 33, inclusive, of this act.*

11 (e) As directed by the Commission.

12 2. If, after any investigation the Board is satisfied that:

13 (a) A license, registration, finding of suitability, preliminary
14 finding of suitability, pari-mutuel license or prior approval by the
15 Commission of any transaction for which the approval was required
16 or permitted under the provisions of this chapter or chapter 462, 464
17 or 466 of NRS should be limited, conditioned, suspended or
18 revoked; or

19 (b) A person or entity which is licensed, registered, found
20 suitable or found preliminarily suitable pursuant to this chapter or
21 chapter 464 of NRS or which previously obtained approval for any
22 act or transaction for which Commission approval was required or
23 permitted under the provisions of this chapter or chapter 464 of NRS
24 should be fined,

25 ➔ the Board shall initiate a hearing before the Commission by filing
26 a complaint with the Commission in accordance with NRS 463.312
27 and transmit therewith a summary of evidence in its possession
28 bearing on the matter and the transcript of testimony at any
29 investigative hearing conducted by or on behalf of the Board.

30 3. Upon receipt of the complaint of the Board, the Commission
31 shall review the complaint and all matter presented in support
32 thereof, and shall conduct further proceedings in accordance with
33 NRS 463.3125 to 463.3145, inclusive.

34 4. After the provisions of subsections 1, 2 and 3 have been
35 complied with, the Commission may:

36 (a) Limit, condition, suspend or revoke the license of any
37 licensed gaming establishment or the individual license of any
38 licensee without affecting the license of the establishment;

39 (b) Limit, condition, suspend or revoke any registration, finding
40 of suitability, preliminary finding of suitability, pari-mutuel license,
41 or prior approval given or granted to any applicant by the
42 Commission;

43 (c) Order a licensed gaming establishment to keep an individual
44 licensee from the premises of the licensed gaming establishment or
45 not to pay the licensee any remuneration for services or any profits,



1 income or accruals on the investment of the licensee in the licensed
2 gaming establishment; and

3 (d) Fine each person or entity, or both, which is licensed,
4 registered, found suitable or found preliminarily suitable pursuant to
5 this chapter or chapter 464 of NRS or which previously obtained
6 approval for any act or transaction for which Commission approval
7 was required or permitted under the provisions of this chapter or
8 chapter 464 of NRS:

9 (1) Not less than \$25,000 and not more than \$250,000 for
10 each separate violation of any regulation adopted pursuant to NRS
11 463.125 which is the subject of an initial or subsequent complaint;
12 or

13 (2) Except as otherwise provided in subparagraph (1), not
14 more than \$100,000 for each separate violation of the provisions of
15 this chapter or chapter 464 or 465 of NRS *or sections 2 to 33,*
16 *inclusive, of this act* or of ~~the~~ any regulations ~~of the Commission~~
17 *adopted thereunder*, which is the subject of an initial complaint and
18 not more than \$250,000 for each separate violation of the provisions
19 of this chapter or chapter 464 or 465 of NRS *or sections 2 to 33,*
20 *inclusive, of this act* or of ~~the~~ any regulations ~~of the Commission~~
21 *adopted thereunder*, which is the subject of any subsequent
22 complaint.

23 ➤ All fines must be paid to the State Treasurer for deposit in the
24 State General Fund.

25 5. For the second violation of any provision of chapter 465 of
26 NRS by any licensed gaming establishment or individual licensee,
27 the Commission shall revoke the license of the establishment or
28 person.

29 6. If the Commission limits, conditions, suspends or revokes
30 any license or imposes a fine, or limits, conditions, suspends or
31 revokes any registration, finding of suitability, preliminary finding
32 of suitability, pari-mutuel license or prior approval, it shall issue its
33 written order therefor after causing to be prepared and filed its
34 written decision upon which the order is based.

35 7. Any such limitation, condition, revocation, suspension or
36 fine so made is effective until reversed upon judicial review, except
37 that the Commission may stay its order pending a rehearing or
38 judicial review upon such terms and conditions as it deems proper.

39 8. Judicial review of any such order or decision of the
40 Commission may be had in accordance with NRS 463.315 to
41 463.318, inclusive.

42 **Sec. 39.** NRS 463.408 is hereby amended to read as follows:

43 463.408 1. As used in this section, "holidays or special
44 events" refers to periods during which the influx of tourist activity



1 in this State or any area thereof may require additional or alternative
2 industry accommodation as determined by the Board.

3 2. Any licensee holding a valid license under this chapter may
4 apply to the Board, on application forms prescribed by the Board,
5 for a holiday or special event permit to:

6 (a) Increase the licensee's game operations during holidays or
7 special events; or

8 (b) Provide persons who are attending a special event with
9 gaming in an area of the licensee's establishment to which access by
10 the general public may be restricted.

11 3. The application must be filed with the Board at least 15 days
12 before the date of the holiday or special event.

13 4. If the Board approves the application, it shall issue to the
14 licensee a permit to operate presently existing games or any
15 additional games in designated areas of the licensee's establishment.
16 The number of additional games must not exceed 50 percent of the
17 number of games operated by the licensee at the time the application
18 is filed. The permit must state the period for which it is issued and
19 the number, if any, of additional games allowed. For purposes of
20 computation, any fractional game must be counted as one full game.
21 The licensee shall present any such permit on the demand of any
22 inspecting agent of the Board or Commission.

23 5. Before issuing any permit, the Board shall charge and collect
24 from the licensee a fee of \$14 per game per day for each day the
25 permit is effective. The fees are in lieu of the fees required under
26 NRS 463.380, 463.383 and 463.390.

27 6. The additional games allowed under a permit must not be
28 counted in computing the tax imposed by ~~NRS 368A.200~~ *section*
29 *17 of this act*.

30 7. If any such additional games are not removed at the time the
31 permit expires, the licensee is immediately subject to the fees
32 provided for in this chapter.

33 **Sec. 40.** NRS 233B.039 is hereby amended to read as follows:

34 233B.039 1. The following agencies are entirely exempted
35 from the requirements of this chapter:

36 (a) The Governor.

37 (b) Except as otherwise provided in NRS 209.221, the
38 Department of Corrections.

39 (c) The Nevada System of Higher Education.

40 (d) The Office of the Military.

41 (e) The State Gaming Control Board.

42 (f) Except as otherwise provided in NRS ~~368A.140~~ *and*
43 *463.765, and section 12 of this act*, the Nevada Gaming
44 Commission.



1 (g) The Division of Welfare and Supportive Services of the
2 Department of Health and Human Services.

3 (h) Except as otherwise provided in NRS 422.390, the Division
4 of Health Care Financing and Policy of the Department of Health
5 and Human Services.

6 (i) The State Board of Examiners acting pursuant to chapter 217
7 of NRS.

8 (j) Except as otherwise provided in NRS 533.365, the Office of
9 the State Engineer.

10 (k) The Division of Industrial Relations of the Department of
11 Business and Industry acting to enforce the provisions of
12 NRS 618.375.

13 (l) The Administrator of the Division of Industrial Relations of
14 the Department of Business and Industry in establishing and
15 adjusting the schedule of fees and charges for accident benefits
16 pursuant to subsection 2 of NRS 616C.260.

17 (m) The Board to Review Claims in adopting resolutions to
18 carry out its duties pursuant to NRS 590.830.

19 (n) The Silver State Health Insurance Exchange.

20 2. Except as otherwise provided in subsection 5 and NRS
21 391.323, the Department of Education, the Board of the Public
22 Employees' Benefits Program and the Commission on Professional
23 Standards in Education are subject to the provisions of this chapter
24 for the purpose of adopting regulations but not with respect to any
25 contested case.

26 3. The special provisions of:

27 (a) Chapter 612 of NRS for the distribution of regulations by
28 and the judicial review of decisions of the Employment Security
29 Division of the Department of Employment, Training and
30 Rehabilitation;

31 (b) Chapters 616A to 617, inclusive, of NRS for the
32 determination of contested claims;

33 (c) Chapter 91 of NRS for the judicial review of decisions of the
34 Administrator of the Securities Division of the Office of the
35 Secretary of State; and

36 (d) NRS 90.800 for the use of summary orders in contested
37 cases,

38 ▶ prevail over the general provisions of this chapter.

39 4. The provisions of NRS 233B.122, 233B.124, 233B.125 and
40 233B.126 do not apply to the Department of Health and Human
41 Services in the adjudication of contested cases involving the
42 issuance of letters of approval for health facilities and agencies.

43 5. The provisions of this chapter do not apply to:

44 (a) Any order for immediate action, including, but not limited to
45 to, quarantine and the treatment or cleansing of infected or infested



1 animals, objects or premises, made under the authority of the State
2 Board of Agriculture, the State Board of Health, or any other agency
3 of this State in the discharge of a responsibility for the preservation
4 of human or animal health or for insect or pest control;

5 (b) An extraordinary regulation of the State Board of Pharmacy
6 adopted pursuant to NRS 453.2184;

7 (c) A regulation adopted by the State Board of Education
8 pursuant to NRS 392.644 or 394.1694; or

9 (d) The judicial review of decisions of the Public Utilities
10 Commission of Nevada.

11 6. The State Board of Parole Commissioners is subject to the
12 provisions of this chapter for the purpose of adopting regulations but
13 not with respect to any contested case.

14 **Sec. 41.** NRS 239.010 is hereby amended to read as follows:

15 239.010 1. Except as otherwise provided in this section and
16 NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516,
17 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160,
18 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
19 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
20 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
21 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
22 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130,
23 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
24 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245,
25 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801,
26 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450,
27 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662,
28 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140,
29 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
30 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
31 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300,
32 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
33 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
34 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140,
35 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350,
36 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025,
37 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135,
38 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
39 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
40 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
41 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080,
42 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
43 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264,
44 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460,
45 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,



1 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,
2 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,
3 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
4 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
5 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
6 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
7 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
8 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
9 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
10 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
11 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964,
12 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
13 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
14 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265,
15 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133,
16 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
17 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185,
18 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089,
19 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400,
20 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
21 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625,
22 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225,
23 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320,
24 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065,
25 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133,
26 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
27 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190,
28 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280,
29 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
30 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117,
31 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196,
32 704B.320, 704B.325, 706.1725, 710.159, 711.600, **and section 16**
33 **of this act**, sections 35, 38 and 41 of chapter 478, Statutes of
34 Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013
35 and unless otherwise declared by law to be confidential, all public
36 books and public records of a governmental entity must be open at
37 all times during office hours to inspection by any person, and may
38 be fully copied or an abstract or memorandum may be prepared
39 from those public books and public records. Any such copies,
40 abstracts or memoranda may be used to supply the general public
41 with copies, abstracts or memoranda of the records or may be used
42 in any other way to the advantage of the governmental entity or of
43 the general public. This section does not supersede or in any manner
44 affect the federal laws governing copyrights or enlarge, diminish or



1 affect in any other manner the rights of a person in any written book
2 or record which is copyrighted pursuant to federal law.

3 2. A governmental entity may not reject a book or record
4 which is copyrighted solely because it is copyrighted.

5 3. A governmental entity that has legal custody or control of a
6 public book or record shall not deny a request made pursuant to
7 subsection 1 to inspect or copy or receive a copy of a public book or
8 record on the basis that the requested public book or record contains
9 information that is confidential if the governmental entity can
10 redact, delete, conceal or separate the confidential information from
11 the information included in the public book or record that is not
12 otherwise confidential.

13 4. A person may request a copy of a public record in any
14 medium in which the public record is readily available. An officer,
15 employee or agent of a governmental entity who has legal custody
16 or control of a public record:

17 (a) Shall not refuse to provide a copy of that public record in a
18 readily available medium because the officer, employee or agent has
19 already prepared or would prefer to provide the copy in a different
20 medium.

21 (b) Except as otherwise provided in NRS 239.030, shall, upon
22 request, prepare the copy of the public record and shall not require
23 the person who has requested the copy to prepare the copy himself
24 or herself.

25 **Sec. 42.** NRS 368A.020 is hereby amended to read as follows:

26 368A.020 "Admission charge" means the total amount,
27 expressed in terms of money, of consideration paid for the right or
28 privilege to have access to a facility where live entertainment is
29 provided. The term includes, without limitation, an entertainment
30 fee, a cover charge, a table reservation fee, or a required minimum
31 purchase of food, *beverages or other* refreshments . ~~for~~
32 ~~merchandise.~~

33 **Sec. 43.** NRS 368A.053 is hereby amended to read as follows:

34 368A.053 "Casual assemblage" includes, without limitation:

35 1. Participants in conventions, business meetings or
36 tournaments ~~governed by chapter 463 of NRS,~~ and their guests; or

37 2. Persons celebrating a friend's or family member's wedding,
38 birthday, anniversary, graduation, religious ceremony or similar
39 occasion that is generally recognized as customary for celebration.

40 **Sec. 44.** NRS 368A.060 is hereby amended to read as follows:

41 368A.060 ~~It~~ "Facility" means ~~it~~

42 ~~—(a) Any~~ *any* area or premises where live entertainment is
43 provided and for which consideration is collected for the right or
44 privilege of entering that area or those premises if the live
45 entertainment is provided at ~~it~~



- 1 ~~— (1) An~~ *an* establishment that is not a licensed gaming
2 establishment. ~~}; or~~
- 3 ~~— (2) A licensed gaming establishment that is licensed for less~~
4 ~~than 51 slot machines, less than 6 games, or any combination of slot~~
5 ~~machines and games within those respective limits.~~
- 6 ~~— (b) Any area or premises where live entertainment is provided if~~
7 ~~the live entertainment is provided at any other licensed gaming~~
8 ~~establishment.~~
- 9 ~~— 2. “Facility” encompasses, if live entertainment is provided at a~~
10 ~~licensed gaming establishment that is licensed for:~~
- 11 ~~— (a) Less than 51 slot machines, less than 6 games, or any~~
12 ~~combination of slot machines and games within those respective~~
13 ~~limits, any area or premises where the live entertainment is provided~~
14 ~~and for which consideration is collected, from one or more patrons,~~
15 ~~for the right or privilege of entering that area or those premises,~~
16 ~~even if additional consideration is collected for the right or privilege~~
17 ~~of entering a smaller venue within that area or those premises; or~~
- 18 ~~— (b) At least 51 slot machines or at least 6 games, any designated~~
19 ~~area on the premises of the licensed gaming establishment within~~
20 ~~which the live entertainment is provided.]~~

21 **Sec. 45.** NRS 368A.090 is hereby amended to read as follows:

22 368A.090 1. “Live entertainment” means any activity
23 provided for pleasure, enjoyment, recreation, relaxation, diversion
24 or other similar purpose by a person or persons who are physically
25 present when providing that activity to a patron or group of patrons
26 who are physically present.

27 2. The term:

28 (a) Includes, without limitation, any one or more of the
29 following activities:

30 (1) Music or vocals provided by one or more professional or
31 amateur musicians or vocalists;

32 (2) Dancing performed by one or more professional or
33 amateur dancers or performers;

34 (3) Acting or drama provided by one or more professional or
35 amateur actors or players;

36 (4) Acrobatics or stunts provided by one or more
37 professional or amateur acrobats, performers or stunt persons;

38 (5) Animal stunts or performances induced by one or more
39 animal handlers or trainers, except as otherwise provided in
40 subparagraph ~~[(7)]~~ (5) of paragraph (b);

41 (6) Athletic or sporting contests, events or exhibitions
42 provided by one or more professional or amateur athletes, sportsmen
43 or sportswomen;



1 (7) Comedy or magic provided by one or more professional
2 or amateur comedians, magicians, illusionists, entertainers or
3 performers;

4 (8) A show or production involving any combination of the
5 activities described in subparagraphs (1) to (7), inclusive; and

6 (9) A performance involving one or more of the activities
7 described in this paragraph by a disc jockey who presents recorded
8 music. For the purposes of this subparagraph, a disc jockey shall not
9 be deemed to have engaged in a performance involving one or more
10 of the activities described in this paragraph if the disc jockey
11 generally limits his or her interaction with patrons to introducing to
12 recorded music, making announcements of general interest to
13 patrons, and explaining, encouraging or directing participatory
14 activities between patrons.

15 (b) Excludes, without limitation, any one or more of the
16 following activities:

17 (1) Instrumental or vocal music, which may or may not be
18 supplemented with commentary by the musicians, in a restaurant,
19 lounge or similar area if such music does not routinely rise to the
20 volume that interferes with casual conversation and if such music
21 would not generally cause patrons to watch as well as listen;

22 (2) Occasional performances by employees whose primary
23 job function is that of preparing, selling or serving food,
24 refreshments or beverages to patrons, if such performances are not
25 advertised as entertainment to the public;

26 ~~(3) Performances by performers of any type if the~~
27 ~~performance occurs in a licensed gaming establishment other than a~~
28 ~~licensed gaming establishment that is licensed for less than 51 slot~~
29 ~~machines, less than 6 games, or any combination of slot machines~~
30 ~~and games within those respective limits, as long as the performers~~
31 ~~stroll continuously throughout the facility;~~

32 ~~— (4) Performances in areas other than in nightclubs, lounges,~~
33 ~~restaurants or showrooms, if the performances occur in a licensed~~
34 ~~gaming establishment other than a licensed gaming establishment~~
35 ~~that is licensed for less than 51 slot machines, less than 6 games, or~~
36 ~~any combination of slot machines and games within those respective~~
37 ~~limits, which enhance the theme of the establishment or attract~~
38 ~~patrons to the areas of the performances, as long as any seating~~
39 ~~provided in the immediate area of the performers is limited to~~
40 ~~seating at slot machines or gaming tables;~~

41 ~~— (5) Television, radio, closed circuit or Internet broadcasts of~~
42 ~~live entertainment;~~

43 ~~(6) (4) Entertainment provided by a patron or patrons,~~
44 including, without limitation, singing by patrons or dancing by or
45 between patrons;



1 ~~{(7)}~~ (5) Animal behaviors induced by animal trainers or
2 caretakers primarily for the purpose of education and scientific
3 research; and

4 ~~{(8)}~~ (6) An occasional activity, including, without
5 limitation, dancing, that:

6 (I) Does not constitute a performance;

7 (II) Is not advertised as entertainment to the public;

8 (III) Primarily serves to provide ambience to the facility;

9 and

10 (IV) Is conducted by an employee whose primary job
11 function is not that of an entertainer.

12 **Sec. 46.** NRS 368A.110 is hereby amended to read as follows:

13 368A.110 "Taxpayer" means:

14 1. ~~If live entertainment that is taxable under this chapter is~~
15 ~~provided at a licensed gaming establishment, the person licensed to~~
16 ~~conduct gaming at that establishment.~~

17 ~~—2.} Except as otherwise provided in subsection {3, if live~~
18 ~~entertainment that is taxable under this chapter is not provided at a~~
19 ~~licensed gaming establishment,} 2, the owner or operator of the~~
20 facility where the live entertainment is provided.

21 ~~{3.} 2.~~ If live entertainment that is taxable under this chapter is
22 provided at a publicly owned facility or on public land, the person
23 who collects the taxable receipts.

24 **Sec. 47.** NRS 368A.140 is hereby amended to read as follows:

25 368A.140 1. ~~{The Board shall collect the tax imposed by this~~
26 ~~chapter from taxpayers who are licensed gaming establishments.~~
27 ~~The Commission shall adopt such regulations as are necessary to~~
28 ~~carry out the provisions of this subsection. The regulations must be~~
29 ~~adopted in accordance with the provisions of chapter 233B of NRS~~
30 ~~and must be codified in the Nevada Administrative Code.~~

31 ~~—2.} The Department shall:~~

32 (a) Collect the tax imposed by this chapter ; ~~{from all other~~
33 ~~taxpayers;} and~~

34 (b) Adopt such regulations as are necessary to carry out the
35 provisions of paragraph (a).

36 ~~{3.} 2.~~ For the purposes of {:

37 ~~—(a) Subsection 1, the provisions of chapter 463 of NRS relating~~
38 ~~to the payment, collection, administration and enforcement of~~
39 ~~gaming license fees and taxes, including, without limitation, any~~
40 ~~provisions relating to the imposition of penalties and interest, shall~~
41 ~~be deemed to apply to the payment, collection, administration and~~
42 ~~enforcement of the taxes imposed by this chapter to the extent that~~
43 ~~those provisions do not conflict with the provisions of this chapter.~~

44 ~~—(b) Subsection 2.} subsection 1,~~ the provisions of chapter 360 of
45 NRS relating to the payment, collection, administration and



1 enforcement of taxes, including, without limitation, any provisions
2 relating to the imposition of penalties and interest, shall be deemed
3 to apply to the payment, collection, administration and enforcement
4 of the taxes imposed by this chapter to the extent that those
5 provisions do not conflict with the provisions of this chapter.

6 ~~{4}~~ **3.** To ensure that the tax imposed by NRS 368A.200 *and*
7 *section 17 of this act* is collected fairly and equitably, the
8 ~~{Commission, the Board and the}~~ Department shall:

9 (a) ~~{Jointly, coordinate}~~ *Coordinate with the Nevada Gaming*
10 *Commission and the State Gaming Control Board concerning* the
11 administration and collection of ~~{that}~~ *the* tax and the regulation of
12 taxpayers who are liable for the payment of the tax ~~{}~~ *imposed*
13 *pursuant to those sections.*

14 (b) Upon request, assist the other agencies in the collection of
15 ~~{that}~~ *the* tax ~~{}~~ *imposed pursuant to those sections.*

16 **Sec. 48.** NRS 368A.150 is hereby amended to read as follows:
17 368A.150 1. If ~~{}~~

18 ~~—(a) The Board determines that a taxpayer who is a licensed~~
19 ~~gaming establishment is taking any action with intent to defraud the~~
20 ~~State or to evade the payment of the tax or any part of the tax~~
21 ~~imposed by this chapter, the Board shall establish an amount upon~~
22 ~~which the tax imposed by this chapter must be based.~~

23 ~~—(b) The~~ *the* Department determines that a taxpayer ~~{who is not~~
24 ~~a licensed gaming establishment}~~ is taking any action with intent to
25 defraud the State or to evade the payment of the tax or any part of
26 the tax imposed by this chapter, the Department shall establish an
27 amount upon which the tax imposed by this chapter must be based.

28 2. The amount established by ~~{the Board or}~~ the Department
29 pursuant to subsection 1 must be based upon the tax liability of
30 business entities that are deemed comparable by ~~{the Board or}~~ the
31 Department to that of the taxpayer.

32 **Sec. 49.** NRS 368A.160 is hereby amended to read as follows:
33 368A.160 1. Each person responsible for maintaining the

34 records of a taxpayer shall:
35 (a) Keep such records as may be necessary to determine the
36 amount of the liability of the taxpayer pursuant to the provisions of
37 this chapter;

38 (b) Preserve those records for ~~{}~~

39 ~~—(1) At least 5 years if the taxpayer is a licensed gaming~~
40 ~~establishment or until any litigation or prosecution pursuant to this~~
41 ~~chapter is finally determined, whichever is longer; or~~

42 ~~—(2) At}~~ *at* least 4 years ~~{if the taxpayer is not a licensed~~
43 ~~gaming establishment}~~ or until any litigation or prosecution pursuant
44 to this chapter is finally determined, whichever is longer; and



1 (c) Make the records available for inspection by ~~{the Board or}~~
2 the Department upon demand at reasonable times during regular
3 business hours.

4 2. The ~~{Commission and the}~~ Department may adopt
5 regulations pursuant to NRS 368A.140 specifying the types of
6 records which must be kept to determine the amount of the liability
7 of a taxpayer for the tax imposed by this chapter.

8 3. Any agreement that is entered into, modified or extended
9 after January 1, 2004, for the lease, assignment or transfer of any
10 premises upon which any activity subject to the tax imposed by this
11 chapter is, or thereafter may be, conducted shall be deemed to
12 include a provision that the taxpayer required to pay the tax must be
13 allowed access to, upon demand, all books, records and financial
14 papers held by the lessee, assignee or transferee which must be kept
15 pursuant to this section. Any person conducting activities subject to
16 the tax imposed by NRS 368A.200 who fails to maintain or disclose
17 his or her records pursuant to this subsection is liable to the taxpayer
18 for any penalty paid by the taxpayer for the late payment or
19 nonpayment of the tax caused by the failure to maintain or disclose
20 records.

21 4. A person who violates any provision of this section is guilty
22 of a misdemeanor.

23 **Sec. 50.** NRS 368A.170 is hereby amended to read as follows:

24 368A.170 1. To verify the accuracy of any report filed or, if
25 no report is filed by a taxpayer, to determine the amount of tax
26 required to be paid ~~†~~

27 ~~—(a) The Board, or any person authorized in writing by the Board,~~
28 ~~may examine the books, papers and records of any licensed gaming~~
29 ~~establishment that may be liable for the tax imposed by this chapter.~~

30 ~~—(b) The~~ *the* Department, or any person authorized in writing
31 by the Department, may examine the books, papers and records of
32 any ~~{other}~~ person who may be liable for the tax imposed by this
33 chapter.

34 2. Any person who may be liable for the tax imposed by this
35 chapter and who keeps outside of this State any books, papers and
36 records relating thereto shall pay to ~~{the Board or}~~ the Department
37 an amount equal to the allowance provided for state officers and
38 employees generally while traveling outside of the State for each
39 day or fraction thereof during which an employee of ~~{the Board or}~~
40 the Department is engaged in examining those documents, plus any
41 other actual expenses incurred by the employee while the employee
42 is absent from his or her regular place of employment to examine
43 those documents.



1 **Sec. 51.** NRS 368A.180 is hereby amended to read as follows:
2 368A.180 1. Except as otherwise provided in this section and
3 NRS 239.0115 and 360.250, the records and files of ~~{the Board and}~~
4 the Department concerning the administration of this chapter are
5 confidential and privileged. The ~~{Board, the}~~ Department and any
6 employee of ~~{the Board or}~~ the Department engaged in the
7 administration of this chapter or charged with the custody of any
8 such records or files shall not disclose any information obtained
9 from the records or files of ~~{the Board or}~~ the Department or from
10 any examination, investigation or hearing authorized by the
11 provisions of this chapter. The ~~{Board, the}~~ Department and any
12 employee of ~~{the Board or}~~ the Department may not be required to
13 produce any of the records, files and information for the inspection
14 of any person or for use in any action or proceeding.

15 2. The records and files of ~~{the Board and}~~ the Department
16 concerning the administration of this chapter are not confidential
17 and privileged in the following cases:

18 (a) Testimony by a member or employee of ~~{the Board or}~~ the
19 Department and production of records, files and information on
20 behalf of ~~{the Board or}~~ the Department or a taxpayer in any action
21 or proceeding pursuant to the provisions of this chapter, if that
22 testimony or the records, files or information, or the facts shown
23 thereby, are directly involved in the action or proceeding.

24 (b) Delivery to a taxpayer or his or her authorized representative
25 of a copy of any report or other document filed by the taxpayer
26 pursuant to this chapter.

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

29 (d) Exchanges of information with the Internal Revenue Service
30 in accordance with compacts made and provided for in such cases.

31 (e) Disclosure in confidence to the Governor or his or her agent
32 in the exercise of the Governor's general supervisory powers, or to
33 any person authorized to audit the accounts of ~~{the Board or}~~ the
34 Department in pursuance of an audit, or to the Attorney General or
35 other legal representative of the State in connection with an action
36 or proceeding pursuant to this chapter, or to any agency of this or
37 any other state charged with the administration or enforcement of
38 laws relating to taxation.

39 **Sec. 52.** NRS 368A.200 is hereby amended to read as follows:

40 368A.200 1. Except as otherwise provided in this section,
41 there is hereby imposed an excise tax on admission to any facility in
42 this State where live entertainment is provided. If the live
43 entertainment is provided at a facility with a maximum occupancy
44 of:



1 (a) Less than 7,500 persons, the rate of the tax is ~~10~~ 8 percent
2 of the admission charge to the facility plus ~~10~~ 8 percent of any
3 amounts paid for food, *beverages and other* refreshments ~~and~~
4 ~~merchandise~~ purchased at the facility ~~or for consumption in the~~
5 *facility.*

6 (b) At least 7,500 persons, the rate of the tax is ~~15~~ 8 percent of
7 the admission charge to the facility.

8 2. Amounts paid for:

9 (a) Admission charges collected and retained by a nonprofit
10 religious, charitable, fraternal or other organization that qualifies as
11 a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a
12 nonprofit corporation organized or existing under the provisions of
13 chapter 82 of NRS, are not taxable pursuant to this section.

14 (b) Gratuities directly or indirectly remitted to persons employed
15 at a facility where live entertainment is provided or for service
16 charges, including those imposed in connection with the use of
17 credit cards or debit cards, which are collected and retained by
18 persons other than the taxpayer are not taxable pursuant to this
19 section.

20 3. A business entity that collects any amount that is taxable
21 pursuant to subsection 1 is liable for the tax imposed, but is entitled
22 to collect reimbursement from any person paying that amount.

23 4. Any ticket for live entertainment must state whether the tax
24 imposed by this section is included in the price of the ticket. If the
25 ticket does not include such a statement, the taxpayer shall pay the
26 tax based on the face amount of the ticket.

27 5. The tax imposed by subsection 1 does not apply to:

28 (a) Live entertainment that this State is prohibited from taxing
29 under the Constitution, laws or treaties of the United States or the
30 Nevada Constitution.

31 (b) Live entertainment that is provided by or entirely for the
32 benefit of a nonprofit religious, charitable, fraternal or other
33 organization that qualifies as a tax-exempt organization pursuant to
34 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing
35 under the provisions of chapter 82 of NRS.

36 (c) Any boxing contest or exhibition governed by the provisions
37 of chapter 467 of NRS.

38 (d) Live entertainment that is not provided at a ~~licensed gaming~~
39 ~~establishment if the~~ facility ~~in which the live entertainment is~~
40 ~~provided has~~ *with* a maximum occupancy of less than 200 persons.

41 ~~(e) Live entertainment that is provided at a licensed gaming~~
42 ~~establishment that is licensed for less than 51 slot machines, less~~
43 ~~than 6 games, or any combination of slot machines and games~~
44 ~~within those respective limits, if the facility in which the live~~



1 ~~entertainment is provided has a maximum occupancy of less than~~
2 ~~200 persons.~~

3 ~~(f)~~ Merchandise sold outside the facility in which the live
4 entertainment is provided, unless the purchase of the merchandise
5 entitles the purchaser to admission to the entertainment.

6 ~~(g)~~ (f) Live entertainment that is provided at a trade show.

7 ~~(h)~~ (g) Music performed by musicians who move constantly
8 through the audience if no other form of live entertainment is
9 afforded to the patrons.

10 ~~(i) Live entertainment that is provided at a licensed gaming~~
11 ~~establishment at private meetings or dinners attended by members of~~
12 ~~a particular organization or by a casual assemblage if the purpose of~~
13 ~~the event is not primarily for entertainment.~~

14 ~~(j)~~ (h) Live entertainment that is provided in the common area
15 of a shopping mall, unless the entertainment is provided in a facility
16 located within the mall.

17 ~~(k)~~ (i) Food and product demonstrations provided at a
18 shopping mall, a craft show or an establishment that sells grocery
19 products, housewares, hardware or other supplies for the home.

20 ~~(l)~~ (j) Live entertainment that is incidental to an amusement
21 ride, a motion simulator or a similar digital, electronic, mechanical
22 or electromechanical attraction. For the purposes of this paragraph,
23 live entertainment shall be deemed to be incidental to an amusement
24 ride, a motion simulator or a similar digital, electronic, mechanical
25 or electromechanical attraction if the live entertainment is:

26 (1) Not the predominant element of the attraction; and

27 (2) Not the primary purpose for which the public rides,
28 attends or otherwise participates in the attraction.

29 ~~(m)~~ (k) Live entertainment that is provided to the public in an
30 outdoor area, without any requirements for the payment of an
31 admission charge or the purchase of any food, *beverages or other*
32 refreshments. ~~for merchandise.~~

33 ~~(n)~~ (l) An outdoor concert. ~~, unless the concert is provided on~~
34 ~~the premises of a licensed gaming establishment.~~

35 ~~(o)~~ (m) Beginning July 1, 2007, race events scheduled at a race
36 track in this State as a part of the National Association for Stock Car
37 Auto Racing Nextel Cup Series, or its successor racing series, and
38 all races associated therewith.

39 ~~(p)~~ (n) Beginning July 1, 2007, a baseball contest, event or
40 exhibition conducted by professional minor league baseball players
41 at a stadium in this State.

42 ~~(q)~~ (o) Live entertainment provided in a restaurant which is
43 incidental to any other activities conducted in the restaurant or
44 which only serves as ambience so long as there is no charge to the
45 patrons for that entertainment.



1 6. ~~The Commission may adopt regulations establishing a~~
2 ~~procedure whereby a taxpayer that is a licensed gaming~~
3 ~~establishment may request an exemption from the tax pursuant to~~
4 ~~paragraph (q) of subsection 5. The regulations must require the~~
5 ~~taxpayer to seek an administrative ruling from the Chair of~~
6 ~~the Board, provide a procedure for appealing that ruling to the~~
7 ~~Commission and further describe the forms of incidental or ambient~~
8 ~~entertainment exempted pursuant to that paragraph.~~

9 ~~7.]~~ As used in this section, “maximum occupancy” means, in
10 the following order of priority:

11 (a) The maximum occupancy of the facility in which live
12 entertainment is provided, as determined by the State Fire Marshal
13 or the local governmental agency that has the authority to determine
14 the maximum occupancy of the facility;

15 (b) If such a maximum occupancy has not been determined, the
16 maximum occupancy of the facility designated in any permit
17 required to be obtained in order to provide the live entertainment; or

18 (c) If such a permit does not designate the maximum occupancy
19 of the facility, the actual seating capacity of the facility in which the
20 live entertainment is provided.

21 **Sec. 53.** NRS 368A.220 is hereby amended to read as follows:

22 368A.220 1. Except as otherwise provided in this section ~~1:~~

23 ~~(a) Each taxpayer who is a licensed gaming establishment shall~~
24 ~~file with the Board, on or before the 15th day of each month, a~~
25 ~~report showing the amount of all taxable receipts for the preceding~~
26 ~~month or the month in which the taxable events occurred. The report~~
27 ~~must be in a form prescribed by the Board.~~

28 ~~(b) All other taxpayers]~~ , *each taxpayer* shall file with the
29 Department, on or before the last day of each month, a report
30 showing the amount of all taxable receipts for the preceding month.
31 The report must be in a form prescribed by the Department.

32 2. The ~~Board or the~~ Department, if it deems it necessary to
33 ensure payment to or facilitate the collection by the State of the tax
34 imposed by NRS 368A.200, may require reports to be filed not later
35 than 10 days after the end of each calendar quarter.

36 3. Each report required to be filed by this section must be
37 accompanied by the amount of the tax that is due for the period
38 covered by the report.

39 4. The ~~Board and the~~ Department shall deposit all taxes,
40 interest and penalties it receives pursuant to this chapter in the State
41 Treasury for credit to the State General Fund.

42 **Sec. 54.** NRS 368A.230 is hereby amended to read as follows:

43 368A.230 Upon written application made before the date on
44 which payment must be made, ~~the Board or]~~ the Department may,
45 for good cause, extend by 30 days the time within which a taxpayer



1 is required to pay the tax imposed by this chapter. If the tax is paid
2 during the period of extension, no penalty or late charge may be
3 imposed for failure to pay at the time required, but the taxpayer shall
4 pay interest at the rate of 0.75 percent per month from the date on
5 which the amount would have been due without the extension until
6 the date of payment, unless otherwise provided in NRS 360.232
7 or 360.320.

8 **Sec. 55.** NRS 368A.240 is hereby amended to read as follows:
9 368A.240 1. If a taxpayer:

10 (a) Is unable to collect all or part of an admission charge or
11 charges for food, *beverages and other* refreshments ~~and~~
12 ~~merchandise~~ which were included in the taxable receipts reported
13 for a previous reporting period; and

14 (b) Has taken a deduction on his or her federal income tax return
15 pursuant to 26 U.S.C. § 166(a) for the amount which the taxpayer is
16 unable to collect,

17 ➤ the taxpayer is entitled to receive a credit for the amount of tax
18 paid on account of that uncollected amount. The credit may be used
19 against the amount of tax that the taxpayer is subsequently required
20 to pay pursuant to this chapter.

21 2. If the Internal Revenue Service disallows a deduction
22 described in paragraph (b) of subsection 1 and the taxpayer claimed
23 a credit on a return for a previous reporting period pursuant to
24 subsection 1, the taxpayer shall include the amount of that credit in
25 the amount of taxes reported pursuant to this chapter in the first
26 return filed with ~~the Board or~~ the Department after the deduction is
27 disallowed.

28 3. If a taxpayer collects all or part of an admission charge or
29 charges for food, *beverages and other* refreshments ~~and~~
30 ~~merchandise~~ for which the taxpayer claimed a credit on a return for
31 a previous reporting period pursuant to subsection 2, the taxpayer
32 shall include:

33 (a) The amount collected in the charges reported pursuant to
34 paragraph (a) of subsection 1; and

35 (b) The tax payable on the amount collected in the amount of
36 taxes reported,

37 ➤ in the first return filed with ~~the Board or~~ the Department after
38 that collection.

39 4. Except as otherwise provided in subsection 5, upon
40 determining that a taxpayer has filed a return which contains one or
41 more violations of the provisions of this section, ~~the Board or~~ the
42 Department shall:

43 (a) For the first return of any taxpayer that contains one or more
44 violations, issue a letter of warning to the taxpayer which provides
45 an explanation of the violation or violations contained in the return.



1 (b) For the first or second return, other than a return described in
2 paragraph (a), in any calendar year which contains one or more
3 violations, assess a penalty equal to the amount of the tax which was
4 not reported.

5 (c) For the third and each subsequent return in any calendar year
6 which contains one or more violations, assess a penalty of three
7 times the amount of the tax which was not reported.

8 5. For the purposes of subsection 4, if the first violation of this
9 section by any taxpayer was determined by ~~{the Board or}~~ the
10 Department through an audit which covered more than one return of
11 the taxpayer, ~~{the Board or}~~ the Department shall treat all returns
12 which were determined through the same audit to contain a violation
13 or violations in the manner provided in paragraph (a) of
14 subsection 4.

15 **Sec. 56.** NRS 368A.260 is hereby amended to read as follows:
16 368A.260 1. Except as otherwise provided in NRS 360.235
17 and 360.395:

18 (a) No refund may be allowed unless a claim for it is filed with
19 ~~†~~

20 ~~— (1) The Board, if the taxpayer is a licensed gaming~~
21 ~~establishment; or~~

22 ~~— (2) The† the~~ Department ~~†, if the taxpayer is not a licensed~~
23 ~~gaming establishment.~~

24 ~~→ A claim must be filed†~~ within 3 years after the last day of the
25 month following the reporting period for which the overpayment
26 was made.

27 (b) No credit may be allowed after the expiration of the period
28 specified for filing claims for refund unless a claim for credit is filed
29 with ~~{the Board or}~~ the Department within that period.

30 2. Each claim must be in writing and must state the specific
31 grounds upon which the claim is founded.

32 3. Failure to file a claim within the time prescribed in this
33 chapter constitutes a waiver of any demand against the State on
34 account of overpayment.

35 4. Within 30 days after rejecting any claim in whole or in part,
36 ~~{the Board or}~~ the Department shall serve notice of its action on the
37 claimant in the manner prescribed for service of notice of a
38 deficiency determination.

39 **Sec. 57.** NRS 368A.270 is hereby amended to read as follows:
40 368A.270 1. Except as otherwise provided in this section and
41 NRS 360.320, interest must be paid upon any overpayment of any
42 amount of the tax imposed by this chapter in accordance with the
43 provisions of NRS 368A.140.



1 2. ~~If the overpayment is paid to the Department, the~~ *The*
2 interest must be paid at the rate set forth in, and in accordance with
3 the provisions of, NRS 360.2937.

4 3. If ~~the Board or~~ the Department determines that any
5 overpayment has been made intentionally or by reason of
6 carelessness, ~~the Board or~~ the Department shall not allow any
7 interest on the overpayment.

8 **Sec. 58.** NRS 368A.290 is hereby amended to read as follows:

9 368A.290 1. Within 90 days after a final decision upon a
10 claim filed pursuant to this chapter is rendered by ~~the~~

11 ~~(a) The Commission, the claimant may bring an action against~~
12 ~~the Board on the grounds set forth in the claim.~~

13 ~~(b) The~~ *the* Nevada Tax Commission, the claimant may bring
14 an action against the Department on the grounds set forth in the
15 claim.

16 2. An action brought pursuant to subsection 1 must be brought
17 in a court of competent jurisdiction in Carson City, the county of
18 this State where the claimant resides or maintains his or her
19 principal place of business or a county in which any relevant
20 proceedings were conducted by ~~the Board or~~ the Department, for
21 the recovery of the whole or any part of the amount with respect to
22 which the claim has been disallowed.

23 3. Failure to bring an action within the time specified
24 constitutes a waiver of any demand against the State on account of
25 alleged overpayments.

26 **Sec. 59.** NRS 368A.300 is hereby amended to read as follows:

27 368A.300 1. ~~If the Board fails to mail notice of action on a~~
28 ~~claim within 6 months after the claim is filed, the claimant may~~
29 ~~consider the claim disallowed and file an appeal with the~~
30 ~~Commission within 30 days after the last day of the 6-month period.~~

31 ~~2.~~ If the Department fails to mail notice of action on a claim
32 within 6 months after the claim is filed, the claimant may consider
33 the claim disallowed and file an appeal with the Nevada Tax
34 Commission within 30 days after the last day of the 6-month period.

35 ~~3.~~ 2. If the claimant is aggrieved by the decision of ~~the~~

36 ~~(a) The Commission rendered on appeal, the claimant may,~~
37 ~~within 90 days after the decision is rendered, bring an action against~~
38 ~~the Board on the grounds set forth in the claim for the recovery of~~
39 ~~the whole or any part of the amount claimed as an overpayment.~~

40 ~~(b) The~~ *the* Nevada Tax Commission rendered on appeal, the
41 claimant may, within 90 days after the decision is rendered, bring an
42 action against the Department on the grounds set forth in the claim
43 for the recovery of the whole or any part of the amount claimed as
44 an overpayment.



1 ~~4.~~ 3. If judgment is rendered for the plaintiff, the amount of
2 the judgment must first be credited towards any tax due from the
3 plaintiff.

4 ~~5.~~ 4. The balance of the judgment must be refunded to the
5 plaintiff.

6 **Sec. 60.** NRS 368A.310 is hereby amended to read as follows:

7 368A.310 In any judgment, interest must be allowed at the rate
8 of 3 percent per annum upon the amount found to have been
9 illegally collected from the date of payment of the amount to the
10 date of allowance of credit on account of the judgment, or to a date
11 preceding the date of the refund warrant by not more than 30 days.
12 The date must be determined by ~~the Board or~~ the Department.

13 **Sec. 61.** NRS 368A.320 is hereby amended to read as follows:

14 368A.320 A judgment may not be rendered in favor of the
15 plaintiff in any action brought against ~~the Board or~~ the Department
16 to recover any amount paid when the action is brought by or in the
17 name of an assignee of the person paying the amount or by any
18 person other than the person who paid the amount.

19 **Sec. 62.** NRS 368A.330 is hereby amended to read as follows:

20 368A.330 1. The ~~Board or the~~ Department may recover a
21 refund or any part thereof which is erroneously made and any credit
22 or part thereof which is erroneously allowed in an action brought in
23 a court of competent jurisdiction in Carson City or Clark County in
24 the name of the State of Nevada.

25 2. The action must be tried in Carson City or Clark County
26 unless the court, with the consent of the Attorney General, orders a
27 change of place of trial.

28 3. The Attorney General shall prosecute the action, and the
29 provisions of NRS, the Nevada Rules of Civil Procedure and the
30 Nevada Rules of Appellate Procedure relating to service of
31 summons, pleadings, proofs, trials and appeals are applicable to the
32 proceedings.

33 **Sec. 63.** NRS 368A.340 is hereby amended to read as follows:

34 368A.340 1. If any amount in excess of \$25 has been
35 illegally determined, either by the person filing the return or by ~~the~~
36 ~~Board or~~ the Department, ~~the Board or~~ the Department shall
37 certify this fact to the State Board of Examiners, and the latter shall
38 authorize the cancellation of the amount upon the records of ~~the~~
39 ~~Board or~~ the Department.

40 2. If an amount not exceeding \$25 has been illegally
41 determined, either by the person filing a return or by ~~the Board or~~
42 the Department, ~~the Board or~~ the Department, without certifying
43 this fact to the State Board of Examiners, shall authorize the
44 cancellation of the amount upon the records of ~~the Board or~~ the
45 Department.



1 **Sec. 64.** NRS 368A.370 is hereby amended to read as follows:
2 368A.370 The remedies of the State provided for in this
3 chapter are cumulative, and no action taken by ~~the Commission, the~~
4 ~~Board,~~ the Department or the Attorney General constitutes an
5 election by the State to pursue any remedy to the exclusion of any
6 other remedy for which provision is made in this chapter.

7 **Sec. 65.** NRS 368A.030, 368A.055, 368A.070, 368A.100 and
8 368A.360 are hereby repealed.

9 **Sec. 66.** This act becomes effective:

10 1. Upon passage and approval for the purpose of adopting any
11 regulations and performing any other preparatory administrative
12 tasks necessary to carry out the provisions of this act; and

13 2. On January 1, 2016, for all other purposes.

LEADLINES OF REPEALED SECTIONS

368A.030 “Board” defined.

368A.055 “Commission” defined.

368A.070 “Game” defined.

368A.100 “Slot machine” defined.

**368A.360 Revocation of gaming license for failure to
report, pay or truthfully account for tax.**



