

ASSEMBLY BILL NO. 441—COMMITTEE ON TAXATION

MARCH 27, 2017

Referred to Committee on Taxation

SUMMARY—Revises provisions relating to taxes. (BDR 32-710)

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; requiring forms and instructions governing the computation of any tax payable to the Department of Taxation to be adopted by regulation; revising provisions governing the imposition and calculation of the tax on live entertainment; revising provisions governing the exemptions and exclusions from the tax on live entertainment; revising provisions governing the filing of reports and payment of the tax on live entertainment; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 The Nevada Administrative Procedure Act is set forth in existing law to  
2 establish the procedures for agencies of the Executive Branch of the State  
3 Government to promulgate administrative regulations. (Chapter 233B of NRS)  
4 **Section 1** of this bill requires that any forms governing the computation of any  
5 amount of tax payable to the Department of Taxation and any instructions for those  
6 forms be adopted by a regulation of the Nevada Tax Commission. Thus, under  
7 **section 1**, in adopting such forms and instructions, the Department and the Nevada  
8 Tax Commission are required to use the procedures set forth in the Nevada  
9 Administrative Procedure Act for the promulgation of regulations by state agencies.  
10 Existing law imposes an excise tax on admission to certain facilities where live  
11 entertainment is provided. (Chapter 368A of NRS) Under existing law, the  
12 “admission charge” on which the tax is based is defined as the total amount of  
13 consideration paid for the right or privilege to enter, or have access to, a facility  
14 where live entertainment is provided. Existing law specifically includes within the  
15 definition of “admission charge” a membership fee, a service charge and any other  
16 charge that is required to be paid in connection with admission to a facility where  
17 live entertainment is provided. (NRS 368A.020) **Section 2** of this bill provides that  
18 a service charge is a taxable admission charge only if the service charge is required  
19 to be paid in exchange for admission to a facility where live entertainment is



20 provided. Thus, under **section 2** a service charge which is not required to be paid in  
21 exchange for admission to such a facility is not taxable. **Section 3** of this bill: (1)  
22 provides that a membership fee is taxable only if the membership fee is paid in  
23 exchange for admission to a facility where live entertainment is provided that is  
24 located in this State and the membership was sold in this State or the member is a  
25 resident of this State; and (2) excludes from the tax any fees imposed, collected and  
26 retained by an independent provider of ticketing services in connection with the  
27 provision of ticketing services. Finally, **section 3** provides that if an admission  
28 charge is part of single charge for a package of items or services that include  
29 admission to a facility where live entertainment is provided, the taxable admission  
30 charge must be equal to the lowest priced admission charge for the live  
31 entertainment.

32 Existing law exempts live entertainment provided by certain nonprofit  
33 organizations from the tax on live entertainment if the number of tickets offered for  
34 sale or other distribution to patrons is less than 7,500. (NRS 368A.200) **Section 3**  
35 revises this exemption to provide that if the live entertainment is taxable because  
36 the number of tickets offered for sale or other distribution is 7,500 or more, the tax  
37 is imposed only on each admission in excess of 7,499 admissions to the live  
38 entertainment rather than on all admissions. **Section 3** further provides that if the  
39 live entertainment constitutes a single event that provides live entertainment on  
40 more than 1 day: (1) the live entertainment provided on each day must be  
41 considered separately for the purpose of determining whether the number of tickets  
42 to the live entertainment is less than 7,500; and (2) a ticket that provides admission  
43 to live entertainment on more than 1 day must be considered a ticket for each day  
44 for which the ticket provides admission.

45 Existing law requires the tax on live entertainment to be added to and collected  
46 from the purchaser at the time of purchase and requires the person collecting the tax  
47 to file a monthly report with the Department of Taxation or the Nevada Gaming  
48 Control Board, as applicable, showing the amount of all taxable receipts for the  
49 preceding month or the month in which the taxable events occurred. (NRS  
50 368A.200, 368A.220) **Section 3** provides that if an admission to live entertainment  
51 is purchased under an installment plan, the tax must be imposed on each installment  
52 payment. **Section 4** of this bill authorizes a taxpayer to file the report showing  
53 taxable receipts and remit the tax collected to the Department or the Board, as  
54 applicable, within 10 days after the conclusion of the live entertainment event for  
55 which taxable receipts were collected.

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

1 **Section 1.** NRS 360.090 is hereby amended to read as follows:  
2 360.090 **1.** In addition to the other duties prescribed by title  
3 32 of NRS, the members of the Nevada Tax Commission shall  
4 prescribe regulations for carrying on the business of the Nevada Tax  
5 Commission and of the Department.

6 **2.** *Any forms governing the computation of the amount of*  
7 *any tax payable to the Department and any instructions for such*  
8 *forms must be adopted by the Nevada Tax Commission by*  
9 *regulation.*



1       **Sec. 2.** NRS 368A.020 is hereby amended to read as follows:

2       368A.020 1. Except as otherwise provided in this section,  
3 “admission charge” means the total amount, expressed in terms of  
4 money, of consideration paid for the right or privilege to enter or  
5 have access to a facility where live entertainment is provided.

6       2. Except as otherwise provided in this section or NRS  
7 368A.200 or any other specific statute, the term includes, without  
8 limitation, an entertainment fee, a cover charge, a required  
9 minimum purchase of food, beverages or merchandise, a  
10 membership fee, ~~and~~ a service charge *required to be paid in*  
11 *exchange for admission to a facility where live entertainment is*  
12 *provided* or any other fee or charge that is required to be paid in  
13 exchange for admission to a facility where live entertainment is  
14 provided.

15       3. The term does not include:

16       (a) The value of an admission to a facility provided to a patron  
17 on a complimentary basis, unless the complimentary admission is  
18 associated with a separate purchase that is required for the patron to  
19 enter or have access to the facility; or

20       (b) A charge for the right or privilege of entering, or having  
21 access to, a particular portion within a facility, that is in addition to a  
22 charge described in subsection 1 or 2, including, without limitation,  
23 a charge for:

24       (1) Food, beverages or merchandise that is in addition to a  
25 required minimum purchase of food, beverages or merchandise as  
26 described in subsection 2; or

27       (2) Access to tables, seats, lounge chairs or particular areas  
28 near a swimming pool.

29       4. Except as otherwise provided in this subsection, the term  
30 does not include license or rental fees for luxury suites, boxes or  
31 similar products at facilities with a maximum occupancy of at least  
32 7,500 persons. If the license or rental fee includes the admission of a  
33 certain number of patrons to a facility where a live entertainment  
34 event is provided, the admission charge is an amount equal to the  
35 lowest priced admission charge for the live entertainment event  
36 multiplied by the number of admissions to the live entertainment  
37 event included in the license or rental fee.

38       **Sec. 3.** NRS 368A.200 is hereby amended to read as follows:

39       368A.200 1. Except as otherwise provided in this section,  
40 there is hereby imposed an excise tax on admission to any facility in  
41 this State where live entertainment is provided and on the charge for  
42 live entertainment provided by an escort at one or more locations in  
43 this State. The rate of the tax is:



1 (a) Except as otherwise provided in paragraph (b), for admission  
2 to a facility in this State where live entertainment is provided, 9  
3 percent of the admission charge to the facility.

4 (b) For live entertainment provided by an escort who is  
5 escorting one or more persons at a location or locations in this State,  
6 9 percent of the total amount, expressed in terms of money, of  
7 consideration paid for the live entertainment provided by the escort.

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, only if  
14 the number of tickets to the live entertainment which are offered for  
15 sale or other distribution to patrons, either directly or indirectly  
16 through a partner, subsidiary, client, affiliate or other collaborator, is  
17 less than 7,500. *If the amount paid for admission charges collected  
18 and retained by a nonprofit corporation organized or existing  
19 under the provisions of chapter 82 of NRS are taxable pursuant to  
20 this section, the tax must be imposed only on the amount paid for  
21 the admission charge for each ticket to the live entertainment in  
22 excess of 7,499. For the purpose of determining the number of  
23 tickets to live entertainment offered for sale or distribution to  
24 patrons pursuant to this paragraph, if the live entertainment is  
25 part of a single event that provides live entertainment on more  
26 than 1 day:*

27 *(1) The live entertainment provided on each day of the  
28 event must be considered a separate live entertainment event; and*

29 *(2) A ticket that provides admission to live entertainment on  
30 more than 1 day, the ticket constitutes a ticket for each day for  
31 which the ticket provides admission.*

32 (b) Gratuities directly or indirectly remitted to persons employed  
33 at a facility where live entertainment is provided are not taxable  
34 pursuant to this section.

35 (c) Fees imposed, collected and retained by an independent  
36 financial institution in connection with the use of credit cards or  
37 debit cards to pay the admission charge to a facility where live  
38 entertainment is provided are not taxable pursuant to this section. As  
39 used in this paragraph, "independent financial institution" means a  
40 financial institution that is not the taxpayer or an owner or operator  
41 of the facility where the live entertainment is provided or an affiliate  
42 of any of those persons.

43 *(d) Fees imposed, collected and retained by an independent  
44 provider of ticketing services in connection with the provision of  
45 ticketing services are not taxable pursuant to this section. As used*



1 *in this paragraph, "independent provider of ticketing services"*  
2 *means a business that, in exchange for the payment of a fee,*  
3 *provides ticketing services and that is not the taxpayer or an owner*  
4 *or operator of the facility where the live entertainment is provided*  
5 *or an affiliate of any of those persons.*

6 *(e) Membership fees are not taxable pursuant to this section*  
7 *unless the membership fee is paid in exchange for admission to a*  
8 *facility where live entertainment is provided that is located in this*  
9 *State and:*

10 *(1) The membership was sold in this State; or*

11 *(2) The member is a resident of this State.*

12 *(f) Admission charges which are part of a single charge for*  
13 *items or services in addition to admission to a facility where live*  
14 *entertainment is provided are taxable pursuant to this section and*  
15 *the admission charge subject to the tax must be equal to the lowest*  
16 *priced admission charge for admission to the live entertainment.*

17 3. *An admission charge or charge for live entertainment*  
18 *provided by an escort is taxable pursuant to this section at the time*  
19 *the admission charge or charge for live entertainment is paid.* The  
20 tax imposed by this section must be added to and collected from the  
21 purchaser at the time of purchase, whether or not the admission for  
22 live entertainment is purchased for resale. *If the purchaser*  
23 *purchases the admission for live entertainment pursuant to an*  
24 *installment plan, the tax imposed by this section must be added to*  
25 *and collected from the purchaser at the time each installment*  
26 *payment is made.* Each ticket for admission to a facility where live  
27 entertainment is provided must show on its face the admission  
28 charge or the seller of the admission shall prominently display a  
29 notice disclosing the admission charge at the box office or other  
30 place where the charge is made.

31 4. The tax imposed by subsection 1 does not apply to:

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

35 (b) Live entertainment that is governed by the Nevada  
36 Interscholastic Activities Association pursuant to chapter 385B of  
37 NRS or is provided or sponsored by an elementary school, junior  
38 high school, middle school or high school, if only pupils or faculty  
39 provide the live entertainment.

40 (c) An athletic contest, event, tournament or exhibition provided  
41 by an institution of the Nevada System of Higher Education, if  
42 students of such an institution are contestants in the contest, event,  
43 tournament or exhibition.

44 (d) Live entertainment that is provided by or entirely for the  
45 benefit of a nonprofit religious, charitable, fraternal or other



1 organization that qualifies as a tax-exempt organization pursuant to  
2 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing  
3 under the provisions of chapter 82 of NRS, only if the number of  
4 tickets to the live entertainment which are offered for sale or other  
5 distribution to patrons, either directly or indirectly through a partner,  
6 subsidiary, client, affiliate or other collaborator, is less than 7,500.

7 (e) Any boxing contest or exhibition governed by the provisions  
8 of chapter 467 of NRS.

9 (f) Live entertainment that is not provided at a licensed gaming  
10 establishment if the facility in which the live entertainment is  
11 provided has a maximum occupancy of less than 200 persons.

12 (g) Live entertainment that is provided at a licensed gaming  
13 establishment that is licensed for less than 51 slot machines, less  
14 than 6 games, or any combination of slot machines and games  
15 within those respective limits, if the facility in which the live  
16 entertainment is provided has a maximum occupancy of less than  
17 200 persons.

18 (h) Live entertainment that is provided at a trade show.

19 (i) Music performed by musicians who move constantly through  
20 the audience if no other form of live entertainment is afforded to the  
21 patrons.

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

26 (k) Live entertainment that is provided in the common area of a  
27 shopping mall, unless the entertainment is provided in a facility  
28 located within the mall.

29 (l) Food and product demonstrations provided at a shopping  
30 mall, a craft show or an establishment that sells grocery products,  
31 housewares, hardware or other supplies for the home.

32 (m) Live entertainment that is incidental to an amusement ride, a  
33 motion simulator or a similar digital, electronic, mechanical or  
34 electromechanical attraction. For the purposes of this paragraph, live  
35 entertainment shall be deemed to be incidental to an amusement  
36 ride, a motion simulator or a similar digital, electronic, mechanical  
37 or electromechanical attraction if the live entertainment is:

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

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

41 (n) A race scheduled at a race track in this State and sanctioned  
42 by the National Association for Stock Car Auto Racing, if two or  
43 more such races are held at that race track during the same calendar  
44 year.



1 (o) An athletic contest, event or exhibition conducted by a  
2 professional team based in this State if the professional team based  
3 in this State is a participant in the contest, event or exhibition.

4 5. As used in this section:

5 (a) "Affiliate" has the meaning ascribed to it in NRS 463.0133.

6 (b) "Maximum occupancy" means, in the following order of  
7 priority:

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

12 (2) If such a maximum occupancy has not been determined,  
13 the maximum occupancy of the facility designated in any permit  
14 required to be obtained in order to provide the live entertainment; or

15 (3) If such a permit does not designate the maximum  
16 occupancy of the facility, the actual seating capacity of the facility  
17 in which the live entertainment is provided.

18 (c) "Operator" includes, without limitation, a person who  
19 operates a facility where live entertainment is provided or who  
20 presents, produces or otherwise provides live entertainment.

21 **Sec. 4.** NRS 368A.220 is hereby amended to read as follows:

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

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 shall file with the Department, on or  
29 before the last day of each month, a report showing the amount of  
30 all taxable receipts for the preceding month. The report must be in a  
31 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. *Upon notice to the Board or the Department, as applicable,*  
40 *the taxpayer may elect to file the report required to be filed by this*  
41 *section and remit the tax that is due for the period covered by the*  
42 *report not later than 10 days after the conclusion of the live*  
43 *entertainment for which taxable receipts were collected.*

44 5. Except as otherwise provided in this subsection, the Board  
45 and the Department shall deposit all taxes, interest and penalties



1 they receive pursuant to this chapter in the State Treasury for credit  
2 to the State General Fund. On or before October 1 of each year, the  
3 Department shall deposit \$150,000 from the taxes, interest and  
4 penalties it receives pursuant to this chapter in the State Treasury for  
5 credit to the Nevada Arts Council created by NRS 233C.025. The  
6 amount deposited in the State Treasury for credit to the Nevada Arts  
7 Council pursuant to this subsection is hereby authorized for  
8 expenditure by the Nevada Arts Council as a continuing  
9 appropriation.

10 **Sec. 5.** This act becomes effective on July 1, 2017.

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