

ASSEMBLY BILL NO. 554—COMMITTEE ON COMMERCE AND LABOR

MARCH 29, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing taxation. (BDR 32-1344)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
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; exempting certain community banks from the taxes imposed on branch offices of financial institutions; reducing the tax on financial institutions imposed on certain community banks located in smaller counties; clarifying the definition of “employer” for the purpose of the tax on business; revising the provisions governing the applicability and administration of the tax on live entertainment; clarifying the provisions governing the administration of the use taxes on certain personal property acquired free of charge at public events; expanding the exemptions from the taxes on the transfer of real property; and providing other matters properly relating thereto.

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

**Section 1.** Chapter 363A of NRS is hereby amended by adding thereto a new section to read as follows:

*“Community bank” means a bank that is located in the county in which the majority of its patrons reside and is owned by an entity that has less than \$1,000,000,000 in total banking assets.*

**Sec. 2.** NRS 363A.120 is hereby amended to read as follows:

363A.120 1. ~~[There]~~ *Except as otherwise provided in this subsection, there* is hereby imposed an excise tax on each bank at the rate of \$1,750 for each branch office in excess of one maintained



1 by the bank in this State on the first day of each calendar quarter.  
2 *The provisions of this subsection do not apply to a community*  
3 *bank that is located in a county whose population is less than*  
4 *50,000.*

5 2. Each bank that *is subject to the tax imposed by subsection 1*  
6 *and* maintains more than one branch office in this State on the first  
7 day of a calendar quarter shall, on or before the last day of the first  
8 month of that calendar quarter:

9 (a) File with the Department a return on a form prescribed by  
10 the Department; and

11 (b) Remit to the Department any tax due pursuant to this section  
12 for the branch offices maintained by the bank in this State on the  
13 first day of that calendar quarter.

14 3. For the purposes of this section:

15 (a) "Bank" means:

16 (1) A corporation or limited-liability company that is  
17 chartered by this State, another state or the United States which  
18 conducts banking or banking and trust business; or

19 (2) A foreign bank licensed pursuant to chapter 666A of  
20 NRS.

21 ➤ The term does not include a financial institution engaging in  
22 business pursuant to chapter 677 of NRS or a credit union organized  
23 under the provisions of chapter 678 of NRS or the Federal Credit  
24 Union Act.

25 (b) "Branch office" means any location or facility of a bank  
26 where deposit accounts are opened, deposits are accepted, checks  
27 are paid and loans are granted, including, but not limited to, a brick  
28 and mortar location, a detached or attached drive-in facility, a  
29 seasonal office, an office on a military base or government  
30 installation, a station or unit for paying and receiving, and a location  
31 where a customer can open accounts, make deposits and borrow  
32 money by telephone or through use of the Internet, and excluding  
33 any automated teller machines, consumer credit offices, contractual  
34 offices, customer bank communication terminals, electronic fund  
35 transfer units and loan production offices.

36 **Sec. 3.** NRS 363A.130 is hereby amended to read as follows:

37 363A.130 1. ~~[There]~~ *Except as otherwise provide in this*  
38 *section, there* is hereby imposed an excise tax on each employer at  
39 the rate of 2 percent of the wages, as defined in NRS 612.190, paid  
40 by the employer during a calendar quarter with respect to  
41 employment.

42 2. *In lieu of the tax imposed by subsection 1, in a county*  
43 *whose population is less than 100,000, there is hereby imposed an*  
44 *excise tax on each employer that is a community bank at the rate*



1 *of 1 percent of the wages, as defined in NRS 612.190, paid by the*  
2 *employer during a calendar quarter with respect to employment.*

3 3. The tax imposed by this section must not be deducted, in  
4 whole or in part, from any wages of persons in the employment of  
5 the employer.

6 ~~3.~~ 4. Each employer shall, on or before the last day of the  
7 month immediately following each calendar quarter for which the  
8 employer is required to pay a contribution pursuant to  
9 NRS 612.535:

10 (a) File with the Department:

11 (1) A return on a form prescribed by the Department; and

12 (2) A copy of any report required by the Employment  
13 Security Division of the Department of Employment, Training and  
14 Rehabilitation for determining the amount of the contribution  
15 required pursuant to NRS 612.535 for any wages paid by the  
16 employer during that calendar quarter; and

17 (b) Remit to the Department any tax due pursuant to this section  
18 for that calendar quarter.

19 ~~4.~~ 5. Except as otherwise provided in subsection ~~5.~~ 6, an  
20 employer may deduct from the total amount of wages reported and  
21 upon which the excise tax is imposed pursuant to this section any  
22 amount authorized pursuant to this section that is paid by the  
23 employer for health insurance or a health benefit plan for its  
24 employees in the calendar quarter for which the tax is paid. The  
25 amounts for which the deduction is allowed include:

26 (a) For an employer providing a program of self-insurance for  
27 its employees, all amounts paid during the calendar quarter for  
28 claims, direct administrative services costs, including such services  
29 provided by the employer, and any premiums paid for individual or  
30 aggregate stop-loss insurance coverage. An employer is not  
31 authorized to deduct the costs of a program of self-insurance unless  
32 the program is a qualified employee welfare benefit plan pursuant to  
33 the Employee Retirement Income Security Act of 1974, 29 U.S.C.  
34 §§ 1001 et seq.

35 (b) The premiums for a policy of health insurance or reinsurance  
36 for a health benefit plan for its employees.

37 (c) Any amounts paid by an employer to a Taft-Hartley trust  
38 formed pursuant to 29 U.S.C. § 186(c)(5) for participation in an  
39 employee welfare benefit plan.

40 (d) Such other similar payments for health care or insurance for  
41 health care for employees as are authorized by the Department.

42 ~~5.~~ 6. An employer may not deduct from the wages upon  
43 which the excise tax is imposed pursuant to this section:

44 (a) Amounts paid for health care or premiums paid for insurance  
45 for an industrial injury or occupational disease for which coverage is



1 required pursuant to chapters 616A to 616D, inclusive, or 617 of  
2 NRS; or

3 (b) Any payments made by employees for health care or health  
4 insurance or amounts deducted from the wages of employees for  
5 such care or insurance.

6 ~~[6-]~~ 7. An employer claiming the deduction allowed pursuant  
7 to subsection ~~[4]~~ 5 shall submit with the return filed pursuant to  
8 subsection ~~[3]~~ 4 proof of the amount paid in the calendar quarter  
9 that qualifies for the deduction. If the amount of the deduction  
10 exceeds the amount of reported wages, the excess amount may be  
11 carried forward to the following calendar quarter until the deduction  
12 is exhausted.

13 ~~[7-]~~ 8. As used in this section, "employee welfare benefit plan"  
14 has the meaning ascribed to it in 29 U.S.C. § 1002.

15 **Sec. 4.** NRS 363B.030 is hereby amended to read as follows:

16 363B.030 "Employer" means any employer who is required to  
17 pay a contribution pursuant to NRS 612.535 for any calendar  
18 quarter, except a financial institution, an Indian tribe, a nonprofit  
19 organization, ~~[or]~~ a political subdivision ~~[or]~~ *or any person who does*  
20 *not supply a product or service, but who only consumes a service.*

21 For the purposes of this section:

22 1. "Financial institution" has the meaning ascribed to it in  
23 NRS 363A.050.

24 2. "Indian tribe" includes any entity described in subsection 10  
25 of NRS 612.055.

26 3. "Nonprofit organization" means a nonprofit religious,  
27 charitable, fraternal or other organization that qualifies as a tax-  
28 exempt organization pursuant to 26 U.S.C. § 501(c).

29 4. "Political subdivision" means any entity described in  
30 subsection 9 of NRS 612.055.

31 **Sec. 5.** NRS 368A.200 is hereby amended to read as follows:

32 368A.200 1. Except as otherwise provided in this section,  
33 there is hereby imposed an excise tax on admission to any facility in  
34 this State where live entertainment is provided. If the live  
35 entertainment is provided at a facility with a maximum seating  
36 capacity of:

37 (a) Less than 7,500, the rate of the tax is 10 percent of the  
38 admission charge to the facility plus 10 percent of any amounts paid  
39 for food, refreshments and merchandise purchased at the facility.

40 (b) At least 7,500, the rate of the tax is 5 percent of the  
41 admission charge to the facility.

42 2. Amounts paid for gratuities directly or indirectly remitted to  
43 persons employed at a facility where live entertainment is provided  
44 or for service charges, including those imposed in connection with  
45 the use of credit cards or debit cards, which are collected and



1 retained by persons other than the taxpayer are not taxable pursuant  
2 to this section.

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

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

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

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

14 (b) Live entertainment that is provided by or entirely for the  
15 benefit of a nonprofit religious, charitable, fraternal or other  
16 organization that qualifies as a tax-exempt organization pursuant to  
17 26 U.S.C. § 501(c) ~~1~~ *or a nonprofit corporation organized or*  
18 *existing under the provisions of chapter 82 of NRS.*

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

21 (d) Live entertainment that is not provided at a licensed gaming  
22 establishment if the facility in which the live entertainment is  
23 provided has a maximum seating capacity of less than 300.

24 (e) Live entertainment that is provided at a licensed gaming  
25 establishment that is licensed for less than 51 slot machines, less  
26 than six games, or any combination of slot machines and games  
27 within those respective limits, if the facility in which the live  
28 entertainment is provided has a maximum seating capacity of less  
29 than 300.

30 (f) Merchandise sold outside the facility in which the live  
31 entertainment is provided, unless the purchase of the merchandise  
32 entitles the purchaser to admission to the entertainment.

33 (g) Live entertainment that is provided at a trade show.

34 (h) Music performed by musicians who move constantly  
35 through the audience if no other form of live entertainment is  
36 afforded to the patrons.

37 (i) Live entertainment that is provided at a licensed gaming  
38 establishment at private meetings or dinners attended by members of  
39 a particular organization or by a casual assemblage if the purpose of  
40 the event is not primarily for entertainment.

41 (j) Live entertainment that is provided in the common area of a  
42 shopping mall, unless the entertainment is provided in a facility  
43 located within the mall.

44 *(k) Live entertainment that is incidental to an amusement ride,*  
45 *a motion simulator or a similar digital, electronic, mechanical or*



*electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:*

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

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

6. As used in this section, "maximum seating capacity" means, in the following order of priority:

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

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

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

**Sec. 6.** Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

*In its administration of the use tax imposed by NRS 372.185, the Department shall not consider the storage, use or other consumption in this State of tangible personal property which is:*

*1. Worth \$100 or less; and*

*2. Acquired free of charge at a convention, trade show or other public event.*

**Sec. 7.** Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

*In its administration of the use tax imposed by NRS 374.190, the Department shall not consider the storage, use or other consumption in a county of tangible personal property which is:*

*1. Worth \$100 or less; and*

*2. Acquired free of charge at a convention, trade show or other public event.*

**Sec. 8.** NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a corporation and its parent corporation, a subsidiary or an affiliated corporation if the affiliated corporation has identical common ownership.



2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property.


4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer of title between spouses, including gifts, or to effect a property settlement agreement or between former spouses in compliance with a decree of divorce.

6. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

7. Transfers, assignments or conveyances of unpatented mines or mining claims.

8. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.

9. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of *lineal* consanguinity  or *affinity*.

10. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

➔ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

11. The making or delivery of conveyances of real property to make effective any order of the Securities and Exchange Commission if:

(a) The order of the Securities and Exchange Commission in obedience to which the transfer or conveyance is made recites that the transfer or conveyance is necessary or appropriate to effectuate the provisions of section 11 of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k;

(b) The order specifies and itemizes the property which is ordered to be transferred or conveyed; and



- 1 (c) The transfer or conveyance is made in obedience to the  
2 order.
- 3 12. A transfer to an educational foundation. As used in this  
4 subsection, “educational foundation” has the meaning ascribed to it  
5 in subsection 3 of NRS 388.750.
- 6 13. A transfer to a university foundation. As used in this  
7 subsection, “university foundation” has the meaning ascribed to it in  
8 subsection 3 of NRS 396.405.
- 9 **Sec. 9.** NRS 368A.210 is hereby repealed.
- 10 **Sec. 10.** This act becomes effective on July 1, 2005.

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### TEXT OF REPEALED SECTION

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**368A.210 Taxpayer to hold taxes in separate account.** A taxpayer shall hold the amount of all taxes for which he is liable pursuant to this chapter in a separate account in trust for the State.

