

A.B. 582

ASSEMBLY BILL NO. 582—COMMITTEE ON WAYS AND MEANS

JUNE 6, 2011

Referred to Committee on Ways and Means

SUMMARY—Proposes to impose upon voter approval a margin tax on business entities in this State and a transaction tax on the use of services in this State. (BDR 32-1307)

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 state financial administration; providing for the submission to the voters of the question whether to impose a margin tax on business entities engaged in business in this State; providing for the imposition, administration, collection and enforcement of the margin tax if the question is approved by the voters; providing for the submission to the voters of the question whether to impose a transaction tax on the use of services in this State; providing for the imposition, administration, collection and enforcement of the transaction tax if the question is approved by the voters; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 151-155 of this bill require that a question be submitted to the voters at the 2012 General Election on whether to impose a margin tax on business entities engaged in business in this State. If the question is approved by the voters, **section 25** of this bill imposes a margin tax, which is modeled on the provisions of the margin tax imposed in Texas, on each business entity engaged in business in this State during any taxable year beginning on or after January 1, 2013, whose total revenue for the taxable year exceeds \$1,000,000, in the amount of 0.8 percent of the taxable margin of the business entity. **Sections 1-49, 111, 113, 115, 117, 119, 121 and 123-149** of this bill provide for the administration, collection and enforcement of the margin tax.

Sections 156-160 of this bill require that a question be submitted to the voters at the 2012 General Election on whether to impose a transaction tax on the use of services in this State. If the question is approved by the voters, **section 66** of this bill imposes a tax on each person who uses services in this State which are provided



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on or after July 1, 2013, at the rate of 1 percent of the total amount charged by the service provider for those services, and **section 67** requires the service provider to collect the tax on behalf of the State. **Sections 50-110, 112, 114, 116, 118, 120, 122 and 150** of this bill provide for the administration, collection and enforcement of the transaction tax.

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

Section 1. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 49, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 18, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Affiliated group” means a group of two or more business entities, each of which is controlled by one or more common owners or by one or more of the members of the group.*

Sec. 4. *“Business” means any activity engaged in or caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, to any person or governmental entity.*

Sec. 5. 1. *Except as otherwise provided in this section, “business entity” means a corporation, partnership, proprietorship, limited-liability company, business association, joint venture, limited-liability partnership, business trust, professional association, joint stock company, holding company and any other person engaging in a business, and includes a combined group.*

2. *“Business entity” does not include:*

(a) A natural person unless that person is engaging in a business and is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming, or its equivalent or successor form, for that business;

(b) A governmental entity;

(c) Any person or other entity that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution; or

(d) Any credit union that is authorized to transact business in this State pursuant to the provisions of chapter 678 of NRS.

Sec. 6. *“Client company” has the meaning ascribed to it in NRS 616B.670.*



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1 **Sec. 7.** *“Combined group” means an affiliated group of*
2 *business entities that is required to file a group return pursuant to*
3 *section 30 of this act.*

4 **Sec. 8.** *“Commission” means the Nevada Tax Commission.*

5 **Sec. 9.** *“Controlled by” means the possession, directly or*
6 *indirectly, of the power to direct or cause the direction of the*
7 *management and policies of a business entity, whether through*
8 *the ownership of voting securities, by contract or otherwise.*

9 **Sec. 10.** *“Employee leasing company” has the meaning*
10 *ascribed to it in NRS 616B.670.*

11 **Sec. 11.** *“Engaging in a business” means commencing,*
12 *conducting or continuing a business, the exercise of corporate or*
13 *franchise powers regarding a business, and the liquidation of a*
14 *business which is or was engaging in a business when the*
15 *liquidator holds itself out to the public as conducting that*
16 *business.*

17 **Sec. 12.** *“Governmental entity” means:*

18 1. *The United States and any of its unincorporated agencies*
19 *and instrumentalities.*

20 2. *Any incorporated agency or instrumentality of the United*
21 *States wholly owned by the United States or by a corporation*
22 *wholly owned by the United States.*

23 3. *The State of Nevada and any of its unincorporated*
24 *agencies and instrumentalities.*

25 4. *Any county, city, district or other political subdivision of*
26 *this State.*

27 **Sec. 13.** *“Lending institution” means an entity that makes*
28 *loans and:*

29 1. *Is regulated by the Federal Reserve Board, the Office of*
30 *the Comptroller of the Currency, the Federal Deposit Insurance*
31 *Corporation, the Commodity Futures Trading Commission, the*
32 *Office of Thrift Supervision or any comparable regulatory body;*

33 2. *Is licensed by, registered with or otherwise regulated by the*
34 *Commissioner of Financial Institutions;*

35 3. *Is a “broker” or “dealer” as defined in 15 U.S.C. § 78c; or*

36 4. *Provides financing to unrelated parties solely for*
37 *agricultural production.*

38 **Sec. 14.** *“Pass-through revenue” means:*

39 1. *Revenue received by a business entity solely on behalf of*
40 *another in a disclosed agency capacity, including, without*
41 *limitation, revenue received as a broker, bailee, consignee or*
42 *auctioneer, notwithstanding that the business entity may incur*
43 *liability, primarily or secondarily, in a transaction in its capacity*
44 *as an agent;*



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2. *Taxes collected from a third party by a business entity and remitted by the business entity to a taxing authority; and*

3. *Reimbursement for advances made by a business entity on behalf of a customer or client, other than with respect to services rendered or with respect to purchases of goods by the business entity in carrying out the business in which it engages.*

Sec. 15. *“Taxable year” means the taxable year used by a business entity for the purposes of federal income taxation.*

Sec. 16. *“Total income” means the total amount received by a business entity from all sources, without subtracting any costs or expenses.*

Sec. 17. *“Total revenue” means the total revenue of a business entity as determined under section 27 of this act.*

Sec. 18. *“Unitary business” means a business characterized by unity of ownership, functional integration, centralization of management and economy of scale.*

Sec. 19. 1. *For the purposes of this chapter, an entity constitutes a “passive entity” only if:*

(a) *The entity is a general partnership, limited partnership, limited-liability partnership or limited-liability limited partnership or a trust, other than a business trust;*

(b) *During the period on which margin is based, at least 90 percent of the entity’s federal gross income consists of:*

(1) *Dividends, interest, gain from the exchange of foreign currency, periodic and nonperiodic payments with respect to notional principal contracts, option premiums, cash settlement or termination payments with respect to a financial instrument, and income from a limited-liability company;*

(2) *Distributive shares of partnership income to the extent that those distributive shares of income are greater than zero;*

(3) *Capital gains from the sale of real property, gains from the sale of commodities traded on a commodities exchange and gains from the sale of securities; and*

(4) *Royalties, bonuses or delay rental income from mineral properties and income from other nonoperating mineral interests; and*

(c) *The entity does not receive more than 10 percent of its federal gross income from conducting an active trade or business. In making the computation required by this paragraph, income described in paragraph (b) must not be treated as income from conducting an active trade or business.*

2. *The income described in paragraph (b) of subsection 1 does not include any:*

(a) *Rent; or*



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(b) *Income received by a nonoperator from mineral properties under a joint operating agreement if the nonoperator is a member of an affiliated group and another member of that group is the operator under that joint operating agreement.*

3. *For the purposes of paragraph (c) of subsection 1:*

(a) *Except as otherwise provided in this subsection, an entity is "conducting an active trade or business" if:*

(1) *The activities being carried on by the entity include one or more active operations that form a part of the process of earning income or profit, and the entity performs active management and operation functions; or*

(2) *Any assets, including, without limitation, royalties, patents, trademarks and other intangible assets, held by the entity are used in the active trade or business of one or more related entities.*

(b) *The ownership of a royalty interest or a nonoperating working interest in mineral rights does not constitute the conduct of an active trade or business.*

(c) *The payment of compensation to employees or independent contractors for financial or legal services reasonably necessary for the operation of an entity does not constitute the conduct of an active trade or business.*

(d) *Holding a seat on the board of directors of an entity does not by itself constitute the conduct of an active trade or business.*

(e) *Activities performed by an entity include activities performed by persons outside the entity, including independent contractors, to the extent that those persons perform services on behalf of the entity and those services constitute all or any part of the entity's trade or business.*

Sec. 20. *The Department shall:*

1. *Administer and enforce the provisions of this chapter, and may adopt such regulations as it deems appropriate for those purposes.*

2. *Adopt such regulations as may be necessary or appropriate to interpret and carry out the provisions of sections 27 and 30 of this act.*

3. *Deposit all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.*

Sec. 21. 1. *Each person responsible for maintaining the records of a business entity shall:*

(a) *Keep such records as may be necessary to determine the amount of the liability of the business entity pursuant to the provisions of this chapter;*



1 (b) Preserve those records for 4 years or until any litigation or
2 prosecution pursuant to this chapter is finally determined,
3 whichever is longer; and

4 (c) Make the records available for inspection by the
5 Department upon demand at reasonable times during regular
6 business hours.

7 2. The Department may by regulation specify the types of
8 records which must be kept to determine the amount of the
9 liability of a business entity pursuant to the provisions of this
10 chapter.

11 3. Any person who violates the provisions of subsection 1 is
12 guilty of a misdemeanor.

13 **Sec. 22.** 1. To verify the accuracy of any return filed or, if
14 no return is filed by a business entity, to determine the amount
15 required to be paid, the Department, or any person authorized in
16 writing by the Department, may examine the books, papers and
17 records of any person who may be liable for the tax imposed by
18 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 Department an amount
22 equal to the allowance provided for state officers and employees
23 generally while traveling outside of the State for each day or
24 fraction thereof during which an employee of the Department is
25 engaged in examining those documents, plus any other actual
26 expenses incurred by the employee while he or she is absent from
27 his or her regular place of employment to examine those
28 documents.

29 **Sec. 23.** The Executive Director may request from any other
30 governmental agency or officer such information as the Executive
31 Director deems necessary to carry out the provisions of this
32 chapter. If the Executive Director obtains any confidential
33 information pursuant to such a request, he or she shall maintain
34 the confidentiality of that information in the same manner and to
35 the same extent as provided by law for the agency or officer from
36 whom the information was obtained.

37 **Sec. 24.** 1. Except as otherwise provided in this section and
38 NRS 239.0115 and 360.250, the records and files of the
39 Department concerning the administration of this chapter are
40 confidential and privileged. The Department, and any employee
41 engaged in the administration of this chapter or charged with the
42 custody of any such records or files, shall not disclose any
43 information obtained from the Department's records or files or
44 from any examination, investigation or hearing authorized by the
45 provisions of this chapter. Neither the Department nor any



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1 *employee of the Department may be required to produce any of the*
2 *records, files and information for the inspection of any person or*
3 *for use in any action or proceeding.*

4 *2. The records and files of the Department concerning the*
5 *administration of this chapter are not confidential and privileged*
6 *in the following cases:*

7 *(a) Testimony by a member or employee of the Department*
8 *and production of records, files and information on behalf of the*
9 *Department or a business entity in any action or proceeding*
10 *pursuant to the provisions of this chapter if that testimony or the*
11 *records, files or information, or the facts shown thereby, are*
12 *directly involved in the action or proceeding.*

13 *(b) Delivery to a business entity or its authorized representative*
14 *of a copy of any return or other document filed by the business*
15 *entity pursuant to this chapter.*

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

18 *(d) Exchanges of information with the Internal Revenue*
19 *Service in accordance with compacts made and provided for in*
20 *such cases.*

21 *(e) Disclosure in confidence to the Governor or his or her*
22 *agent in the exercise of the Governor's general supervisory*
23 *powers, or to any person authorized to audit the accounts of the*
24 *Department in pursuance of an audit, or to the Attorney General*
25 *or other legal representative of the State in connection with an*
26 *action or proceeding pursuant to this chapter, or to any agency of*
27 *this or any other state charged with the administration or*
28 *enforcement of laws relating to taxation.*

29 *(f) Exchanges of information pursuant to subsection 3.*

30 *3. The Commission may agree with any county fair and*
31 *recreation board or the governing body of any county, city or town*
32 *for the continuing exchange of information concerning business*
33 *entities.*

34 **Sec. 25.** *1. Except as otherwise provided in this section, a*
35 *margin tax is hereby imposed on each business entity that engages*
36 *in a business in this State during any taxable year beginning on or*
37 *after January 1, 2013, at the rate of 0.8 percent of the taxable*
38 *margin of the business entity for the taxable year.*

39 *2. The margin tax extends to the limits of the Nevada*
40 *Constitution, the Constitution of the United States and the federal*
41 *law adopted under the United States Constitution.*

42 *3. A business entity is exempt from the margin tax imposed*
43 *for each taxable year regarding which:*



1 (a) *The amount of the total revenue of the business entity from*
2 *its entire business is less than or equal to \$1,000,000, as*
3 *determined under section 27 of this act;*

4 (b) *The business entity qualifies as a passive entity, as*
5 *determined pursuant to section 19 of this act; or*

6 (c) *The business entity qualifies as a tax-exempt organization*
7 *pursuant to 26 U.S.C. § 501(c)(3).*

8 4. *A business entity that pays any tax imposed on the business*
9 *entity pursuant to NRS 363A.130 or 363B.110 for any of the last*
10 *four calendar quarters ending on or before the last day of a*
11 *taxable year for which the margin tax is imposed pursuant to this*
12 *section is entitled to a credit against the amount of the margin tax*
13 *due from that business entity for that taxable year in an amount*
14 *that equals:*

15 (a) *The amount of the taxes paid by the business entity*
16 *pursuant to NRS 363A.130 and 363B.110 for those calendar*
17 *quarters; or*

18 (b) *The amount of the margin tax due from the business entity*
19 *for that taxable year,*

20 ↳ *whichever amount is less.*

21 **Sec. 26.** 1. *Subject to the provisions of section 30 of this*
22 *act, the taxable margin of a business entity must be computed by:*

23 (a) *Determining the business entity's margin, which is the*
24 *lesser of 70 percent of the total revenue of the business entity from*
25 *its entire business, as determined under section 27 of this act, or*
26 *an amount computed by:*

27 (1) *Determining the total revenue of the business entity*
28 *from its entire business under section 27 of this act; and*

29 (2) *Except as otherwise provided in subsection 2,*
30 *subtracting from the amount determined under subparagraph (1),*
31 *at the election of the business entity, either:*

32 (I) *The cost of goods sold, as determined under section*
33 *28 of this act; or*

34 (II) *The amount of compensation, as determined under*
35 *section 29 of this act; and*

36 (b) *Apportioning the business entity's margin to this State as*
37 *provided in section 31 of this act to determine the business entity's*
38 *taxable margin.*

39 2. *In making the computation set forth in subparagraph (2)*
40 *of paragraph (a) of subsection 1, an employee leasing company*
41 *may subtract only the amount of compensation, as determined*
42 *under section 29 of this act.*

43 3. *An election under subparagraph (2) of paragraph (a) of*
44 *subsection 1 must be made by a business entity on its annual*
45 *return and is effective only for that annual return. A business*



1 *entity shall notify the Department of its election not later than the*
2 *date the annual return is due.*

3 *4. In making any computation under this section, an amount*
4 *that is zero or less must be computed as zero.*

5 **Sec. 27.** *1. Except as otherwise provided in this section and*
6 *subject to the provisions of section 30 of this act, for the purpose*
7 *of computing its taxable margin under section 26 of this act, the*
8 *total revenue of a business entity is:*

9 *(a) For a business entity treated for the purposes of federal*
10 *income taxation as a corporation, an amount computed by:*

11 *(1) Adding:*

12 *(I) The amount reportable as income on line 1c of*
13 *Internal Revenue Service Form 1120; and*

14 *(II) The amounts reportable as income on lines 4 to 10,*
15 *inclusive, of Internal Revenue Service Form 1120; and*

16 *(2) Subtracting:*

17 *(I) The amount of any bad debts expensed for the*
18 *purposes of federal income taxation that corresponds to items of*
19 *income included in subparagraph (1) for the current reporting*
20 *period or a past reporting period;*

21 *(II) To the extent included in subparagraph (1), any*
22 *foreign royalties and foreign dividends;*

23 *(III) To the extent included in subparagraph (1), any net*
24 *distributive income from a business entity treated as a partnership*
25 *or as an S corporation for the purposes of federal income*
26 *taxation;*

27 *(IV) Any allowable deductions from Internal Revenue*
28 *Service Form 1120, Schedule C, to the extent the relating dividend*
29 *income is included in total revenue;*

30 *(V) To the extent included in subparagraph (1), any*
31 *items of income attributable to an entity that is a disregarded*
32 *entity for the purposes of federal income taxation; and*

33 *(VI) To the extent included in subparagraph (1), any*
34 *other amounts authorized by this section;*

35 *(b) For a business entity treated for the purposes of federal*
36 *income taxation as a partnership, an amount computed by:*

37 *(1) Adding:*

38 *(I) The amount reportable as income on line 1c of*
39 *Internal Revenue Service Form 1065;*

40 *(II) The amounts reportable as income on lines 4, 6 and*
41 *7 of Internal Revenue Service Form 1065;*

42 *(III) The amounts reportable as income on lines 3a and*
43 *5 to 11, inclusive, of Internal Revenue Service Form 1065,*
44 *Schedule K;*



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(IV) *The amount reportable as income on line 17 of Internal Revenue Service Form 8825; and*

(V) *The amount reportable as income on line 11, plus the amount reportable on line 2 or line 45, of Internal Revenue Service Form 1040, Schedule F; and*

(2) *Subtracting:*

(I) *The amount of any bad debts expensed for the purposes of federal income taxation that corresponds to items of income included in subparagraph (1) for the current reporting period or a past reporting period;*

(II) *To the extent included in subparagraph (1), any foreign royalties and foreign dividends;*

(III) *To the extent included in subparagraph (1), any net distributive income from a business entity treated as a partnership or as an S corporation for the purposes of federal income taxation;*

(IV) *To the extent included in subparagraph (1), any items of income attributable to an entity that is a disregarded entity for the purposes of federal income taxation; and*

(V) *To the extent included in subparagraph (1), any other amounts authorized by this section; or*

(c) *For any business entity other than a business entity treated for the purposes of federal income taxation as a corporation or partnership, an amount determined in a manner substantially equivalent to the amount determined under paragraph (a) or (b), as prescribed in regulations adopted by the Department.*

2. *Subject to the provisions of section 30 of this act, a business entity that is part of a federal consolidated group shall compute its total revenue under subsection 1 as if it had filed a separate return for the purposes of federal income taxation.*

3. *A business entity that owns an interest in a passive entity may exclude from the total revenue of the business entity the business entity's share of the net income of the passive entity, but only to the extent the net income of the passive entity was generated by the margin of any other business entity.*

4. *Except as otherwise provided in subsection 5, to the extent included under subparagraph (1) of paragraph (a) of subsection 1, subparagraph (1) of paragraph (b) of subsection 1 or paragraph (c) of subsection 1:*

(a) *A business entity may exclude from its total revenue:*

(1) *The amount of any pass-through revenue of the business entity; and*

(2) *The amount of tax basis, as determined under the Internal Revenue Code and any regulations adopted pursuant thereto, of any securities and loans sold; and*



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1 (b) A business entity that is a lending institution may exclude
2 from its total revenue the amount of any proceeds from the
3 principal repayment of loans.

4 5. If a business entity is part of an affiliated group, the
5 business entity may not exclude from its total revenue any of the
6 amounts described in subsection 4 which are paid to entities that
7 are members of the affiliated group.

8 6. To the extent included under subparagraph (1) of
9 paragraph (a) of subsection 1, subparagraph (1) of paragraph (b)
10 of subsection 1 or paragraph (c) of subsection 1:

11 (a) A business entity may exclude from its total revenue the
12 amount of any revenue attributable to dividends and interest upon
13 any bonds or securities of the Federal Government, the State of
14 Nevada or a political subdivision of this State.

15 (b) A business entity that is a hospital or health care provider
16 may exclude from its total revenue the amount of any revenue
17 received by the business entity from a governmental entity.

18 (c) A business entity that is an employee leasing company may
19 exclude from its total revenue the amount of any payments
20 received from a client company for wages, payroll taxes on those
21 wages, employee benefits and workers' compensation benefits for
22 the employees leased to the client company.

23 (d) A business entity that is required to pay a license fee
24 pursuant to NRS 463.370 may exclude from its total revenue the
25 amount of its gross revenue used to determine the amount of that
26 fee.

27 7. Any amount excluded under this section from the total
28 revenue of a business entity must not be included in the
29 determination of the cost of goods sold under section 28 of this act
30 or the determination of the amount of compensation under section
31 29 of this act.

32 8. For the purposes of this section, any reference to:

33 (a) An Internal Revenue Service form includes any variant of
34 the form and any subsequent form with a different number or
35 designation that substantially provides the same information as
36 the original form.

37 (b) An amount reportable as income on a line number of an
38 Internal Revenue Service form means the amount entered to the
39 extent the amount entered complies with federal income tax law
40 and includes the corresponding amount entered on a variant of
41 the form or subsequent form with a different line number to the
42 extent the amount entered complies with federal income tax law.

43 **Sec. 28.** 1. Subject to the provisions of section 30 of this
44 act, a business entity that elects to subtract the cost of goods sold
45 for the purpose of computing its taxable margin under section 26



1 of this act must determine the amount of that cost as provided in
2 this section.

3 2. Except as otherwise provided in this section, the cost of
4 goods sold includes:

5 (a) All direct costs of acquiring or producing the goods,
6 including:

7 (1) Labor costs;

8 (2) The cost of materials that are an integral part of the
9 specific property produced;

10 (3) The cost of materials that are consumed in the ordinary
11 course of performing production activities;

12 (4) Handling costs, including costs attributable to
13 processing, assembling, repackaging and transportation to the
14 business entity;

15 (5) Storage costs, including the costs of carrying, storing or
16 warehousing property;

17 (6) Depreciation, depletion and amortization, as reported
18 on the federal income tax return on which the return under this
19 chapter is based, to the extent associated with and necessary for
20 the production of the goods;

21 (7) The cost of renting or leasing equipment, facilities or
22 real property which is directly used for the production of the
23 goods;

24 (8) The cost of repairing and maintaining equipment,
25 facilities or real property which is directly used for the production
26 of the goods;

27 (9) The costs attributable to any research, experimental,
28 engineering or design activities directly related to the production
29 of the goods;

30 (10) Taxes paid in relation to acquiring or producing any
31 material, and taxes paid in relation to services that are a direct
32 cost of production; and

33 (11) The cost of producing or acquiring any electricity sold;
34 and

35 (b) The following costs in relation to the business entity's
36 goods:

37 (1) Deterioration of the goods;

38 (2) Obsolescence of the goods;

39 (3) Spoilage and abandonment of the goods, including the
40 costs of rework labor, reclamation and scrap;

41 (4) If the property is held for future production, the direct
42 costs of preproduction allocable to the property;

43 (5) The direct costs of postproduction allocable to the
44 property;



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(6) *The costs of insurance on any plant, facility, machinery, equipment or materials directly used in the production of the goods;*

(7) *The cost of insurance on the produced goods;*

(8) *The cost of utilities, including any electricity, gas and water, directly used in the production of the goods;*

(9) *The costs of quality control, including any replacement of defective components pursuant to standard warranty policies, inspection directly allocable to the production of the goods, and repairs and maintenance of the goods; and*

(10) *Licensing and franchise costs, including any fees incurred in securing the contractual right to use a trademark, corporate plan, manufacturing procedure, special recipe or other similar right directly associated with the goods produced.*

3. *The cost of goods sold does not include the following costs in relation to the business entity's goods:*

(a) *The cost of renting or leasing any equipment, facilities or real property that is not used for the production of the goods;*

(b) *Selling costs, including employee expenses relating to sales;*

(c) *Distribution costs;*

(d) *Advertising costs;*

(e) *Expenses for idle facilities;*

(f) *Rehandling costs;*

(g) *Bidding costs incurred in the solicitation of contracts, whether or not the contracts are ultimately awarded to the business entity;*

(h) *Interest, including interest on debt incurred or continued during the period of production of the goods to finance such production;*

(i) *Any taxes assessed on the business entity based on income;*

(j) *Strike expenses, except the wages of employees hired to replace striking personnel; and*

(k) *Officers' compensation.*

4. *For the purposes of this section and section 26 of this act, and subject to the provisions of section 30 of this act, a business entity:*

(a) *May make a subtraction in relation to the cost of goods sold only if that entity owns those goods.*

(b) *Must determine its cost of goods sold in accordance with the methods used on the federal income tax return on which is based the return under this chapter. This paragraph does not affect the type or category of cost of goods sold that may be subtracted in accordance with this section to compute the taxable margin of a business entity.*



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5. *As used in this section:*

(a) *“Goods” means real property or tangible personal property sold in the ordinary course of business of a business entity.*

(b) *“Production” includes construction, installation, manufacture, development, extraction, improvement, creation, raising or growth.*

Sec. 29. 1. *Except as otherwise provided in this section and subject to the provisions of section 30 of this act, a business entity that elects to subtract the amount of compensation for the purpose of computing its taxable margin under section 26 of this act may subtract an amount equal to:*

(a) *All wages and cash compensation paid by the business entity to its officers, directors, owners, partners and employees; and*

(b) *The cost of all benefits, to the extent deductible for the purposes of federal income taxation, the business entity provides to its officers, directors, owners, partners and employees, including retirement, health care, employer contributions made to employees’ health savings accounts and workers’ compensation benefits.*

2. *Notwithstanding the actual amount of wages and cash compensation paid by a business entity to its officers, directors, owners, partners and employees, a business entity may not include in the amount of wages and cash compensation the business entity subtracts pursuant to paragraph (a) of subsection 1, in relation to each individual person, more than \$300,000 per taxable year on which margin is based. If a person is paid by more than one entity of a combined group, the combined group may not subtract pursuant to paragraph (a) of subsection 1, in relation to that person, a total of more than \$300,000 per taxable year on which margin is based.*

3. *A business entity that is an employee leasing company:*

(a) *May not include as wages or cash compensation any payments described in paragraph (c) of subsection 6 of section 27 of this act; and*

(b) *Must determine compensation as provided in this section only for the business entity’s own employees who are not leased to a client company.*

4. *Except as otherwise provided in this section, in determining compensation, a business entity that is a client company:*

(a) *May include payments made to the employee leasing company for wages and benefits for the leased employees as if the leased employees were actual employees of the client company;*



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(b) May not include any administrative fees charged by the employee leasing company for the provision of the leased employees; and

(c) May not include any other amounts in relation to the leased employees, including payroll taxes.

5. As used in this section:

(a) Except as otherwise provided in paragraph (b), "wages and cash compensation" means the amount entered in the Medicare wages and tips box of Internal Revenue Service Form W-2 or any subsequent form with a different number or designation that substantially provides the same information.

(b) "Wages and cash compensation" includes, to the extent not included in the amount described in paragraph (a), the amount of any:

(1) Net distributive income from a business entity treated as a partnership for the purposes of federal income taxation, but only if the person receiving the distribution is a natural person;

(2) Net distributive income from limited-liability companies and corporations treated as S corporations for the purposes of federal income taxation, but only if the person receiving the distribution is a natural person;

(3) Net distributive income from a limited-liability company treated as a sole proprietorship for the purposes of federal income taxation, but only if the person receiving the distribution is a natural person; and

(4) Stock awards and stock options deducted for the purposes of federal income taxation.

Sec. 30. 1. Business entities that are part of an affiliated group engaged in a unitary business must file, in lieu of individual returns, a combined group return based on the combined group's business. The combined group:

(a) Must not include a business entity that conducts business outside of the United States if, as determined in accordance with regulations adopted by the Department:

(1) Eighty percent or more of that business entity's property and payroll are allocable to locations outside of the United States; or

(2) That business entity has no property or payroll and 80 percent or more of the business entity's total income is allocable to locations outside of the United States.

(b) Constitutes a single business entity for purposes of the application of the tax imposed by this chapter.

2. For the purposes of section 26 of this act, a combined group shall determine its total revenue by:



1 (a) Determining the total revenue of each of its members as
2 provided in section 27 of this act as if the member was an
3 individual business entity;

4 (b) Adding the total revenue of all its members determined
5 under paragraph (a); and

6 (c) Subtracting from the amount determined under paragraph
7 (b), to the extent included under subparagraph (1) of paragraph
8 (a) of subsection 1 of section 27 of this act, subparagraph (1) of
9 paragraph (b) of subsection 1 of section 27 of this act or
10 paragraph (c) of subsection 1 of section 27 of this act, any items of
11 total revenue received from a member of the combined group.

12 3. For the purposes of section 26 of this act, a combined
13 group shall make an election to subtract either the cost of goods
14 sold or the amount of compensation that applies to all of its
15 members. Regardless of the election, the taxable margin of the
16 combined group may not exceed 70 percent of the combined
17 group's total revenue from its entire business.

18 4. A member of a combined group may claim as the cost of
19 goods sold those costs that qualify under section 28 of this act if
20 the goods for which the costs are incurred are owned by another
21 member of the combined group.

22 5. For the purposes of section 26 of this act, a combined
23 group that elects to subtract:

24 (a) The cost of goods sold must determine that amount by:

25 (1) Determining the cost of goods sold for each of its
26 members as provided in section 28 of this act as if the member was
27 an individual business entity;

28 (2) Adding all the amounts of the costs of goods sold
29 determined under subparagraph (1); and

30 (3) Subtracting from the amount determined under
31 subparagraph (2) any amount of the costs of goods sold paid from
32 one member of the combined group to another member of the
33 combined group, but only to the extent that the corresponding
34 item of total revenue was subtracted under paragraph (c) of
35 subsection 2.

36 (b) The amount of compensation must determine that amount
37 by:

38 (1) Determining the amount of compensation for each of its
39 members as provided in section 29 of this act as if the member was
40 an individual business entity, subject to the limitation set forth in
41 subsection 2 of section 29 of this act;

42 (2) Adding all the amounts of compensations determined
43 under subparagraph (1); and

44 (3) Subtracting from the amount determined under
45 subparagraph (2) any amount of compensation paid from one



1 *member of the combined group to another member of the*
2 *combined group, but only to the extent that the corresponding*
3 *item of total revenue was subtracted under paragraph (c) of*
4 *subsection 2.*

5 *6. Each business entity that is part of a combined group's*
6 *return must, for the purposes of determining margin and*
7 *apportionment, include its activities for the same period as that*
8 *used by the combined group.*

9 *7. Each member of a combined group is jointly and severally*
10 *liable for the tax of the combined group.*

11 **Sec. 31.** *1. A business entity's margin must be apportioned*
12 *to this State to determine the amount of tax imposed by section 25*
13 *of this act by multiplying the margin by a fraction, the numerator*
14 *of which is the business entity's total income from business done*
15 *in this State, as determined under section 32 of this act, and the*
16 *denominator of which is the business entity's total income from its*
17 *entire business, as determined under section 33 of this act.*

18 *2. For the purpose of apportioning margin:*

19 *(a) Income excluded from total revenue by a business entity*
20 *under section 27 of this act must not be included in either the total*
21 *income of the business entity from its business done in this State*
22 *as determined under section 32 of this act or the total income of*
23 *the business entity from its entire business as determined under*
24 *section 33 of this act.*

25 *(b) Income derived from transactions between individual*
26 *members of a combined group that are excluded under paragraph*
27 *(c) of subsection 2 of section 30 of this act must not be included*
28 *in:*

29 *(1) The total income of the business entity from its business*
30 *done in this State as determined under section 32 of this act,*
31 *except that income ultimately derived from the sale of tangible*
32 *personal property between individual members of a combined*
33 *group where one member party to the transaction does not have*
34 *nexus in this State must be included in the total income of the*
35 *business entity from its business done in this State as determined*
36 *under section 32 of this act to the extent that the member of the*
37 *combined group that does not have nexus in this State resells the*
38 *tangible personal property without substantial modification to a*
39 *purchaser in this State. For the purposes of this subsection,*
40 *"income ultimately derived from the sale of tangible personal*
41 *property" means the amount paid for the tangible personal*
42 *property by the third-party purchaser.*

43 *(2) The total income of the business entity from its entire*
44 *business as determined under section 33 of this act.*



(c) Notwithstanding any provision of paragraph (a) or (b) to the contrary, if a loan or security is treated as inventory of the seller for the purposes of federal income taxation, the gross proceeds of the sale of that loan or security are considered total income.

Sec. 32. 1. Subject to the provisions of section 31 of this act, in apportioning margin, the total income of a business entity from its business done in this State is the sum of the business entity's total income from:

(a) Each sale of tangible personal property which is delivered or shipped to a buyer in this State, regardless of the specified terms and conditions of the sale;

(b) Each service performed in this State;

(c) Each rental of property situated in this State;

(d) The use of a patent, copyright, trademark, franchise or license in this State;

(e) Each sale of real property located in this State, including royalties from oil, gas or other mineral interests; and

(f) Any other business done in this State.

2. For the purposes of paragraph (b) of subsection 1, the total income derived from servicing loans secured by real property shall be deemed to be performed in this State if the real property is located in this State.

3. A combined group shall include in its total income computed under subsection 1 the total income of each business entity that is a member of the combined group which has a nexus in this State for the purpose of taxation.

Sec. 33. 1. Subject to the provisions of section 31 of this act, in apportioning margin, the total income of a business entity from its entire business is the sum of the business entity's total income from:

(a) Each sale of the business entity's tangible personal property;

(b) Each service, rental or royalty; and

(c) Any other business.

2. If a business entity sells an investment or capital asset, the business entity's total income from its entire business for taxable margin includes only the net gain from the sale.

3. A combined group shall include in its total income computed under subsection 1 the total income of each business entity that is a member of the combined group, without regard to whether that entity has a nexus with this State for the purpose of taxation.

Sec. 34. 1. A business entity shall use the same accounting methods to apportion margin as used in computing margin.



2. A business entity may not change its accounting methods used to calculate its total income more often than once every 4 years without the express written consent of the Department. A change in accounting methods is not justified solely because the change results in a reduction of tax liability.

Sec. 35. 1. The tax imposed by this chapter for each taxable year is due on the last day of the calendar month following that taxable year.

2. Except as otherwise provided in this chapter, each business entity engaging in a business in this State during a taxable year that is not exempt from the tax imposed by this chapter for that taxable year shall file with the Department a return on a form prescribed by the Department, together with the remittance of any tax due pursuant to this chapter for that taxable year, not later than 30 days after the date the business entity is required to file its federal income tax return for that taxable year with the Internal Revenue Service. The return required by this subsection must be executed under penalty of perjury and include the taxpayer identification number or social security number of the business entity, as applicable, and such other information as is required by the Department.

Sec. 36. Upon written application made before the date on which a business entity is otherwise required to file a return and pay the tax imposed by this chapter, the Department may:

1. If the business entity is granted an extension of time by the Federal Government for the filing of its federal income tax return, extend the time for filing the return required by this chapter until not later than 30 days after the date the business entity is required to file its federal income tax return pursuant to the extension of time granted by the Federal Government. The Department may require, as a condition to the granting of any extension pursuant to this subsection, the payment of the tax estimated to be due pursuant to this chapter.

2. For good cause extend by 30 days the time within which the business entity is required to pay the tax. If the tax is paid during a period of extension granted pursuant to this subsection, no penalty or late charge may be imposed for failure to pay at the time required, but the business entity shall pay interest at the rate of 1 percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.

Sec. 37. 1. If the taxable margin of a business entity changes as a result of:

(a) The filing by the business entity of an amended federal income tax return or other return, the business entity shall, within



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1 30 days after that filing, file an amended return with the
2 Department.

3 (b) An audit or other adjustment by the Internal Revenue
4 Service or another competent authority, the business entity shall,
5 within 30 days after the audit report or other adjustment becomes
6 final, file an amended return with the Department.

7 2. If, based upon an amended return filed pursuant to this
8 section, it appears that the tax imposed by this chapter has not
9 been fully assessed, the Department shall assess the deficiency,
10 with interest calculated at the rate and in the manner set forth in
11 NRS 360.417. Any assessment required by this subsection must be
12 made within 1 year after the Department receives the amended
13 return.

14 **Sec. 38.** If the Department determines that any tax, penalty
15 or interest has been paid more than once or has been erroneously
16 or illegally collected or computed, the Department shall set forth
17 that fact in the records of the Department and certify to the State
18 Board of Examiners the amount collected in excess of the amount
19 legally due and the person from whom it was collected or by whom
20 it was paid. If approved by the State Board of Examiners, the
21 excess amount collected or paid must, after being credited against
22 any amount then due from the person in accordance with NRS
23 360.236, be refunded to the person or his or her successors in
24 interest.

25 **Sec. 39.** 1. Except as otherwise provided in NRS 360.235
26 and 360.395:

27 (a) No refund may be allowed unless a claim for it is filed with
28 the Department within 3 years after the last day of the month
29 following the taxable year for which the overpayment was made.

30 (b) No credit may be allowed after the expiration of the period
31 specified for filing claims for refund unless a claim for credit is
32 filed with the Department within that period.

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

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

38 4. Within 30 days after rejecting any claim in whole or in
39 part, the Department shall serve notice of its action on the
40 claimant in the manner prescribed for service of notice of a
41 deficiency determination.

42 **Sec. 40.** 1. Except as otherwise provided in this section,
43 NRS 360.320 or any other specific statute, interest must be paid
44 upon any overpayment of any amount of the taxes imposed by this



chapter at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.

2. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Department shall not allow any interest on the overpayment.

Sec. 41. 1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or against any officer of this State to prevent or enjoin the collection under this chapter of the tax imposed by this chapter or any amount of tax, penalty or interest required to be collected.

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

Sec. 42. 1. Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by the Commission, the claimant may bring an action against the Department on the grounds set forth in the claim in a court of competent jurisdiction in Carson City, the county of this State where the claimant resides or maintains his or her principal place of business or a county in which any relevant proceedings were conducted by the Department, for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

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

Sec. 43. 1. If the Department fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Commission within 30 days after the last day of the 6-month period. If the claimant is aggrieved by the decision of the Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

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

3. The balance of the judgment must be refunded to the plaintiff.

Sec. 44. In any judgment, interest must be allowed at the rate of 6 percent per annum upon the amount found to have been



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1 *illegally collected from the date of payment of the amount to the*
2 *date of allowance of credit on account of the judgment, or to a*
3 *date preceding the date of the refund warrant by not more than 30*
4 *days. The date must be determined by the Department.*

5 **Sec. 45.** *A judgment may not be rendered in favor of the*
6 *plaintiff in any action brought against the Department to recover*
7 *any amount paid when the action is brought by or in the name of*
8 *an assignee of the person paying the amount or by any person*
9 *other than the person who paid the amount.*

10 **Sec. 46.** *1. The Department may recover a refund or any*
11 *part thereof which is erroneously made and any credit or part*
12 *thereof which is erroneously allowed in an action brought in a*
13 *court of competent jurisdiction in Carson City or Clark County in*
14 *the name of the State of Nevada.*

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

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

23 **Sec. 47.** *1. If any amount in excess of \$25 has been*
24 *illegally determined, either by the Department or by the person*
25 *filing the return, the Department shall certify this fact to the State*
26 *Board of Examiners, and the latter shall authorize the*
27 *cancellation of the amount upon the records of the Department.*

28 *2. If an amount not exceeding \$25 has been illegally*
29 *determined, either by the Department or by the person filing the*
30 *return, the Department, without certifying this fact to the State*
31 *Board of Examiners, shall authorize the cancellation of the*
32 *amount upon the records of the Department.*

33 **Sec. 48.** *1. A person shall not:*

34 *(a) Make, cause to be made or permit to be made any false or*
35 *fraudulent return or declaration or false statement in any return*
36 *or declaration with intent to defraud the State or to evade payment*
37 *of the tax or any part of the tax imposed by this chapter.*

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

42 *(c) Keep, cause to be kept or permit to be kept more than one*
43 *set of 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.*



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

Sec. 49. The remedies of the State provided for in this chapter are cumulative, and no action taken by the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.

Sec. 50. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 51 to 110, inclusive, of this act.

Sec. 51. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 52 to 65, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 52. "Business" includes any activity engaged in by any person with the object of gain, benefit or advantage, either direct or indirect, except employment for wages.

Sec. 53. "Commission" means the Nevada Tax Commission.

Sec. 54. "Exempted from the transaction tax" means exempted from the computation of the amount of the transaction tax.

Sec. 55. 1. "Financial institution" means:

(a) An institution licensed, registered or otherwise authorized to do business in this State pursuant to the provisions of title 55 or 56 of NRS or chapter 604A, 645B or 645E of NRS, or a similar institution chartered or licensed pursuant to federal law or the law of another state;

(b) A person licensed or registered or required to be licensed or registered pursuant to NRS 90.310, 90.330, 90.453, 686A.340 or 688C.190, or authorized by the law of another state to conduct a similar business;

(c) A person holding or required to hold a solicitation permit or license pursuant to NRS 692B.040, 692B.190 or 692B.260, or authorized by the law of another state to conduct a similar business;

(d) A person designated or registered or required to be designated or registered pursuant to the Commodity Exchange Act, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940 or the Investment Advisers Act of 1940, as amended;

(e) A person licensed pursuant to 7 U.S.C. § 2009cc-3 to operate as a rural business investment company;

(f) A person registered or required to be registered as a savings and loan holding company pursuant to 12 U.S.C. § 1467a;



(g) A person registered or required to be registered as a bank holding company pursuant to 12 U.S.C. § 1844;

(h) An investment bank holding company supervised pursuant to 15 U.S.C. § 78q;

(i) A person electing to be treated as a business development company pursuant to 15 U.S.C. § 80a-53;

(j) A person licensed pursuant to 15 U.S.C. § 681 to operate as a small business investment company;

(k) A person granted final approval pursuant to 15 U.S.C. § 689c to operate as a new markets venture capital company;

(l) A person qualifying as and electing to be considered a real estate investment trust pursuant to 26 U.S.C. § 856;

(m) A bank, as defined in 12 U.S.C. § 1813(a);

(n) A savings association, as defined in 12 U.S.C. § 1813(b);

(o) A savings bank, as defined in 12 U.S.C. § 1813(g);

(p) A thrift institution, as defined in 12 U.S.C. § 1841(i);

(q) A national banking association organized under the National Bank Act;

(r) An entity that is related to any of the entities described in paragraphs (a), (b), (d) to (k), inclusive, and (m) to (q), inclusive; and

(s) An issuer or a service provider, as defined in subsection 2.

2. For the purposes of this section:

(a) “Credit card” has the meaning ascribed to it in NRS 97A.050.

(b) “Entity” includes, without limitation, any corporation, limited-liability company, association, organization, company, firm, partnership, joint venture, trust, business trust, receiver, trustee, syndicate, cooperative or assignee, or any other group or combination acting as a unit.

(c) “Issuer” has the meaning ascribed to it in NRS 97A.100, except that the term does not include a seller of goods or provider of services who issues a credit card for the purpose of providing or extending credit only in connection with the goods he or she sells or the services he or she provides.

(d) Entities are “related” if at least 50 percent of the interest, either by vote or value, in each entity is owned, either directly or indirectly, by the same entity, including either of those entities.

(e) “Service provider” has the meaning ascribed to it in NRS 97A.130, except that the term does not include a service provider who acts in that capacity solely on behalf of a seller of goods or provider of services who issues a credit card for the purpose of providing or extending credit only in connection with the goods he or she sells or the services he or she provides.



Sec. 56. "Governmental entity" means:

1. The United States and any of its unincorporated agencies and instrumentalities.

2. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

3. The State of Nevada and any of its unincorporated agencies and instrumentalities.

4. Any county, city, district or other political subdivision of this State.

Sec. 57. "Health care services" means:

1. Any services included in the furnishing of medical or dental care or hospitalization to a person or incident to the furnishing of such care or hospitalization; and

2. Any other services provided by a provider of health care to a person for the purpose of preventing, diagnosing, alleviating, curing or healing any human illness, disease or injury.

Sec. 58. "In this State" means within the exterior limits of the State of Nevada and includes all the territory within these limits owned by or ceded to the United States of America.

Sec. 59. "Provider of health care" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of practice of a profession. The term includes, without limitation, a medical laboratory as defined in NRS 652.060.

Sec. 60. 1. "Purchase price" means the total amount charged by a service provider as consideration for the provision of any services, valued in money, whether received in money or otherwise, without any deduction for any cost, expense or loss incurred in providing those services. The term does not include:

(a) Any cash discounts allowed by the service provider and taken by the purchaser;

(b) The amount of the transaction tax collected from the purchaser;

(c) The amount of any rent charged for the rental or lease of any transient lodging or other real or personal property;

(d) The amount of any bet or wager made in the course of any lottery, game or other gaming or gambling activity regulated pursuant to title 41 of NRS;

(e) The amount of any direct premiums or direct considerations charged for insurance;

(f) The amount of any bona fide gratuity;

(g) The amount of any service charge, however designated, which is:



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1 (1) *Imposed by a service provider for food or beverage*
2 *service;*

3 (2) *Paid to an employee of the service provider; and*

4 (3) *Required to be reported by the service provider for the*
5 *purposes of federal income taxation as part of the wages, tips or*
6 *other compensation of that employee; or*

7 (h) *The amount of any consideration charged for a loan of*
8 *money.*

9 2. *As used in this section:*

10 (a) *“Rent” means the consideration charged solely for the use*
11 *or occupancy of property.*

12 (b) *“The total amount charged” includes:*

13 (1) *All receipts, cash, credits and property of any kind; and*

14 (2) *Any amount for which credit is allowed by the service*
15 *provider to the purchaser.*

16 **Sec. 61.** *“Service provider” means any person engaged in a*
17 *business that provides any taxable services.*

18 **Sec. 62.** *“Services” means any useful efforts that do not*
19 *produce a tangible commodity.*

20 **Sec. 63.** *“Taxable services” means any services that are not*
21 *exempted from the transaction tax.*

22 **Sec. 64.** *“Taxpayer” means any person liable for payment of*
23 *the transaction tax.*

24 **Sec. 65.** *“Transaction tax” means the tax imposed by section*
25 *66 of this act.*

26 **Sec. 66. 1.** *A tax is hereby imposed upon the use in this*
27 *State of any taxable services provided by a service provider on or*
28 *after July 1, 2013, at the rate of 1 percent of the purchase price for*
29 *those services.*

30 2. *Every person who uses in this State any taxable services*
31 *provided by a service provider is liable for the tax. His or her*
32 *liability is not extinguished until the tax has been paid to this*
33 *State, except that a receipt from a service provider which is given*
34 *to the person pursuant to section 67 of this act is sufficient to*
35 *relieve the person from further liability for the tax to which the*
36 *receipt refers.*

37 **Sec. 67.** *Every service provider who provides any taxable*
38 *services for use in this State shall, at the time of receiving payment*
39 *therefor, collect the transaction tax from the purchaser and give to*
40 *the purchaser a receipt which indicates the amount of transaction*
41 *tax paid by the purchaser.*

42 **Sec. 68.** *The tax required to be collected by a service provider*
43 *pursuant to this chapter constitutes a debt owed by the service*
44 *provider to this State.*



1 **Sec. 69.** *It is unlawful for any service provider to advertise or*
2 *hold out or state to the public or to any customer, directly or*
3 *indirectly, that the transaction tax or any part thereof will be*
4 *assumed or absorbed by the service provider or that it will not be*
5 *added to the purchase price for any taxable services provided or*
6 *that if added, it or any part thereof will be refunded.*

7 **Sec. 70.** *An invoice, billing or other document given to a*
8 *purchaser of taxable services which indicates the amount charged*
9 *by the service provider for the provision of those services must*
10 *state separately the amount of the tax required to be collected by*
11 *the service provider pursuant to this chapter.*

12 **Sec. 71.** *Any person who violates section 67, 69 or 70 of this*
13 *act is guilty of a misdemeanor.*

14 **Sec. 72.** 1. *A person shall not engage in or conduct any*
15 *business as a service provider in this State unless the person has*
16 *obtained a permit issued by the Department.*

17 2. *Each application for a permit must:*

18 (a) *Be made upon a form prescribed by the Department;*

19 (b) *Set forth the name under which the applicant provides or*
20 *intends to provide taxable services and each location where the*
21 *applicant offers the taxable services;*

22 (c) *Set forth any other information which the Department may*
23 *require;*

24 (d) *Be accompanied by a fee of \$5; and*

25 (e) *Be signed by:*

26 (1) *The owner, if he or she is a natural person;*

27 (2) *A member or partner, if the service provider is an*
28 *association or partnership; or*

29 (3) *An executive officer or some other person specifically*
30 *authorized to sign the application, if the service provider is a*
31 *corporation. If an application is signed pursuant to this*
32 *subparagraph, written evidence of the signer's authority must be*
33 *attached to the application.*

34 **Sec. 73.** 1. *If the holder of a permit issued pursuant to this*
35 *chapter fails to comply with any provision of this chapter or any*
36 *regulation adopted pursuant thereto, the Department may suspend*
37 *or revoke the permit. Before doing so, the Department must hold a*
38 *hearing after giving 10 days' written notice to the holder of the*
39 *permit. The notice must specify the time and place of the hearing*
40 *and require the holder of the permit to show cause why the permit*
41 *should not be suspended or revoked.*

42 2. *If a permit is suspended or revoked, the Department shall*
43 *give written notice of the action to the holder of the permit.*



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1 3. The notices required by this section may be served
2 personally or by mail in the manner provided for service of notice
3 of a deficiency determination.

4 4. The Department shall not issue a new permit to the former
5 holder of a revoked permit unless the Department is satisfied that
6 the former holder will comply with the provisions of this chapter
7 and the regulations of the Department adopted pursuant thereto.

8 5. A service provider whose permit has been suspended or
9 revoked must pay the Department a fee of \$5 for the reinstatement
10 of the permit or the issuance of a new permit.

11 **Sec. 74.** Every service provider who provides any taxable
12 services for use in this State and who is not required to obtain a
13 permit pursuant to section 72 of this act shall register with the
14 Department and provide:

15 1. The name under which the service provider provides or
16 intends to provide taxable services for use in this State;

17 2. Each location where the service provider offers taxable
18 services for use in this State; and

19 3. Such other information as the Department may require.

20 **Sec. 75.** There is exempted from the transaction tax the
21 purchase price of:

22 1. Any services that this State is prohibited from taxing under
23 the Constitution or laws of the United States or the Constitution of
24 the State of Nevada.

25 2. Any services provided by or to a governmental entity.

26 3. Any services provided by or to a nonprofit organization
27 that is recognized as exempt from taxation pursuant to the
28 provisions of 26 U.S.C. § 501(c)(3).

29 4. Any services provided by a financial institution in the
30 course of business as a financial institution.

31 5. Any day care services provided to an infant or child away
32 from the home of the infant or child.

33 6. Any health care services.

34 7. Any services provided by an agency to provide personal
35 care services in the home, agency to provide nursing in the home,
36 home for individual residential care, facility for intermediate care,
37 facility for skilled nursing or residential facility for groups
38 licensed pursuant to chapter 449 of NRS.

39 8. Any funeral services for dead humans or any services
40 provided for the burial, cremation or interment of dead human
41 bodies, or for the preparation of dead human bodies for burial,
42 cremation, interment or transportation.

43 9. Any services for the preparation or publication of any
44 obituaries for dead humans.



1 **10. Any services for the transportation or delivery of tangible**
2 **personal property, including, without limitation, the delivery of**
3 **gas, electricity or water through mains, lines or pipes.**

4 **11. Basic landline telephone service.**

5 **12. Internet access service.**

6 **13. Any services for the collection, treatment or disposal of**
7 **waste materials.**

8 **14. Any services for which the amount received for those**
9 **services is included in the measure of:**

10 **(a) Any excise tax imposed in this State on the sale, storage,**
11 **use or consumption of tangible personal property sold at retail, or**
12 **stored, used or otherwise consumed in this State;**

13 **(b) The excise tax imposed pursuant to NRS 368A.200; or**

14 **(c) Any fee imposed pursuant to NRS 467.104, 467.107 or**
15 **467.108.**

16 **15. Any services provided solely on an occasional basis by a**
17 **natural person who is not required to obtain a state business**
18 **license pursuant to NRS 76.100 for the provision of those services.**

19 **Sec. 76. A service provider shall hold the amount of all the**
20 **transaction tax for which he or she is liable in a separate account**
21 **in trust for the State.**

22 **Sec. 77. Except as otherwise provided in section 82 of this**
23 **act, the transaction tax is due and payable to the Department**
24 **monthly on or before the last day of the month immediately**
25 **following the month in which liability for the tax arose.**

26 **Sec. 78. 1. On or before the last day of the month following**
27 **each reporting period, a return for the preceding period,**
28 **accompanied by a remittance of the transaction tax due, must be**
29 **filed with the Department in such form as the Department may**
30 **prescribe. The return must be filed by:**

31 **(a) Each service provider who provides any taxable services**
32 **for use in this State; and**

33 **(b) Each person who uses in this State any taxable services**
34 **provided by a service provider and who has not paid the**
35 **transaction tax due.**

36 **2. Each return must:**

37 **(a) Include such information as the Department deems to be**
38 **necessary for the proper administration of this chapter; and**

39 **(b) Be signed by the person required to file the return or by his**
40 **or her authorized agent, but need not be verified by oath.**

41 **Sec. 79. In determining the amount of the transaction tax**
42 **that is due from a taxpayer, the Department shall allow a credit**
43 **toward the amount due this State in an amount equal to any**
44 **similar tax legitimately paid to a state or local government outside**



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1 of Nevada for the same services, upon proof of payment deemed
2 satisfactory to the Department.

3 **Sec. 80.** 1. If a service provider is unable to collect all or
4 part of the purchase price for the provision of any taxable services,
5 the service provider is entitled to receive a deduction from the
6 purchase price for that bad debt.

7 2. Any deduction that is claimed pursuant to this section may
8 not include interest.

9 3. The amount of any deduction claimed must equal the
10 amount of a deduction that may be claimed pursuant to 26 U.S.C.
11 § 166 for the provision of those services minus:

12 (a) Any finance charge or interest charged on the provision of
13 those services;

14 (b) Any transaction tax charged on the provision of those
15 services; and

16 (c) Any expense incurred in attempting to collect the bad debt.

17 4. A bad debt may be claimed as a deduction on the return
18 that covers the period during which the bad debt is written off in
19 the business records of the service provider that are maintained in
20 the ordinary course of the service provider's business and is
21 eligible to be claimed as a deduction pursuant to 26 U.S.C. § 166
22 or, if the service provider is not required to file a federal income
23 tax return, would be eligible to be claimed as a deduction pursuant
24 to 26 U.S.C. § 166.

25 5. If a bad debt for which a deduction has been claimed is
26 subsequently collected in whole or in part, the tax on the amount
27 so collected must be reported on the return that covers the period
28 in which the collection is made.

29 6. If the amount of the bad debt is greater than the total
30 amount of the purchase price for taxable services reported for the
31 period during which the bad debt is claimed as a deduction, a
32 claim for a refund may be filed pursuant to sections 85 to 95,
33 inclusive, of this act, except that the time within which the claim
34 may be filed begins on the date on which the return that included
35 the deduction was filed.

36 7. Except as otherwise provided in subsection 8, upon
37 determining that a service provider has filed a return which
38 contains one or more violations of the provisions of this section,
39 the Department shall:

40 (a) For the first return of any service provider which contains
41 one or more violations, issue a letter of warning to the service
42 provider which provides an explanation of the violation or
43 violations contained in the return.

44 (b) For the first or second return, other than a return
45 described in paragraph (a), in any calendar year which contains



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1 *one or more violations, assess a penalty equal to the amount of the*
2 *deduction claimed or \$1,000, whichever is less.*

3 *(c) For the third and each subsequent return in any calendar*
4 *year which contains one or more violations, assess a penalty of*
5 *three times the amount of the deduction claimed or \$3,000,*
6 *whichever is less.*

7 *8. For the purposes of subsection 7, if the first violation of*
8 *this section by any service provider was determined by the*
9 *Department through an audit which covered more than one return*
10 *of the service provider, the Department shall treat all returns*
11 *which were determined through the same audit to contain a*
12 *violation or violations in the manner provided in paragraph (a) of*
13 *subsection 7.*

14 *9. As used in this section, "bad debt" means a debt that may*
15 *be deducted pursuant to 26 U.S.C. § 166.*

16 **Sec. 81.** *If the transaction tax is paid in accordance with*
17 *section 77 of this act, a taxpayer may deduct and withhold from*
18 *the tax otherwise due 0.25 percent of the tax as reimbursement for*
19 *administrative costs.*

20 **Sec. 82.** *1. Except as otherwise provided in this section, the*
21 *reporting and payment period of:*

22 *(a) A taxpayer whose purchase price for taxable services does*
23 *not exceed a total amount of \$10,000 per month is a calendar*
24 *quarter.*

25 *(b) A taxpayer who files reports on a quarterly basis in*
26 *accordance with paragraph (a) and:*

27 *(1) From whom no transaction tax is due for the*
28 *immediately preceding three quarterly reporting periods; or*

29 *(2) Whose purchase price for taxable services does not*
30 *exceed a total amount of \$1,500 for the immediately preceding*
31 *four quarterly reporting periods,*

32 *is 12 calendar months, unless the purchase price for taxable*
33 *services provided to or by the taxpayer exceeds a total amount of*
34 *\$1,500 for such a 12-month reporting and payment period or*
35 *\$10,000 for a calendar month.*

36 *2. The Department, if it deems this action necessary to ensure*
37 *payment to or facilitate the collection by the State of the amount of*
38 *the transaction tax, may require returns and payment of the*
39 *amount of the transaction tax for periods other than calendar*
40 *months or quarters, depending upon the principal place of*
41 *business of the service provider or purchaser of taxable services,*
42 *or for other than monthly, quarterly or annual periods.*

43 **Sec. 83.** *The Department for good cause may extend for a*
44 *period not to exceed 1 month the time for making any return or*
45 *paying an amount required to be paid under this chapter.*



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1 **Sec. 84. 1.** *The Department may require any person subject*
2 *to this chapter to place with the Department such security as the*
3 *Department determines necessary to ensure compliance with this*
4 *chapter. The Department shall fix the amount of the security*
5 *which, except as otherwise provided in subsection 2, may not be*
6 *greater than twice the estimated average tax due quarterly of*
7 *persons filing returns for quarterly periods, three times the*
8 *estimated average tax due monthly of persons filing returns for*
9 *monthly periods or four times the estimated average tax due*
10 *annually of persons filing returns for annual periods, determined*
11 *in such a manner as the Department deems proper.*

12 2. *For persons who are habitually delinquent in their*
13 *obligations under this chapter, the amount of the security may not*
14 *be greater than three times the average actual tax due quarterly of*
15 *persons filing returns for quarterly periods, five times the average*
16 *actual tax due monthly of persons filing returns for monthly*
17 *periods or seven times the average actual tax due annually of*
18 *persons filing returns for annual periods.*

19 3. *The limitations provided in this section apply regardless of*
20 *the type of security placed with the Department.*

21 4. *The amount of the security may be increased or decreased*
22 *by the Department subject to the limitations provided in this*
23 *section.*

24 5. *The Department may sell the security at public auction if it*
25 *becomes necessary to recover any tax or any amount required to*
26 *be collected, or interest or penalty due. Notice of the sale may be*
27 *served, personally or by mail, upon the person who placed the*
28 *security. If the notice is served by mail, service must be made in*
29 *the manner prescribed for service of a notice of a deficiency*
30 *determination and must be addressed to the person at his or her*
31 *address as it appears in the records of the Department.*

32 6. *Upon any sale, the surplus above the amounts due, if any,*
33 *must be returned to the person who placed the security.*

34 **Sec. 85. 1.** *If the Department determines that any amount,*
35 *penalty or interest has been paid more than once or has been*
36 *erroneously or illegally collected or computed, the Department*
37 *shall set forth that fact in the records of the Department and*
38 *certify to the State Board of Examiners the amount collected in*
39 *excess of the amount legally due and the person from whom it was*
40 *collected or by whom paid. If approved by the State Board of*
41 *Examiners, the excess amount collected or paid must, after being*
42 *credited against any amount then due from the person in*
43 *accordance with NRS 360.236, be refunded to the person or his or*
44 *her successors, administrators or executors.*



2. Any overpayment of the transaction tax by a purchaser to a service provider who collects the tax and gives the purchaser a receipt pursuant to section 67 of this act must be credited or refunded by the State to the purchaser, subject to the requirements of NRS 360.236.

Sec. 86. 1. Except as otherwise provided in NRS 360.235 and 360.395 and section 80 of this act:

(a) No refund may be allowed unless a claim for the refund is filed with the Department within 3 years after the last day of the month following the close of the period for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for a refund unless a claim for credit is filed with the Department within that period or unless the credit relates to a period for which a waiver is given pursuant to NRS 360.355.

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

3. Failure to file a claim within the time prescribed in this section constitutes a waiver of any demand against the State on the basis of overpayment.

4. Within 30 days after disallowing any claim in whole or in part, the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

Sec. 87. 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of any amount of tax at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.

2. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Department shall not allow any interest on the overpayment.

Sec. 88. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or against any officer of this State to prevent or enjoin the collection under this chapter of any tax or any amount of tax required to be collected.

Sec. 89. No suit or proceeding may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed.

Sec. 90. 1. Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by the Commission, the claimant may bring an action against the Department on the grounds set forth in the claim in a court of



1 *competent jurisdiction in Carson City, the county of this State*
2 *where the claimant resides or maintains his or her principal place*
3 *of business, or a county in which any relevant proceedings were*
4 *conducted by the Department, for the recovery of the whole or any*
5 *part of the amount with respect to which the claim has been*
6 *disallowed.*

7 2. *Failure to bring an action within the time specified*
8 *constitutes a waiver of any demand against the State on account of*
9 *alleged overpayments.*

10 **Sec. 91.** 1. *If the Department fails to mail notice of action*
11 *on a claim within 6 months after the claim is filed, the claimant*
12 *may consider the claim disallowed and file an appeal with a*
13 *hearing officer within the 45 days after the last day of the 6-month*
14 *period. If the claimant is aggrieved by the decision of the hearing*
15 *officer on appeal, the claimant may, pursuant to the provisions of*
16 *NRS 360.245, appeal the decision to the Commission. If the*
17 *claimant is aggrieved by the decision of the Commission rendered*
18 *on appeal, the claimant may, within 45 days after the decision is*
19 *rendered, bring an action against the Department on the grounds*
20 *set forth in the claim for the recovery of the whole or any part of*
21 *the amount claimed as an overpayment.*

22 2. *If judgment is rendered for the plaintiff:*

23 (a) *The amount of the judgment must first be credited toward*
24 *any tax due under this chapter from the plaintiff; and*

25 (b) *The balance of the judgment must be refunded to the*
26 *plaintiff.*

27 **Sec. 92.** *In any judgment, interest must be allowed at the rate*
28 *of 6 percent per annum upon the amount found to have been*
29 *illegally collected from the date of payment of the amount to the*
30 *date of allowance of credit on account of the judgment, or to a*
31 *date preceding the date of the refund warrant by not more than 30*
32 *days. The date must be determined by the Department.*

33 **Sec. 93.** *A judgment may not be rendered in favor of the*
34 *plaintiff in any action brought against the Department to recover*
35 *any amount paid when the action is brought by or in the name of*
36 *an assignee of the person paying the amount or by any person*
37 *other than the person who paid the amount.*

38 **Sec. 94.** 1. *The Department may recover any refund or any*
39 *part thereof which is erroneously made and any credit or part*
40 *thereof which is erroneously allowed in an action brought in a*
41 *court of competent jurisdiction in Carson City or Clark County in*
42 *the name of the State of Nevada.*

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



1 3. *The Attorney General shall prosecute the action, and the*
2 *provisions of NRS, the Nevada Rules of Civil Procedure and the*
3 *Nevada Rules of Appellate Procedure relating to service of*
4 *summons, pleadings, proofs, trials and appeals are applicable to*
5 *the proceedings.*

6 **Sec. 95.** *1. If any amount in excess of \$25 has been*
7 *illegally determined, either by the person filing the return or by the*
8 *Department, the Department shall certify this fact to the State*
9 *Board of Examiners, and the latter shall authorize the*
10 *cancellation of the amount upon the records of the Department.*

11 *2. If an amount not exceeding \$25 has been illegally*
12 *determined, either by the person filing a return or by the*
13 *Department, the Department, without certifying this fact to the*
14 *State Board of Examiners, shall authorize the cancellation of*
15 *the amount upon the records of the Department.*

16 **Sec. 96.** *The Department shall administer and enforce the*
17 *provisions of this chapter and may adopt regulations relating to*
18 *the administration and enforcement of this chapter.*

19 **Sec. 97.** *1. The provisions of this chapter relating to the*
20 *collection and remittance of the transaction tax apply to every*
21 *service provider whose activities have a sufficient nexus with this*
22 *State to satisfy the requirements of the United States Constitution.*

23 *2. In administering the provisions of this chapter, the*
24 *Department shall construe the term "service provider" in*
25 *accordance with the provisions of subsection 1.*

26 **Sec. 98.** *The Department may employ accountants, auditors,*
27 *investigators, assistants and clerks necessary for the efficient*
28 *administration of this chapter, and may delegate authority to its*
29 *representatives to conduct hearings or perform any other duties*
30 *imposed by this chapter.*

31 **Sec. 99.** *1. Every service provider and every person who*
32 *uses taxable services in this State shall keep records, receipts,*
33 *invoices and other pertinent papers in such a form as the*
34 *Department may require.*

35 *2. Every service provider or other person who:*

36 *(a) Files the returns required under this chapter shall keep the*
37 *records for not less than 4 years after their making unless the*
38 *Department in writing sooner authorizes their destruction.*

39 *(b) Fails to file the returns required under this chapter shall*
40 *keep the records for not less than 8 years after their making unless*
41 *the Department in writing sooner authorizes their destruction.*

42 **Sec. 100.** *1. To verify the accuracy of any return filed or, if*
43 *no return is filed as required by section 78 of this act, to determine*
44 *the amount required to be paid, the Department, or any person*
45 *authorized in writing by the Department, may require any person*



1 *who may be liable for the transaction tax to produce, for*
2 *examination by the Department at a reasonable time and location,*
3 *the papers, records and equipment of such a person, and may*
4 *investigate the character of the business of such a person.*

5 *2. Any person who may be liable for the transaction tax and*
6 *who keeps outside of this State any records, receipts, invoices and*
7 *other documents relating to the transaction tax due this State shall*
8 *pay to the Department an amount equal to the allowance provided*
9 *for state officers and employees generally while traveling outside*
10 *of the State for each day or fraction thereof during which an*
11 *employee of the Department is engaged in examining those*
12 *documents, plus any other actual expenses incurred by the*
13 *employee while he or she is absent from his or her regular place of*
14 *employment to examine those documents.*

15 **Sec. 101.** *In its administration of the transaction tax, the*
16 *Department may require the filing of reports by any person or*
17 *class of persons having in their possession or custody information*
18 *relating to any taxable services used in this State. The report must:*

19 *1. Be filed when the Department requires; and*

20 *2. Set forth the names and addresses of purchasers of taxable*
21 *services, the purchase price of the taxable services, the date the*
22 *taxable services were provided and such other information as the*
23 *Department may require.*

24 **Sec. 102.** *1. Except as otherwise provided in this section or*
25 *NRS 360.247, it is a misdemeanor for any member of the*
26 *Commission or officer, agent or employee of the Department to*
27 *make known in any manner whatever the business affairs,*
28 *operations or information obtained by an investigation of records*
29 *and equipment of any service provider or any other person visited*
30 *or examined in the discharge of official duty, or the amount or*
31 *source of income, profits, losses, expenditures or any particular of*
32 *them, set forth or disclosed in any return, or to permit any return*
33 *or copy of a return, or any book containing any abstract or*
34 *particulars of it to be seen or examined by any person not*
35 *connected with the Department.*

36 *2. The Commission may agree with any county fair and*
37 *recreation board or the governing body of any county, city or town*
38 *for the continuing exchange of information concerning taxpayers.*

39 *3. The Governor may, by general or special order, authorize*
40 *the examination of the records maintained by the Department*
41 *under this chapter by other state officers, by tax officers of*
42 *another state, by the Federal Government, if a reciprocal*
43 *arrangement exists, or by any other person. The information so*
44 *obtained may not be made public except to the extent and in the*
45 *manner that the order may authorize that it be made public.*



1 4. Upon written request made by a public officer of a local
2 government, the Executive Director shall furnish from the records
3 of the Department, the name and address of the owner of any
4 service provider who must file a return with the Department. The
5 request must set forth the social security number of the owner of
6 the service provider about whom the request is made and contain a
7 statement signed by the proper authority of the local government
8 certifying that the request is made to allow the proper authority to
9 enforce a law to recover a debt or obligation owed to the local
10 government. Except as otherwise provided in NRS 239.0115, the
11 information obtained by the local government is confidential and
12 may not be used or disclosed for any purpose other than the
13 collection of a debt or obligation owed to that local government.
14 The Executive Director may charge a reasonable fee for the cost
15 of providing the requested information.

16 5. Successors, receivers, trustees, executors, administrators,
17 assignees and guarantors, if directly interested, may be given
18 information as to the items included in the measure and amounts
19 of any unpaid tax or amounts of tax required to be collected,
20 interest and penalties.

21 6. Relevant information that the Commission has determined
22 is not proprietary or confidential information in a hearing
23 conducted pursuant to NRS 360.247 may be disclosed as evidence
24 in an appeal by the taxpayer from a determination of tax due.

25 7. At any time after a determination, decision or order of the
26 Executive Director or other officer of the Department imposing
27 upon a person a penalty for fraud or intent to evade the
28 transaction tax becomes final or is affirmed by the Commission,
29 any member of the Commission or officer, agent or employee of
30 the Department may publicly disclose the identity of that person
31 and the amount of tax assessed and penalties imposed against that
32 person.

33 **Sec. 103.** Any service provider or other person who fails or
34 refuses to furnish any return required to be made, or who fails or
35 refuses to furnish a supplemental return or other data required by
36 the Department, or who renders a false or fraudulent return shall
37 be fined not more than \$500 for each offense.

38 **Sec. 104.** Any person required to make, render, sign or verify
39 any report who makes any false or fraudulent return, with intent
40 to defeat or evade the determination of an amount due required by
41 law to be made, shall for each offense be fined not less than \$300
42 or more than \$5,000, or be imprisoned for not more than 1 year in
43 the county jail, or be punished by both fine and imprisonment.

44 **Sec. 105.** Any violation of this chapter, except as otherwise
45 provided by specific statute, is a misdemeanor.



1 **Sec. 106.** *Any prosecution for violation of any of the penal*
2 *provisions of this chapter must be instituted within 3 years after*
3 *the commission of the offense.*

4 **Sec. 107.** *In the determination of any case arising under this*
5 *chapter, the rule of res judicata is applicable only if the liability*
6 *involved is for the same period as was involved in another case*
7 *previously determined.*

8 **Sec. 108.** 1. *All fees, taxes, interest and penalties imposed*
9 *and all amounts of tax required to be paid to the State under this*
10 *chapter must be paid to the Department in the form of remittances*
11 *payable to the Department.*

12 2. *The Department shall deposit the payments in the State*
13 *Treasury to the credit of the Transaction Tax Account in the State*
14 *General Fund.*

15 3. *The money in the Transaction Tax Account may, upon*
16 *order of the State Controller, be used for refunds made pursuant*
17 *to this chapter.*

18 **Sec. 109.** *The remedies of the State provided for in this*
19 *chapter are cumulative, and no action taken by the Department or*
20 *the Attorney General constitutes an election by the State to pursue*
21 *any remedy to the exclusion of any other remedy for which*
22 *provision is made in this chapter.*

23 **Sec. 110.** *In all proceedings under this chapter, the*
24 *Department may act for and on behalf of the people of the State of*
25 *Nevada.*

26 **Sec. 111.** NRS 360.2937 is hereby amended to read as
27 follows:

28 360.2937 1. Except as otherwise provided in this section,
29 NRS 360.320 or any other specific statute, and notwithstanding the
30 provisions of NRS 360.2935, interest must be paid upon an
31 overpayment of any tax provided for in chapter 362, 363A, 363B,
32 369, 370, 372, 374, 377 or 377A of NRS ~~§~~ *or sections 2 to 49,*
33 *inclusive, of this act,* any fee provided for in NRS 444A.090 or
34 482.313, or any assessment provided for in NRS 585.497, at the rate
35 of 0.5 percent per month from the last day of the calendar month
36 following the period for which the overpayment was made.

37 2. No refund or credit may be made of any interest imposed on
38 the person making the overpayment with respect to the amount
39 being refunded or credited.

40 3. The interest must be paid:

41 (a) In the case of a refund, to the last day of the calendar month
42 following the date upon which the person making the overpayment,
43 if the person has not already filed a claim, is notified by the
44 Department that a claim may be filed or the date upon which the



1 claim is certified to the State Board of Examiners, whichever is
2 earlier.

3 (b) In the case of a credit, to the same date as that to which
4 interest is computed on the tax or the amount against which the
5 credit is applied.

6 **Sec. 112.** NRS 360.2937 is hereby amended to read as
7 follows:

8 360.2937 1. Except as otherwise provided in this section,
9 NRS 360.320 or any other specific statute, and notwithstanding the
10 provisions of NRS 360.2935, interest must be paid upon an
11 overpayment of any tax provided for in chapter 362, 363A, 363B,
12 369, 370, 372, 374, 377 or 377A of NRS ~~H~~ *or sections 51 to 110,*
13 *inclusive, of this act,* any fee provided for in NRS 444A.090 or
14 482.313, or any assessment provided for in NRS 585.497, at the rate
15 of 0.5 percent per month from the last day of the calendar month
16 following the period for which the overpayment was made.

17 2. No refund or credit may be made of any interest imposed on
18 the person making the overpayment with respect to the amount
19 being refunded or credited.

20 3. The interest must be paid:

21 (a) In the case of a refund, to the last day of the calendar month
22 following the date upon which the person making the overpayment,
23 if the person has not already filed a claim, is notified by the
24 Department that a claim may be filed or the date upon which the
25 claim is certified to the State Board of Examiners, whichever is
26 earlier.

27 (b) In the case of a credit, to the same date as that to which
28 interest is computed on the tax or the amount against which the
29 credit is applied.

30 **Sec. 113.** NRS 360.297 is hereby amended to read as follows:

31 360.297 1. A responsible person who fails to collect or pay to
32 the Department any tax or fee imposed by this chapter, chapter
33 363A, 363B, 368A, 369, 370, 372 or 374 of NRS, *sections 2 to 49,*
34 *inclusive, of this act,* NRS 444A.090 or 482.313, or chapter 680B of
35 NRS, or who attempts to evade the payment of any such tax or fee,
36 is jointly and severally liable with any other person who is required
37 to pay such a tax or fee for the tax or fee owed plus interest and all
38 applicable penalties. The responsible person shall pay the tax or fee
39 upon notice from the Department that it is due.

40 2. As used in this section, "responsible person" includes:

41 (a) An officer or employee of a corporation; and

42 (b) A member or employee of a partnership or limited-liability
43 company,

44 ➔ whose job or duty it is to collect, account for or pay to the
45 Department any tax or fee imposed by this chapter, chapter 363A,



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1 363B, 368A, 369, 370, 372 or 374 of NRS, *sections 2 to 49,*
2 *inclusive, of this act*, NRS 444A.090 or 482.313, or chapter 680B of
3 NRS.

4 **Sec. 114.** NRS 360.297 is hereby amended to read as follows:

5 360.297 1. A responsible person who fails to collect or pay to
6 the Department any tax or fee imposed by this chapter, chapter
7 363A, 363B, 368A, 369, 370, 372 or 374 of NRS, *sections 51 to*
8 *110, inclusive, of this act*, NRS 444A.090 or 482.313, or chapter
9 680B of NRS, or who attempts to evade the payment of any such tax
10 or fee, is jointly and severally liable with any other person who is
11 required to pay such a tax or fee for the tax or fee owed plus interest
12 and all applicable penalties. The responsible person shall pay the tax
13 or fee upon notice from the Department that it is due.

14 2. As used in this section, "responsible person" includes:

15 (a) An officer or employee of a corporation; and

16 (b) A member or employee of a partnership or limited-liability
17 company,

18 ➔ whose job or duty it is to collect, account for or pay to the
19 Department any tax or fee imposed by this chapter, chapter 363A,
20 363B, 368A, 369, 370, 372 or 374 of NRS, *sections 51 to 110,*
21 *inclusive, of this act*, NRS 444A.090 or 482.313, or chapter 680B of
22 NRS.

23 **Sec. 115.** NRS 360.300 is hereby amended to read as follows:

24 360.300 1. If a person fails to file a return or the Department
25 is not satisfied with the return or returns of any tax, contribution or
26 premium or amount of tax, contribution or premium required to be
27 paid to the State by any person, in accordance with the applicable
28 provisions of this chapter, chapter 360B, 362, 363A, 363B, 369,
29 370, 372, 372A, 374, 377, 377A or 444A of NRS, *sections 2 to 49,*
30 *inclusive, of this act*, NRS 482.313, or chapter 585 or 680B of NRS
31 as administered or audited by the Department, it may compute and
32 determine the amount required to be paid upon the basis of:

33 (a) The facts contained in the return;

34 (b) Any information within its possession or that may come into
35 its possession; or

36 (c) Reasonable estimates of the amount.

37 2. One or more deficiency determinations may be made with
38 respect to the amount due for one or for more than one period.

39 3. In making its determination of the amount required to be
40 paid, the Department shall impose interest on the amount of tax
41 determined to be due, calculated at the rate and in the manner set
42 forth in NRS 360.417, unless a different rate of interest is
43 specifically provided by statute.



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1 4. The Department shall impose a penalty of 10 percent in
2 addition to the amount of a determination that is made in the case of
3 the failure of a person to file a return with the Department.

4 5. When a business is discontinued, a determination may be
5 made at any time thereafter within the time prescribed in NRS
6 360.355 as to liability arising out of that business, irrespective of
7 whether the determination is issued before the due date of the
8 liability.

9 **Sec. 116.** NRS 360.300 is hereby amended to read as follows:

10 360.300 1. If a person fails to file a return or the Department
11 is not satisfied with the return or returns of any tax, contribution or
12 premium or amount of tax, contribution or premium required to be
13 paid to the State by any person, in accordance with the applicable
14 provisions of this chapter, chapter 360B, 362, 363A, 363B, 369,
15 370, 372, 372A, 374, 377, 377A or 444A of NRS, *sections 51 to*
16 *110, inclusive, of this act*, NRS 482.313, or chapter 585 or 680B of
17 NRS as administered or audited by the Department, it may compute
18 and determine the amount required to be paid upon the basis of:

19 (a) The facts contained in the return;

20 (b) Any information within its possession or that may come into
21 its possession; or

22 (c) Reasonable estimates of the amount.

23 2. One or more deficiency determinations may be made with
24 respect to the amount due for one or for more than one period.

25 3. In making its determination of the amount required to be
26 paid, the Department shall impose interest on the amount of tax
27 determined to be due, calculated at the rate and in the manner set
28 forth in NRS 360.417, unless a different rate of interest is
29 specifically provided by statute.

30 4. The Department shall impose a penalty of 10 percent in
31 addition to the amount of a determination that is made in the case of
32 the failure of a person to file a return with the Department.

33 5. When a business is discontinued, a determination may be
34 made at any time thereafter within the time prescribed in NRS
35 360.355 as to liability arising out of that business, irrespective of
36 whether the determination is issued before the due date of the
37 liability.

38 **Sec. 117.** NRS 360.417 is hereby amended to read as follows:

39 360.417 Except as otherwise provided in NRS 360.232 and
40 360.320, and unless a different penalty or rate of interest is
41 specifically provided by statute, any person who fails to pay any tax
42 provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377,
43 377A, 444A or 585 of NRS, *or sections 2 to 49, inclusive, of this*
44 *act*, or any fee provided for in NRS 482.313, and any person or
45 governmental entity that fails to pay any fee provided for in



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1 NRS 360.787, to the State or a county within the time required, shall
2 pay a penalty of not more than 10 percent of the amount of the tax
3 or fee which is owed, as determined by the Department, in addition
4 to the tax or fee, plus interest at the rate of 1 percent per month, or
5 fraction of a month, from the last day of the month following the
6 period for which the amount or any portion of the amount should
7 have been reported until the date of payment. The amount of any
8 penalty imposed must be based on a graduated schedule adopted by
9 the Nevada Tax Commission which takes into consideration the
10 length of time the tax or fee remained unpaid.

11 **Sec. 118.** NRS 360.417 is hereby amended to read as follows:

12 360.417 Except as otherwise provided in NRS 360.232 and
13 360.320, and unless a different penalty or rate of interest is
14 specifically provided by statute, any person who fails to pay any tax
15 provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377,
16 377A, 444A or 585 of NRS, *or sections 51 to 110, inclusive, of this*
17 *act*, or any fee provided for in NRS 482.313, and any person or
18 governmental entity that fails to pay any fee provided for in NRS
19 360.787, to the State or a county within the time required, shall pay
20 a penalty of not more than 10 percent of the amount of the tax or fee
21 which is owed, as determined by the Department, in addition to the
22 tax or fee, plus interest at the rate of 1 percent per month, or fraction
23 of a month, from the last day of the month following the period for
24 which the amount or any portion of the amount should have been
25 reported until the date of payment. The amount of any penalty
26 imposed must be based on a graduated schedule adopted by the
27 Nevada Tax Commission which takes into consideration the length
28 of time the tax or fee remained unpaid.

29 **Sec. 119.** NRS 360.419 is hereby amended to read as follows:

30 360.419 1. If the Executive Director or a designated hearing
31 officer finds that the failure of a person to make a timely return or
32 payment of a tax imposed pursuant to NRS 361.320 or chapter
33 361A, 362, 363A, 363B, 369, 370, 372, 372A, 374, 375A, 375B,
34 376A, 377 or 377A of NRS, *or sections 2 to 49, inclusive, of this*
35 *act* is the result of circumstances beyond his or her control and
36 occurred despite the exercise of ordinary care and without intent, the
37 Department may relieve the person of all or part of any interest or
38 penalty, or both.

39 2. A person seeking relief must file with the Department a
40 statement under oath setting forth the facts upon which the person
41 bases his or her claim.

42 3. The Department shall disclose, upon the request of any
43 person:

- 44 (a) The name of the person to whom relief was granted; and
45 (b) The amount of the relief.



4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.

Sec. 120. NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of a tax imposed pursuant to NRS 361.320 or chapter 361A, 362, 363A, 363B, 369, 370, 372, 372A, 374, 375A, 375B, 376A, 377 or 377A of NRS, *or sections 51 to 110, inclusive, of this act* is the result of circumstances beyond his or her control and occurred despite the exercise of ordinary care and without intent, the Department may relieve the person of all or part of any interest or penalty, or both.

2. A person seeking relief must file with the Department a statement under oath setting forth the facts upon which the person bases his or her claim.

3. The Department shall disclose, upon the request of any person:

(a) The name of the person to whom relief was granted; and

(b) The amount of the relief.

4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.

Sec. 121. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against the person which remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed,

➤ give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.



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2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his or her possession or under his or her control at the time the person received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his or her possession, under his or her control or owing by that person within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him or her, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him or her to continue to transmit payments to the Department or that his or her duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, that person is liable to the State for any indebtedness due pursuant to this chapter, or chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, *sections 2 to 49, inclusive, of this act*, NRS 482.313, or chapter 585 or 680B of NRS from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.



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Sec. 122. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against the person which remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed,

➔ give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his or her possession or under his or her control at the time the person received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his or her possession, under his or her control or owing by that person within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him or her, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him or her to continue to transmit payments to



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1 the Department or that his or her duty to transmit the payments to
2 the Department has ceased.

3 6. If the notice of the delinquency seeks to prevent the transfer
4 or other disposition of a deposit in a bank or credit union or other
5 credits or personal property in the possession or under the control of
6 a bank, credit union or other depository institution, the notice must
7 be delivered or mailed to any branch or office of the bank, credit
8 union or other depository institution at which the deposit is carried
9 or at which the credits or personal property is held.

10 7. If any person notified by the notice of the delinquency
11 makes any transfer or other disposition of the property or debts
12 required to be withheld or transmitted, to the extent of the value of
13 the property or the amount of the debts thus transferred or paid, that
14 person is liable to the State for any indebtedness due pursuant to this
15 chapter, or chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A,
16 374, 377, 377A or 444A of NRS, *sections 51 to 110, inclusive, of*
17 *this act*, NRS 482.313, or chapter 585 or 680B of NRS from the
18 person with respect to whose obligation the notice was given if
19 solely by reason of the transfer or other disposition the State is
20 unable to recover the indebtedness of the person with respect to
21 whose obligation the notice was given.

22 **Sec. 123.** NRS 78.245 is hereby amended to read as follows:

23 78.245 ~~[No]~~

24 *1. Except as otherwise provided in subsection 2, no* stocks,
25 bonds or other securities issued by any corporation organized under
26 this chapter, nor the income or profits therefrom, nor the transfer
27 thereof by assignment, descent, testamentary disposition or
28 otherwise, shall be taxed by this State when such stocks, bonds or
29 other securities shall be owned by nonresidents of this State or by
30 foreign corporations.

31 *2. The provisions of subsection 1 do not apply to the tax*
32 *imposed pursuant to sections 2 to 49, inclusive, of this act.*

33 **Sec. 124.** NRS 90.420 is hereby amended to read as follows:

34 90.420 1. The Administrator by order may deny, suspend or
35 revoke any license, fine any licensed person, limit the activities
36 governed by this chapter that an applicant or licensed person may
37 perform in this State, bar an applicant or licensed person from
38 association with a licensed broker-dealer or investment adviser or
39 bar from employment with a licensed broker-dealer or investment
40 adviser a person who is a partner, officer, director, sales
41 representative, investment adviser or representative of an investment
42 adviser, or a person occupying a similar status or performing a
43 similar function for an applicant or licensed person, if the
44 Administrator finds that the order is in the public interest and that
45 the applicant or licensed person or, in the case of a broker-dealer or



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1 investment adviser, any partner, officer, director, sales
2 representative, investment adviser, representative of an investment
3 adviser, or person occupying a similar status or performing similar
4 functions or any person directly or indirectly controlling the broker-
5 dealer or investment adviser, or any transfer agent or any person
6 directly or indirectly controlling the transfer agent:

7 (a) Has filed an application for licensing with the Administrator
8 which, as of its effective date, or as of any date after filing in the
9 case of an order denying effectiveness, was incomplete in a material
10 respect or contained a statement that was, in light of the
11 circumstances under which it was made, false or misleading with
12 respect to a material fact;

13 (b) Has violated or failed to comply with a provision of this
14 chapter as now or formerly in effect or a regulation or order adopted
15 or issued under this chapter;

16 (c) Is the subject of an adjudication or determination after notice
17 and opportunity for hearing, within the last 5 years by a securities
18 agency or administrator of another state or a court of competent
19 jurisdiction that the person has violated the Securities Act of 1933,
20 the Securities Exchange Act of 1934, the Investment Advisers Act
21 of 1940, the Investment Company Act of 1940, the Commodity
22 Exchange Act or the securities law of any other state, but only if the
23 acts constituting the violation of that state's law would constitute a
24 violation of this chapter had the acts taken place in this State;

25 (d) Within the last 10 years has been convicted of a felony or
26 misdemeanor which the Administrator finds:

27 (1) Involves the purchase or sale of a security, taking a false
28 oath, making a false report, bribery, perjury, burglary, robbery or
29 conspiracy to commit any of the foregoing offenses;

30 (2) Arises out of the conduct of business as a broker-dealer,
31 investment adviser, depository institution, insurance company or
32 fiduciary; or

33 (3) Involves the larceny, theft, robbery, extortion, forgery,
34 counterfeiting, fraudulent concealment, embezzlement, fraudulent
35 conversion or misappropriation of money or securities or conspiracy
36 to commit any of the foregoing offenses;

37 (e) Is or has been permanently or temporarily enjoined by any
38 court of competent jurisdiction, unless the order has been vacated,
39 from acting as an investment adviser, representative of an
40 investment adviser, underwriter, broker-dealer or as an affiliated
41 person or employee of an investment company, depository
42 institution or insurance company or from engaging in or continuing
43 any conduct or practice in connection with any of the foregoing
44 activities or in connection with the purchase or sale of a security;



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(f) Is or has been the subject of an order of the Administrator, unless the order has been vacated, denying, suspending or revoking the person's license as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent;

(g) Is or has been the subject of any of the following orders which were issued within the last 5 years, unless the order has been vacated:

(1) An order by the securities agency or administrator of another state, Canadian province or territory or by the Securities and Exchange Commission or a comparable regulatory agency of another country, entered after notice and opportunity for hearing, denying, suspending or revoking the person's license as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent;

(2) A suspension or expulsion from membership in or association with a member of a self-regulatory organization;

(3) An order of the United States Postal Service relating to fraud;

(4) An order to cease and desist entered after notice and opportunity for hearing by the Administrator, the securities agency or administrator of another state, Canadian province or territory, the Securities and Exchange Commission or a comparable regulatory agency of another country, or the Commodity Futures Trading Commission; or

(5) An order by the Commodity Futures Trading Commission denying, suspending or revoking registration under the Commodity Exchange Act;

(h) Has engaged in unethical or dishonest practices in the securities business;

(i) Is insolvent, either in the sense that liabilities exceed assets or in the sense that obligations cannot be met as they mature, but the Administrator may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of insolvency as to the broker-dealer or investment adviser;

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~H~~ *or sections 2 to 49, inclusive, of this act;*

(k) Is determined by the Administrator in compliance with NRS 90.430 not to be qualified on the basis of lack of training, experience and knowledge of the securities business; or

(l) Has failed reasonably to supervise a sales representative, employee or representative of an investment adviser.

2. The Administrator may not institute a proceeding on the basis of a fact or transaction known to the director when the license



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1 became effective unless the proceeding is instituted within 90 days
2 after issuance of the license.

3 3. If the Administrator finds that an applicant or licensed
4 person is no longer in existence or has ceased to do business as a
5 broker-dealer, sales representative, investment adviser,
6 representative of an investment adviser or transfer agent or is
7 adjudicated mentally incompetent or subjected to the control of a
8 committee, conservator or guardian or cannot be located after
9 reasonable search, the Administrator may by order deny the
10 application or revoke the license.

11 **Sec. 125.** NRS 90.730 is hereby amended to read as follows:

12 90.730 1. Except as otherwise provided in subsection 2,
13 information and records filed with or obtained by the Administrator
14 are public information and are available for public examination.

15 2. Except as otherwise provided in subsections 3 and 4 and
16 NRS 239.0115, the following information and records do not
17 constitute public information under subsection 1 and are
18 confidential:

19 (a) Information or records obtained by the Administrator in
20 connection with an investigation concerning possible violations of
21 this chapter; and

22 (b) Information or records filed with the Administrator in
23 connection with a registration statement filed under this chapter or a
24 report under NRS 90.390 which constitute trade secrets or
25 commercial or financial information of a person for which that
26 person is entitled to and has asserted a claim of privilege or
27 confidentiality authorized by law.

28 3. The Administrator may submit any information or evidence
29 obtained in connection with an investigation to the:

30 (a) Attorney General or appropriate district attorney for the
31 purpose of prosecuting a criminal action under this chapter; and

32 (b) Department of Taxation for its use in carrying out the
33 provisions of chapter 363A of NRS ~~§~~ *and sections 2 to 49,*
34 *inclusive, of this act.*

35 4. The Administrator may disclose any information obtained in
36 connection with an investigation pursuant to NRS 90.620 to the
37 agencies and administrators specified in subsection 1 of NRS 90.740
38 but only if disclosure is provided for the purpose of a civil,
39 administrative or criminal investigation or proceeding, and the
40 receiving agency or administrator represents in writing that under
41 applicable law protections exist to preserve the integrity,
42 confidentiality and security of the information.

43 5. This chapter does not create any privilege or diminish any
44 privilege existing at common law, by statute, regulation or
45 otherwise.



1 **Sec. 126.** NRS 604A.820 is hereby amended to read as
2 follows:

3 604A.820 1. If the Commissioner has reason to believe that
4 grounds for revocation or suspension of a license exist, the
5 Commissioner shall give 20 days' written notice to the licensee
6 stating the contemplated action and, in general, the grounds therefor
7 and set a date for a hearing.

8 2. At the conclusion of a hearing, the Commissioner shall:

9 (a) Enter a written order either dismissing the charges, revoking
10 the license or suspending the license for a period of not more than
11 60 days, which period must include any prior temporary suspension.
12 The Commissioner shall send a copy of the order to the licensee by
13 registered or certified mail.

14 (b) Impose upon the licensee an administrative fine of not more
15 than \$10,000 for each violation by the licensee of any provision of
16 this chapter or any regulation adopted pursuant thereto.

17 (c) If a fine is imposed pursuant to this section, enter such order
18 as is necessary to recover the costs of the proceeding, including
19 investigative costs and attorney's fees of the Commissioner.

20 3. The grounds for revocation or suspension of a license are
21 that:

22 (a) The licensee has failed to pay the annual license fee;

23 (b) The licensee, either knowingly or without any exercise of
24 due care to prevent it, has violated any provision of this chapter or
25 any lawful regulation adopted pursuant thereto;

26 (c) The licensee has failed to pay a tax as required pursuant to
27 the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 49,*
28 *inclusive, of this act;*

29 (d) Any fact or condition exists which would have justified the
30 Commissioner in denying the licensee's original application for a
31 license pursuant to the provisions of this chapter; or

32 (e) The licensee:

33 (1) Failed to open an office for the conduct of the business
34 authorized by his or her license within 180 days after the date the
35 license was issued; or

36 (2) Has failed to remain open for the conduct of the business
37 for a period of 180 days without good cause therefor.

38 4. Any revocation or suspension applies only to the license
39 granted to a person for the particular office for which grounds for
40 revocation or suspension exist.

41 5. An order suspending or revoking a license becomes effective
42 5 days after being entered unless the order specifies otherwise or a
43 stay is granted.



Sec. 127. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➔ Information obtained in connection with the administration of the Employment Service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

4. Upon written request made by a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that



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1 local government. The Administrator may charge a reasonable fee
2 for the cost of providing the requested information.

3 5. The Administrator may publish or otherwise provide
4 information on the names of employers, their addresses, their type
5 or class of business or industry, and the approximate number of
6 employees employed by each such employer, if the information
7 released will assist unemployed persons to obtain employment or
8 will be generally useful in developing and diversifying the economic
9 interests of this State. Upon request by a state agency which is able
10 to demonstrate that its intended use of the information will benefit
11 the residents of this State, the Administrator may, in addition to the
12 information listed in this subsection, disclose the number of
13 employees employed by each employer and the total wages paid by
14 each employer. The Administrator may charge a fee to cover the
15 actual costs of any administrative expenses relating to the disclosure
16 of this information to a state agency. The Administrator may require
17 the state agency to certify in writing that the agency will take all
18 actions necessary to maintain the confidentiality of the information
19 and prevent its unauthorized disclosure.

20 6. Upon request therefor, the Administrator shall furnish to any
21 agency of the United States charged with the administration of
22 public works or assistance through public employment, and may
23 furnish to any state agency similarly charged, the name, address,
24 ordinary occupation and employment status of each recipient of
25 benefits and the recipient's rights to further benefits pursuant to this
26 chapter.

27 7. To further a current criminal investigation, the chief
28 executive officer of any law enforcement agency of this State may
29 submit a written request to the Administrator that the Administrator
30 furnish, from the records of the Division, the name, address and
31 place of employment of any person listed in the records of
32 employment of the Division. The request must set forth the social
33 security number of the person about whom the request is made and
34 contain a statement signed by the chief executive officer certifying
35 that the request is made to further a criminal investigation currently
36 being conducted by the agency. Upon receipt of such a request, the
37 Administrator shall furnish the information requested. The
38 Administrator may charge a fee to cover the actual costs of any
39 related administrative expenses.

40 8. In addition to the provisions of subsection 5, the
41 Administrator shall provide lists containing the names and addresses
42 of employers, and information regarding the wages paid by each
43 employer to the Department of Taxation, upon request, for use in
44 verifying returns for the taxes imposed pursuant to chapters 363A
45 and 363B of NRS **and sections 2 to 49, inclusive, of this act.** The



1 Administrator may charge a fee to cover the actual costs of any
2 related administrative expenses.

3 9. A private carrier that provides industrial insurance in this
4 State shall submit to the Administrator a list containing the name of
5 each person who received benefits pursuant to chapters 616A to
6 616D, inclusive, or chapter 617 of NRS during the preceding month
7 and request that the Administrator compare the information so
8 provided with the records of the Division regarding persons
9 claiming benefits pursuant to chapter 612 of NRS for the same
10 period. The information submitted by the private carrier must be in a
11 form determined by the Administrator and must contain the social
12 security number of each such person. Upon receipt of the request,
13 the Administrator shall make such a comparison and, if it appears
14 from the information submitted that a person is simultaneously
15 claiming benefits under chapter 612 of NRS and under chapters
16 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator
17 shall notify the Attorney General or any other appropriate law
18 enforcement agency. The Administrator shall charge a fee to cover
19 the actual costs of any related administrative expenses.

20 10. The Administrator may request the Comptroller of the
21 Currency of the United States to cause an examination of the
22 correctness of any return or report of any national banking
23 association rendered pursuant to the provisions of this chapter, and
24 may in connection with the request transmit any such report or
25 return to the Comptroller of the Currency of the United States as
26 provided in section 3305(c) of the Internal Revenue Code of 1954.

27 11. If any employee or member of the Board of Review, the
28 Administrator or any employee of the Administrator, in violation of
29 the provisions of this section, discloses information obtained from
30 any employing unit or person in the administration of this chapter,
31 or if any person who has obtained a list of applicants for work, or of
32 claimants or recipients of benefits pursuant to this chapter uses or
33 permits the use of the list for any political purpose, he or she is
34 guilty of a gross misdemeanor.

35 12. All letters, reports or communications of any kind, oral or
36 written, from the employer or employee to each other or to the
37 Division or any of its agents, representatives or employees are
38 privileged and must not be the subject matter or basis for any
39 lawsuit if the letter, report or communication is written, sent,
40 delivered or prepared pursuant to the requirements of this chapter.

41 **Sec. 128.** NRS 616B.012 is hereby amended to read as
42 follows:

43 616B.012 1. Except as otherwise provided in this section and
44 NRS 239.0115, 616B.015, 616B.021 and 616C.205, information
45 obtained from any insurer, employer or employee is confidential and



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1 may not be disclosed or be open to public inspection in any manner
2 which would reveal the person's identity.

3 2. Any claimant or legal representative of the claimant is
4 entitled to information from the records of the insurer, to the extent
5 necessary for the proper presentation of a claim in any proceeding
6 under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

7 3. The Division and Administrator are entitled to information
8 from the records of the insurer which is necessary for the
9 performance of their duties. The Administrator may, by regulation,
10 prescribe the manner in which otherwise confidential information
11 may be made available to:

12 (a) Any agency of this or any other state charged with the
13 administration or enforcement of laws relating to industrial
14 insurance, unemployment compensation, public assistance or labor
15 law and industrial relations;

16 (b) Any state or local agency for the enforcement of child
17 support;

18 (c) The Internal Revenue Service of the Department of the
19 Treasury;

20 (d) The Department of Taxation; and

21 (e) The State Contractors' Board in the performance of its duties
22 to enforce the provisions of chapter 624 of NRS.

23 ➡ Information obtained in connection with the administration of a
24 program of industrial insurance may be made available to persons or
25 agencies for purposes appropriate to the operation of a program of
26 industrial insurance.

27 4. Upon written request made by a public officer of a local
28 government, an insurer shall furnish from its records the name,
29 address and place of employment of any person listed in its records.
30 The request must set forth the social security number of the person
31 about whom the request is made and contain a statement signed by
32 proper authority of the local government certifying that the request
33 is made to allow the proper authority to enforce a law to recover a
34 debt or obligation owed to the local government. Except as
35 otherwise provided in NRS 239.0115, the information obtained by
36 the local government is confidential and may not be used or
37 disclosed for any purpose other than the collection of a debt or
38 obligation owed to the local government. The insurer may charge a
39 reasonable fee for the cost of providing the requested information.

40 5. To further a current criminal investigation, the chief
41 executive officer of any law enforcement agency of this State may
42 submit to the Administrator a written request for the name, address
43 and place of employment of any person listed in the records of an
44 insurer. The request must set forth the social security number of the
45 person about whom the request is made and contain a statement



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1 signed by the chief executive officer certifying that the request is
2 made to further a criminal investigation currently being conducted
3 by the agency. Upon receipt of a request, the Administrator shall
4 instruct the insurer to furnish the information requested. Upon
5 receipt of such an instruction, the insurer shall furnish the
6 information requested. The insurer may charge a reasonable fee to
7 cover any related administrative expenses.

8 6. Upon request by the Department of Taxation, the
9 Administrator shall provide:

10 (a) Lists containing the names and addresses of employers; and
11 (b) Other information concerning employers collected and
12 maintained by the Administrator or the Division to carry out the
13 purposes of chapters 616A to 616D, inclusive, or chapter 617 of
14 NRS,

15 ➔ to the Department for its use in verifying returns for the taxes
16 imposed pursuant to chapters 363A and 363B of NRS ~~§~~ *and*
17 *sections 2 to 49, inclusive, of this act.* The Administrator may
18 charge a reasonable fee to cover any related administrative
19 expenses.

20 7. Any person who, in violation of this section, discloses
21 information obtained from files of claimants or policyholders or
22 obtains a list of claimants or policyholders under chapters 616A to
23 616D, inclusive, or chapter 617 of NRS and uses or permits the use
24 of the list for any political purposes, is guilty of a gross
25 misdemeanor.

26 8. All letters, reports or communications of any kind, oral or
27 written, from the insurer, or any of its agents, representatives or
28 employees are privileged and must not be the subject matter or basis
29 for any lawsuit if the letter, report or communication is written, sent,
30 delivered or prepared pursuant to the requirements of chapters 616A
31 to 616D, inclusive, or chapter 617 of NRS.

32 9. The provisions of this section do not prohibit the
33 Administrator or the Division from disclosing any nonproprietary
34 information relating to an uninsured employer or proof of industrial
35 insurance.

36 **Sec. 129.** NRS 645B.060 is hereby amended to read as
37 follows:

38 645B.060 1. Subject to the administrative control of the
39 Director of the Department of Business and Industry, the
40 Commissioner shall exercise general supervision and control over
41 mortgage brokers and mortgage agents doing business in this State.

42 2. In addition to the other duties imposed upon him or her by
43 law, the Commissioner shall:

44 (a) Adopt regulations:



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(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.

(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until after a period of time set by the Commissioner to determine any objections made by the mortgage broker.

(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS ~~or~~ *or sections 2 to 49, inclusive, of this act.*

(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the



1 time of the application for a license and thereafter on a continuing
2 basis.

3 3. For each special audit, investigation or examination, a
4 mortgage broker or mortgage agent shall pay a fee based on the rate
5 established pursuant to NRS 645F.280.

6 4. The Commissioner may conduct examinations of a mortgage
7 broker, as described in paragraph (d) of subsection 2, on a biennial
8 instead of an annual basis if the mortgage broker:

9 (a) Received a rating in the last annual examination that meets a
10 threshold determined by the Commissioner;

11 (b) Has not had any adverse change in financial condition since
12 the last annual examination, as shown by financial statements of the
13 mortgage broker;

14 (c) Has not had any complaints received by the Division that
15 resulted in any administrative action by the Division; and

16 (d) Does not maintain any trust accounts pursuant to NRS
17 645B.170 or 645B.175 or arrange loans funded by private investors.

18 **Sec. 130.** NRS 645B.670 is hereby amended to read as
19 follows:

20 645B.670 Except as otherwise provided in NRS 645B.690:

21 1. For each violation committed by an applicant for a license
22 issued pursuant to this chapter, whether or not the applicant is issued
23 a license, the Commissioner may impose upon the applicant an
24 administrative fine of not more than \$25,000 if the applicant:

25 (a) Has knowingly made or caused to be made to the
26 Commissioner any false representation of material fact;

27 (b) Has suppressed or withheld from the Commissioner any
28 information which the applicant possesses and which, if submitted
29 by the applicant, would have rendered the applicant ineligible to be
30 licensed pursuant to the provisions of this chapter; or

31 (c) Has violated any provision of this chapter, a regulation
32 adopted pursuant to this chapter or an order of the Commissioner in
33 completing and filing his or her application for a license or during
34 the course of the investigation of his or her application for a license.

35 2. For each violation committed by a mortgage broker, the
36 Commissioner may impose upon the mortgage broker an
37 administrative fine of not more than \$25,000, may suspend, revoke
38 or place conditions upon the mortgage broker's license, or may do
39 both, if the mortgage broker, whether or not acting as such:

40 (a) Is insolvent;

41 (b) Is grossly negligent or incompetent in performing any act for
42 which the mortgage broker is required to be licensed pursuant to the
43 provisions of this chapter;



(c) Does not conduct his or her business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that the mortgage broker cannot continue in business with safety to his or her customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by the mortgage broker, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his or her books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;



(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering; or

(2) Had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) Has violated NRS 645C.557;

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 49, inclusive, of this act*; or

(v) Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the mortgage agent's license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which the mortgage agent is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;



(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by the mortgage agent, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) Has violated NRS 645C.557;

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom the mortgage agent is associated or by whom he or she is employed; or

(k) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 131. NRS 645E.300 is hereby amended to read as follows:

645E.300 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage bankers doing business in this State.

2. In addition to the other duties imposed upon him or her by law, the Commissioner shall:

(a) Adopt regulations establishing reasonable limitations and guidelines on loans made by a mortgage banker to a director, officer or employee of the mortgage banker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan fees.

(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.



(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage banker doing business in this State.

(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage bankers.

(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS ~~or~~ *or sections 2 to 49, inclusive, of this act.*

(g) Conduct such examinations and investigations as are necessary to ensure that mortgage bankers meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage banker shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct biennial examinations of a mortgage banker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage banker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage banker; and

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division.

Sec. 132. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000 if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by the applicant, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in



1 completing and filing his or her application for a license or during
2 the course of the investigation of his or her application for a license.

3 2. For each violation committed by a licensee, the
4 Commissioner may impose upon the licensee an administrative fine
5 of not more than \$10,000, may suspend, revoke or place conditions
6 upon the license, or may do both, if the licensee, whether or not
7 acting as such:

8 (a) Is insolvent;

9 (b) Is grossly negligent or incompetent in performing any act for
10 which the licensee is required to be licensed pursuant to the
11 provisions of this chapter;

12 (c) Does not conduct his or her business in accordance with law
13 or has violated any provision of this chapter, a regulation adopted
14 pursuant to this chapter or an order of the Commissioner;

15 (d) Is in such financial condition that the licensee cannot
16 continue in business with safety to his or her customers;

17 (e) Has made a material misrepresentation in connection with
18 any transaction governed by this chapter;

19 (f) Has suppressed or withheld from a client any material facts,
20 data or other information relating to any transaction governed by the
21 provisions of this chapter which the licensee knew or, by the
22 exercise of reasonable diligence, should have known;

23 (g) Has knowingly made or caused to be made to the
24 Commissioner any false representation of material fact or has
25 suppressed or withheld from the Commissioner any information
26 which the licensee possesses and which, if submitted by the
27 licensee, would have rendered the licensee ineligible to be licensed
28 pursuant to the provisions of this chapter;

29 (h) Has failed to account to persons interested for all money
30 received for a trust account;

31 (i) Has refused to permit an examination by the Commissioner
32 of his or her books and affairs or has refused or failed, within a
33 reasonable time, to furnish any information or make any report that
34 may be required by the Commissioner pursuant to the provisions of
35 this chapter or a regulation adopted pursuant to this chapter;

36 (j) Has been convicted of, or entered a plea of nolo contendere
37 to, a felony relating to the practice of mortgage bankers or any crime
38 involving fraud, misrepresentation or moral turpitude;

39 (k) Has refused or failed to pay, within a reasonable time, any
40 fees, assessments, costs or expenses that the licensee is required to
41 pay pursuant to this chapter or a regulation adopted pursuant to this
42 chapter;

43 (l) Has failed to pay a tax as required pursuant to the provisions
44 of chapter 363A of NRS ~~H~~ or sections 2 to 49, inclusive, of this
45 act;



(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) Has violated NRS 645C.557;

(p) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use; or

(q) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 133. NRS 658.151 is hereby amended to read as follows:

658.151 1. The Commissioner may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the depository institution:

(a) Has violated its charter or any laws applicable thereto.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' or members' equity.

(e) Has refused to pay its depositors in accordance with the terms on which such deposits were received, or has refused to pay its holders of certificates of indebtedness or investment in accordance with the terms upon which those certificates of indebtedness or investment were sold.

(f) Has become or is in imminent danger of becoming otherwise insolvent.

(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.

(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.

(i) Has made a voluntary assignment of its assets to trustees.

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~H~~ *or sections 2 to 49, inclusive, of this act.*

2. The Commissioner also may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the officers of the depository institution have refused to be examined upon oath regarding its affairs.



Sec. 134. NRS 665.133 is hereby amended to read as follows:

665.133 1. The records and information described in NRS 665.130 may be disclosed to:

(a) An agency of the Federal Government or of another state which regulates the financial institution which is the subject of the records or information;

(b) The Director of the Department of Business and Industry for the Director's confidential use;

(c) The State Board of Finance for its confidential use, if the report or other information is necessary for the State Board of Finance to perform its duties under this title;

(d) The Department of Taxation for its use in carrying out the provisions of chapter 363A of NRS ~~§~~ *and sections 2 to 49, inclusive, of this act;*

(e) An entity which insures or guarantees deposits;

(f) A public officer authorized to investigate criminal charges in connection with the affairs of the depository institution;

(g) A person preparing a proposal for merging with or acquiring an institution or holding company, but only after notice of the disclosure has been given to the institution or holding company;

(h) Any person to whom the subject of the report has authorized the disclosure;

(i) Any other person if the Commissioner determines, after notice and opportunity for hearing, that disclosure is in the public interest and outweighs any potential harm to the depository institution and its stockholders, members, depositors and creditors; and

(j) Any court in a proceeding initiated by the Commissioner concerning the financial institution.

2. All the reports made available pursuant to this section remain the property of the Division of Financial Institutions, and no person, agency or authority to whom the reports are made available, or any officer, director or employee thereof, may disclose any of the reports or any information contained therein, except in published statistical material that does not disclose the affairs of any natural person or corporation.

Sec. 135. NRS 669.275 is hereby amended to read as follows:

669.275 1. The Commissioner may require a licensee to provide an audited financial statement prepared by an independent certified public accountant licensed to do business in this State.

2. On the fourth Monday in January of each year, each licensee shall submit to the Commissioner a list of stockholders required to be maintained pursuant to paragraph (c) of subsection 1 of NRS 78.105 or the list of members required to be maintained pursuant to



paragraph (a) of subsection 1 of NRS 86.241, verified by the president or a manager, as appropriate.

3. The list of members required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241 must include the percentage of each member's interest in the company, in addition to the requirements set forth in that section.

4. Except as otherwise provided in NRS 239.0115, any document submitted pursuant to this section is confidential. *This subsection does not limit the examination of any document by the Department of Taxation if necessary to carry out the provisions of sections 2 to 49, inclusive, of this act.*

Sec. 136. NRS 669.2825 is hereby amended to read as follows:

669.2825 1. The Commissioner may institute disciplinary action or forthwith initiate proceedings to take possession of the business and property of any retail trust company when it appears that the retail trust company:

(a) Has violated its charter or any state or federal laws applicable to the business of a trust company.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' equity.

(e) Has refused to pay or transfer account assets to its account holders as required by the terms of the accounts' governing instruments.

(f) Has become insolvent.

(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.

(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.

(i) Has made a voluntary assignment of its assets to receivers, conservators, trustees or creditors without complying with NRS 669.230.

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~H~~ *or sections 2 to 49, inclusive, of this act.*

(k) Has materially and willfully breached its fiduciary duties to its customers.

(l) Has failed to properly disclose all fees, interest and other charges to its customers.

(m) Has willfully engaged in material conflicts of interest regarding a customer's account.



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(n) Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the retail trust company.

2. The Commissioner also may forthwith initiate proceedings to take possession of the business and property of any trust company when it appears that the officers of the trust company have refused to be examined upon oath regarding its affairs.

Sec. 137. NRS 669.2847 is hereby amended to read as follows:

669.2847 1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, the Commissioner shall give at least 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

2. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including his or her investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Division of Financial Institutions;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~or~~ *or sections 2 to 49, inclusive, of this act;*

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter; or

(e) The licensee:

(1) Failed to open an office for the conduct of the business authorized by his or her license within 180 days after the date the license was issued; or

(2) Has failed to remain open for the conduct of the business for a period of 30 days without good cause therefor.



4. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

Sec. 138. NRS 669.285 is hereby amended to read as follows:

669.285 Except as otherwise provided in NRS 239.0115, any application and personal or financial records submitted by a person pursuant to the provisions of this chapter and any personal or financial records or other documents obtained by the Division of Financial Institutions pursuant to an examination or audit conducted by the Division are confidential and may be disclosed only to:

1. The Division, any authorized employee of the Division and any state or federal agency investigating the activities covered under the provisions of this chapter; ~~and~~

2. *The Department of Taxation for its use in carrying out the provisions of sections 2 to 49, inclusive, of this act; and*

3. Any person when the Commissioner, in the Commissioner's discretion, determines that the interests of the public that would be protected by disclosure outweigh the interest of any person in the confidential information not being disclosed.

Sec. 139. NRS 669A.310 is hereby amended to read as follows:

669A.310 1. Except as otherwise provided in this section, any application and personal or financial records submitted by a person pursuant to the provisions of this chapter, any personal or financial records or other documents obtained by the Division of Financial Institutions pursuant to an examination or audit conducted by the Division pursuant to this chapter and any other private information relating to a family trust company are confidential and may be disclosed only to:

(a) The Division, any authorized employee of the Division and a state or federal agency investigating activities regulated pursuant to this chapter; ~~and~~

(b) *The Department of Taxation for its use in carrying out the provisions of sections 2 to 49, inclusive, of this act; and*

(c) Any other person if the Commissioner, in the Commissioner's discretion, determines that the interests of the public in disclosing the information outweigh the interests of the person about whom the information pertains in not disclosing the information.

2. The Commissioner shall give to the family trust company to which the information relates 10-days' prior written notice of intent to disclose confidential information directly or indirectly to a person pursuant to paragraph ~~(b)~~ (c) of subsection 1. Any family trust company which receives such a notice may object to the disclosure of the confidential information and will be afforded the right to a



1 hearing in accordance with the provisions of chapter 233B of NRS.
2 If a family trust company requests a hearing, the Commissioner may
3 not reveal confidential information prior to the conclusion of the
4 hearing and a ruling. Prior to dissemination of any confidential
5 information, the Commissioner shall require a written agreement not
6 to reveal the confidential information by the party receiving the
7 confidential information. In no event shall the Commissioner
8 disclose confidential information to the general public, any
9 competitor or any potential competitor of a family trust company.

10 3. Nothing in this chapter is intended to preclude a law
11 enforcement officer from gaining access to otherwise confidential
12 records by subpoena, court order, search warrant or other lawful
13 means. Notwithstanding any other provision of this chapter, the
14 Commissioner shall have the ability to share information with other
15 out of state or federal regulators with whom the Department of
16 Business and Industry has an agreement regarding the sharing of
17 information. Nothing in this chapter is intended to preclude any
18 agency of this State from gaining access to otherwise confidential
19 records in accordance with any applicable law.

20 **Sec. 140.** NRS 673.484 is hereby amended to read as follows:

21 673.484 The Commissioner may after notice and hearing
22 suspend or revoke the charter of any association for:

23 1. Repeated failure to abide by the provisions of this chapter or
24 the regulations adopted thereunder.

25 2. Failure to pay a tax as required pursuant to the provisions of
26 chapter 363A of NRS ~~H~~ *or sections 2 to 49, inclusive, of this act.*

27 **Sec. 141.** NRS 675.440 is hereby amended to read as follows:

28 675.440 1. If the Commissioner has reason to believe that
29 grounds for revocation or suspension of a license exist, he or she
30 shall give 20 days' written notice to the licensee stating the
31 contemplated action and, in general, the grounds therefor and set a
32 date for a hearing.

33 2. At the conclusion of a hearing, the Commissioner shall:

34 (a) Enter a written order either dismissing the charges, revoking
35 the license, or suspending the license for a period of not more than
36 60 days, which period must include any prior temporary suspension.
37 A copy of the order must be sent by registered or certified mail to
38 the licensee.

39 (b) Impose upon the licensee an administrative fine of not more
40 than \$10,000 for each violation by the licensee of any provision of
41 this chapter or any lawful regulation adopted under it.

42 (c) If a fine is imposed pursuant to this section, enter such order
43 as is necessary to recover the costs of the proceeding, including his
44 or her investigative costs and attorney's fees.



3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted under it;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 49, inclusive, of this act;*

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license hereunder; or

(e) The applicant failed to open an office for the conduct of the business authorized under this chapter within 120 days after the date the license was issued, or has failed to remain open for the conduct of the business for a period of 120 days without good cause therefor.

4. Any revocation or suspension applies only to the license granted to a person for the particular office for which grounds for revocation or suspension exist.

5. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

Sec. 142. NRS 677.510 is hereby amended to read as follows:

677.510 1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, he or she shall give 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

2. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order either dismissing the charges, or revoking the license, or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. A copy of the order must be sent by registered or certified mail to the licensee.

(b) Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any lawful regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including his or her investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;



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(b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter, or any lawful regulation adopted pursuant thereto;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 49, inclusive, of this act;*

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license hereunder; or

(e) The applicant failed to open an office for the conduct of the business authorized under this chapter within 120 days after the date the license was issued, or has failed to remain open for the conduct of the business for a period of 120 days without good cause therefor.

4. Any revocation or suspension applies only to the license granted to a person for the particular office for which grounds for revocation or suspension exist.

5. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

Sec. 143. NRS 680B.037 is hereby amended to read as follows:

680B.037 ~~[Payment]~~

1. Except as otherwise provided in subsection 2, payment by an insurer of the tax imposed by NRS 680B.027 is in lieu of all taxes imposed by the State or any city, town or county upon premiums or upon income of insurers and of franchise, privilege or other taxes measured by income of the insurer.

2. The provisions of subsection 1 do not apply to the tax imposed pursuant to the provisions of sections 2 to 49, inclusive, of this act.

Sec. 144. NRS 683A.451 is hereby amended to read as follows:

683A.451 The Commissioner may refuse to issue a license or certificate pursuant to this chapter or may place any person to whom a license or certificate is issued pursuant to this chapter on probation, suspend the person for not more than 12 months, or revoke or refuse to renew his or her license or certificate, or may impose an administrative fine or take any combination of the foregoing actions, for one or more of the following causes:

1. Providing incorrect, misleading, incomplete or partially untrue information in his or her application for a license.

2. Violating a law regulating insurance, or violating a regulation, order or subpoena of the Commissioner or an equivalent officer of another state.



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3. Obtaining or attempting to obtain a license through misrepresentation or fraud.

4. Misappropriating, converting or improperly withholding money or property received in the course of the business of insurance.

5. Intentionally misrepresenting the terms of an actual or proposed contract of or application for insurance.

6. Conviction of a felony.

7. Admitting or being found to have committed an unfair trade practice or fraud.

8. Using fraudulent, coercive or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere.

9. Denial, suspension or revocation of a license as a producer of insurance, or its equivalent, in any other state, territory or province.

10. Forging another's name to an application for insurance or any other document relating to the transaction of insurance.

11. Improperly using notes or other reference material to complete an examination for a license related to insurance.

12. Knowingly accepting business related to insurance from an unlicensed person.

13. Failing to comply with an administrative or judicial order imposing an obligation of child support.

14. Failing to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~H~~ *or sections 2 to 49, inclusive, of this act.*

Sec. 145. NRS 686C.360 is hereby amended to read as follows:

686C.360 The Association is exempt from payment of all fees and all taxes levied by this state or any of its political subdivisions, except taxes on property ~~H~~ *and the tax imposed pursuant to sections 2 to 49, inclusive, of this act.*

Sec. 146. NRS 687A.130 is hereby amended to read as follows:

687A.130 The Association is exempt from payment of all fees and all taxes levied by this State or any of its subdivisions, except taxes:

1. Levied on real or personal property; or

2. Imposed pursuant to the provisions of chapter 363A or 363B of NRS ~~H~~ *or sections 2 to 49, inclusive, of this act.*



1 **Sec. 147.** NRS 688C.210 is hereby amended to read as
2 follows:

3 688C.210 1. After notice, and after a hearing if requested, the
4 Commissioner may suspend, revoke, refuse to issue or refuse to
5 renew a license under this chapter if the Commissioner finds that:

6 (a) There was material misrepresentation in the application for
7 the license;

8 (b) The licensee or an officer, partner, member or significant
9 managerial employee has been convicted of fraudulent or dishonest
10 practices, is subject to a final administrative action for
11 disqualification, or is otherwise shown to be untrustworthy or
12 incompetent;

13 (c) A provider of viatical settlements has engaged in a pattern of
14 unreasonable payments to viators;

15 (d) The applicant or licensee has been found guilty or guilty but
16 mentally ill of, or pleaded guilty, guilty but mentally ill or nolo
17 contendere to, a felony or a misdemeanor involving fraud, forgery,
18 embezzlement, obtaining money under false pretenses, larceny,
19 extortion, conspiracy to defraud or any crime involving moral
20 turpitude, whether or not a judgment of conviction has been entered
21 by the court;

22 (e) A provider of viatical settlements has entered into a viatical
23 settlement in a form not approved pursuant to NRS 688C.220;

24 (f) A provider of viatical settlements has failed to honor
25 obligations of a viatical settlement or an agreement to purchase a
26 viatical settlement;

27 (g) The licensee no longer meets a requirement for initial
28 licensure;

29 (h) A provider of viatical settlements has assigned, transferred
30 or pledged a viaticated policy to a person other than another
31 provider licensed under this chapter, a purchaser of the viatical
32 settlement or a special organization;

33 (i) The applicant or licensee has provided materially untrue
34 information to an insurer that issued a policy that is the subject of a
35 viatical settlement;

36 (j) The applicant or licensee has failed to pay a tax as required
37 pursuant to the provisions of chapter 363A of NRS ~~§~~ *or sections 2*
38 *to 49, inclusive, of this act;*

39 (k) The applicant or licensee has violated a provision of this
40 chapter or other applicable provisions; or

41 (l) The applicant or licensee has acted in bad faith with regard to
42 a viator.

43 2. A suspension imposed for grounds set forth in paragraph (k)
44 or (l) of subsection 1 must not exceed a period of 12 months.



3. If the Commissioner takes action as described in subsection 1, the applicant or licensee may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.

Sec. 148. NRS 694C.450 is hereby amended to read as follows:

694C.450 1. Except as otherwise provided in this section, a captive insurer shall pay to the Division, not later than March 1 of each year, a tax at the rate of:

(a) Two-fifths of 1 percent on the first \$20,000,000 of its net direct premiums;

(b) One-fifth of 1 percent on the next \$20,000,000 of its net direct premiums; and

(c) Seventy-five thousandths of 1 percent on each additional dollar of its net direct premiums.

2. Except as otherwise provided in this section, a captive insurer shall pay to the Division, not later than March 1 of each year, a tax at a rate of:

(a) Two hundred twenty-five thousandths of 1 percent on the first \$20,000,000 of revenue from assumed reinsurance premiums;

(b) One hundred fifty thousandths of 1 percent on the next \$20,000,000 of revenue from assumed reinsurance premiums; and

(c) Twenty-five thousandths of 1 percent on each additional dollar of revenue from assumed reinsurance premiums.

↪ The tax on reinsurance premiums pursuant to this subsection must not be levied on premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection 1. A captive insurer is not required to pay any reinsurance premium tax pursuant to this subsection on revenue related to the receipt of assets by the captive insurer in exchange for the assumption of loss reserves and other liabilities of another insurer that is under common ownership and control with the captive insurer, if the transaction is part of a plan to discontinue the operation of the other insurer and the intent of the parties to the transaction is to renew or maintain such business with the captive insurer.

3. If the sum of the taxes to be paid by a captive insurer calculated pursuant to subsections 1 and 2 is less than \$5,000 in any given year, the captive insurer shall pay a tax of \$5,000 for that year. The maximum aggregate tax for any year must not exceed \$175,000. The maximum aggregate tax to be paid by a sponsored captive insurer applies only to each protected cell and does not apply to the sponsored captive insurer as a whole.

4. Two or more captive insurers under common ownership and control must be taxed as if they were a single captive insurer.



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5. Notwithstanding any specific statute to the contrary and except as otherwise provided in this subsection, the tax provided for by this section constitutes all the taxes collectible pursuant to the laws of this State from a captive insurer, and no occupation tax or other taxes may be levied or collected from a captive insurer by this State or by any county, city or municipality within this State, except for taxes imposed pursuant to chapter 363A or 363B of NRS *or sections 2 to 49, inclusive, of this act* and ad valorem taxes on real or personal property located in this State used in the production of income by the captive insurer.

6. Twenty-five percent of the revenues collected from the tax imposed pursuant to this section must be deposited with the State Treasurer for credit to the Account for the Regulation and Supervision of Captive Insurers created pursuant to NRS 694C.460. The remaining 75 percent of the revenues collected must be deposited with the State Treasurer for credit to the State General Fund.

7. A captive insurer that is issued a license pursuant to this chapter after July 1, 2003, is entitled to receive a nonrefundable credit of \$5,000 applied against the aggregate taxes owed by the captive insurer for the first year in which the captive insurer incurs any liability for the payment of taxes pursuant to this section. A captive insurer is entitled to a nonrefundable credit pursuant to this section not more than once after the captive insurer is initially licensed pursuant to this chapter.

8. As used in this section, unless the context otherwise requires:

(a) "Common ownership and control" means:

(1) In the case of a stock insurer, the direct or indirect ownership of 80 percent or more of the outstanding voting stock of two or more corporations by the same member or members.

(2) In the case of a mutual insurer, the direct or indirect ownership of 80 percent or more of the surplus and the voting power of two or more corporations by the same member or members.

(b) "Net direct premiums" means the direct premiums collected or contracted for on policies or contracts of insurance written by a captive insurer during the preceding calendar year, less the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

Sec. 149. NRS 695A.550 is hereby amended to read as follows:

695A.550 Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and is exempt from every state, county, district,



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1 municipal and school tax other than *the tax imposed pursuant to*
2 *sections 2 to 49, inclusive, of this act and* taxes on real property and
3 office equipment.

4 **Sec. 150.** Notwithstanding any provision of this act to the
5 contrary, no penalty or interest may be imposed against any person
6 for any failure to comply with the provisions of sections 51 to 110,
7 inclusive, of this act which occurs before January 1, 2014.

8 **Sec. 151.** At the General Election on November 6, 2012, a
9 statewide measure must be submitted to the registered voters of this
10 State pursuant to Section 18 of Article 4 of the Nevada Constitution
11 to approve the imposition of a margin tax on business entities
12 engaged in business in Nevada.

13 **Sec. 152.** At the time and in the manner provided by law, the
14 Secretary of State shall transmit the proposed measure to the several
15 county clerks, and the county clerks shall cause it to be published
16 and posted as provided by law.

17 **Sec. 153.** The ballot page assemblies and the paper ballots to
18 be used in voting on the question of the statewide measure must
19 present the question in substantially the following form:

20 Shall a margin tax be imposed in Nevada on a business
21 whose total annual revenue exceeds \$1,000,000?

22 ☐ Yes ☐ No

23 **Sec. 154.** All general election laws not inconsistent with this
24 act are applicable.

25 **Sec. 155.** Any informalities, omissions or defects in the
26 content or making of the publications, proclamations or notices
27 provided for in this act and by the general election laws under which
28 this election is held must be so construed as not to invalidate the
29 adoption of the statewide measure by a majority of the registered
30 voters voting on the question if it can be ascertained with reasonable
31 certainty from the official returns transmitted to the Office of the
32 Secretary of State whether the statewide measure was adopted by a
33 majority of those registered voters.

34 **Sec. 156.** At the General Election on November 6, 2012, a
35 statewide measure must be submitted to the registered voters of this
36 State pursuant to Section 18 of Article 4 of the Nevada Constitution
37 to approve the imposition of a transaction tax on the use of services
38 in Nevada.

39 **Sec. 157.** At the time and in the manner provided by law, the
40 Secretary of State shall transmit the proposed measure to the several
41 county clerks, and the county clerks shall cause it to be published
42 and posted as provided by law.

43 **Sec. 158.** The ballot page assemblies and the paper ballots to
44 be used in voting on the question of the statewide measure must
45 present the question in substantially the following form:



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1 Shall a transaction tax be imposed in Nevada?

2 ☐ Yes ☐ No

3 **Sec. 159.** All general election laws not inconsistent with this
4 act are applicable.

5 **Sec. 160.** Any informalities, omissions or defects in the
6 content or making of the publications, proclamations or notices
7 provided for in this act and by the general election laws under which
8 this election is held must be so construed as not to invalidate the
9 adoption of the statewide measure by a majority of the registered
10 voters voting on the question if it can be ascertained with reasonable
11 certainty from the official returns transmitted to the Office of the
12 Secretary of State whether the statewide measure was adopted by a
13 majority of those registered voters.

14 **Sec. 161.** 1. This section and sections 151 to 160, inclusive,
15 of this act become effective upon passage and approval.

16 2. Sections 1 to 49, inclusive, 111, 113, 115, 117, 119, 121 and
17 123 to 149, inclusive, of this act become effective on January 1,
18 2013, only if a majority of the voters voting on the question placed
19 on the ballot pursuant to sections 151 to 155, inclusive, of this act
20 vote affirmatively on the question.

21 3. Sections 50 to 110, inclusive, 112, 114, 116, 118, 120, 122
22 and 150 of this act become effective on July 1, 2013, only if a
23 majority of the voters voting on the question placed on the ballot
24 pursuant to sections 156 to 160, inclusive, of this act vote
25 affirmatively on the question.

