



May 22, 2007 From printer. To reengrossment. Reengrossed. Second reprint.  
Taken from General File.  
Placed on General File for next legislative day.

May 23, 2007 Taken from General File.  
Placed on General File for next legislative day.

May 24, 2007 Taken from General File.  
Placed on General File for next legislative day.

May 25, 2007 Read third time. Passed, as amended. Title approved. (Yeas: 42, Nays: None.) To Senate.

May 26, 2007 In Senate.

May 29, 2007 Assembly Amendment No. 850 concurred in. To enrollment.

May 30, 2007 Enrolled and delivered to Governor.

Jun 13, 2007 Approved by the Governor.

Jun 14, 2007 Chapter 443.

**Sections 1 to 48, inclusive, and subsection 1 of section 49 and 50 effective October 1, 2007.  
Subsection 2 of section 49 effective January 1, 2009, only if the proposal submitted pursuant  
to sections 40 to 44, inclusive, of this act is approved by the voters at the general election on  
November 4, 2008.**



PREPARED BY  
RESEARCH DIVISION  
LEGISLATIVE COUNSEL BUREAU  
Nonpartisan Staff of the Nevada State Legislature

**BILL SUMMARY**  
74<sup>th</sup> REGULAR SESSION  
OF THE NEVADA STATE LEGISLATURE

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**SENATE BILL 502**  
**(Enrolled)**

**Topic**

Senate Bill 502 relates to taxation.

**Summary**

Senate Bill 502 makes various technical changes to provisions governing sales and use taxes, including repealing certain statutes, to ensure compliance with the Streamlined Sales and Use Tax Agreement.

The bill also provides for the submission of a ballot question at the General Election in November 2008 asking voters to authorize the Legislature, without an additional direct vote of the people, to enact legislation deemed necessary to carry out federal law or interstate agreements for the administration of sales and use taxes. The ballot question includes a provision noting that the proposed amendment would not authorize any legislation that increases the rate of any tax imposed pursuant to the Sales and Use Tax Act of 1955, and that any increase must still be approved by a vote of the people. Finally, the ballot question also includes a request for the repeal of a sales tax exemption for aircraft and aircraft components that was declared unconstitutional by Nevada's Supreme Court. If approved, the amendments to the Sales and Use Tax Act would be effective on January 1, 2009.

**Effective Date**

The bill is effective on October 1, 2007, except for the repeal of the exemption related to aircraft, which is effective on January 1, 2009, if the ballot question is approved by the voters at the 2008 General Election.

# LEGISLATIVE HEARINGS

## MINUTES AND EXHIBITS

**MINUTES OF THE  
SENATE COMMITTEE ON TAXATION**

**Seventy-fourth Session  
April 10, 2007**

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 1:33 p.m. on Tuesday, April 10, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Mike McGinness, Chair  
Senator Randolph J. Townsend, Vice Chair  
Senator Dean A. Rhoads  
Senator Mark E. Amodei  
Senator Bob Coffin  
Senator Michael A. Schneider  
Senator Terry Care

**GUEST LEGISLATORS PRESENT:**

Senator Joseph J. Heck, Clark County Senatorial District No. 5

**STAFF MEMBERS PRESENT:**

Tina Calilung, Deputy Fiscal Analyst  
Russell J. Guindon, Senior Deputy Fiscal Analyst  
Barbara Moss, Committee Secretary

**OTHERS PRESENT:**

Jeremy Aguero, Applied Analysis  
Stanley F. Goodin, Nevada Highway Users Coalition  
Paul Enos, Nevada Motor Transport Association  
Kara Kelley, Las Vegas Chamber of Commerce  
Richard Daly, Laborers International Union of North America Local 169  
Jeffrey A. Fontaine, Nevada Association of Counties

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CHAIR MCGINNESS:

Your presence today has made a difference, and we appreciate your presence. The hearing is closed on S.B. 324.

SENATOR COFFIN:

Is a motion needed to ask leadership to make S.B. 324 an exempt bill?

CHAIR MCGINNESS:

If it is the pleasure of the Committee.

SENATOR COFFIN:

I do not know about the rest of the Committee, but it is my desire.

CHAIR MCGINNESS:

We will make it happen. The hearing is closed on S.B. 324 and opened on S.B. 502.

**SENATE BILL 502**: Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement and repeals certain obsolete provisions for the administration of those taxes. (BDR 32-556)

DINO DICIANNO (Executive Director, Department of Taxation):

I submitted a document entitled "Streamlined Sales Tax Project" (Exhibit D).

Senate Bill 502 clarifies language with respect to revising the Streamlined Sales and Use Tax Act to bring us further in compliance with the Streamlined Sales and Use Tax Agreement. After the 2005 Legislative Session, further amendments were made to the Streamlined Sales and Use Tax Agreement which necessitated S.B. 502. Sections 2, 5 through 7 and 15 through 17 of S.B. 502 clarify and update various definitions contained within the agreement. Also, under section 3 of S.B. 502, Nevada is required to certify the software computer programs that will be used by various resellers we need to certify. It also clarifies and removes obsolete provisions with respect to the *Nevada Revised Statutes* (NRS) and those provisions declared unconstitutional by the Nevada Supreme Court.

Sections 39 through 47 of S.B. 502 provide for a ballot initiative to ask Nevada voters to remove the referendum. It would allow this body, after approval of the

vote of the people, to amend not only the local portion of sales tax but the 2-percent portion as well. We have been under the referendum for over 50 years. One of the most difficult things insofar as compliance with the agreement, as well as what has kept us from becoming a full member of the governing board of the Streamlined Agreement, is we must continually come back to the Legislature to make these amendments without going to a vote of the people. If the voters approve it in November 2008, starting January 1, 2009, this body can make decisions with respect to Sales and Use Tax, not only on the local portion but on the two-percent portion, which is the whole point of streamlining.

CHAIR MCGINNESS:

Who will write it in order to sell it to the people?

MR. DICIANNO:

It has already been written.

CHAIR MCGINNESS:

Is that the language in S.B. 502?

MR. DICIANNO:

That is correct.

SENATOR CARE:

Sections 43 and 44 of S.B. 502 are pursuant to sales of aircraft and major components of aircraft. What will happen if those sections remain in the bill, the Committee passes it and it becomes law?

MR. DICIANNO:

This provision, inadvertently left out of the last bill in the 2005 Legislative Session, needed clarification. There can no longer be split rate exemptions if we are part of the agreement. There is another bill and a proposed amendment to include aircraft in the vote of the people. It is not a conflict. Depending upon the voters, one could pass and one could fail, but it is covered in both bills.

SENATOR TOWNSEND:

Is there a group of individuals who understand the necessity for S.B. 502 and are willing to explain it to the public—or will it be another thing on the ballot nobody understands? In that event, they will vote no and we wasted two years.

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MR. DiCIANNO:

I will do everything to publicize the necessity of this with cooperation from the Nevada Taxpayers Association, Nevada Manufacturers Association and the Retail Association of Nevada.

SENATOR TOWNSEND:

I just finished one of these questions with no opposition. It benefited the public but cost \$750,000 to tell them. When they realized it was good for them, they voted for it. Somebody has to put up the money. Although the groups you mentioned are behind it, are they communicating with their members? It will be futile without an organized effort.

MR. DiCIANNO:

I expect them to rally behind it. The whole purpose is to level the playing field, which is in their best interest.

ERNEST ADLER (Former Senator; Reno-Sparks Indian Colony):

The Reno-Sparks Indian Colony supports S.B. 502 with two amendments (Exhibit E). The first amendment inserts the words "and Indian reservation or Indian colony in this State" in section 10, subsection 1, paragraph (a) of S.B. 502 in order that tax rates for Indian colonies and reservations appear on the Department of Taxation's Website, making retailers aware of those rates.

The second amendment inserts the words "or Indian reservation or Indian colony of this State" in section 13, subsection 4, paragraph (a) of S.B. 502 to make direct sales persons aware that the tax rate for the various Indian reservations and colonies needs to be included when they disburse the tax back to the state, calculated and properly redistributed.

Senate Bill 502 is a good bill we strongly support. The Reno-Sparks Indian Colony is a member of the Retail Association of Nevada. We will talk to them about expending money to pass the ballot issue.

CHAIR MCGINNESS:

Have you discussed the amendments with Mr. DiCianno?

MR. DiCIANNO:

Yes. This is a friendly amendment. Section 11 of S.B. 502 contains language with respect to any pertinent Indian reservation or colony. The amendments

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compliment section 11 and are also in the spirit of the unanimous resolution adopted by the National Conference of State Legislatures in 2005, which tried to bring the Indian tribes within the streamlined effort. I have no problem because the amendments are proper and due.

ARLAN MELENDEZ (Reno-Sparks Indian Colony):

I chaired the Taxation Committee for the National Congress of American Indians. When the Streamlined Sales Tax Initiative started in 2000, Indian tribes across the nation were not aware of it. We began to attend joint sessions between the National Conference of State Legislators and the National Congress of American Indians. We started asking questions and worked for a year and a half. Mr. DiCianno is a liaison to the National Conference of State Legislators, and we tied together.

The amendment proposed by the Reno-Sparks Indian Colony will allow the Department of Taxation to track Internet and mail order sales delivered to reservation lands. Existing Nevada statutes then allow the Department of Taxation to remit these taxes to tribal governments. Currently, the tribe must rely on tribal consumers to pay use tax in such situations. The same situation exists in 50 states.

Nevada wants to collect these taxes by implementing the Streamlined Sales and Use Tax Agreement, and tribes want to collect taxes owed them that arise from tribal lands. We ask Nevada to assist the tribes by allowing the Department of Taxation to track these sales.

SENATOR COFFIN:

Will we still be able to exempt occasional sales and things people do not want to be taxed on because they fly under the radar?

MR. DICIANNO:

The Legislature addressed it in 2005.

RAY BACON (Nevada Manufacturers Association):

The Nevada Manufacturers Association has been involved with Mr. DiCianno working through the Streamlined Sales Tax since the beginning. We keep our members informed and the advantage of our membership will be donations coming forward to work on this effort. The members realize it is in their best long-term interest to resolve the issue on a national basis. Across the board, this

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issue has created inequity for a long time, this solution will move it forward. There will be substantial revenue for Nevada in the long term.

LAVERNE H. ROBERTS (Taxation Department, Walker River Paiute Tribe):  
The Walker River Paiute Tribe has also conversed with Nevada, the Reno-Sparks Indian Colony and several other tribes. We support the Streamlined Sales Tax.

CHAIR MCGINNESS:

What is the pleasure of the Committee on S.B. 502?

SENATOR AMODEI MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 502.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RHOADS WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

CHAIR MCGINNESS:

The hearing is opened on S.B. 503.

**SENATE BILL 503**: Requires payment of penalty and interest for failure to pay to the Department of Taxation required licensing fees for exhibitions in a timely manner. (BDR 32-579)

MR. DICIANNO:

We support S.B. 503. It is a cleanup bill. It was an issue inadvertently left out during the 2005 Legislative Session with respect to requiring a payment of penalty and interest for failure to pay the Department of Taxation for licensing fees for exhibitions. Senate Bill 503 levels the playing field by stating exhibitions should be subject to the same penalties and interest provisions as any other business in the state.

PETER KRUEGER (Cigar Association of America):

The tax code was changed in the 2005 Legislative Session relevant to trade shows and other public events. The change required registration and fees on sample cigars that are given away and not sold. Mr. DiCianno was asked to

## DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

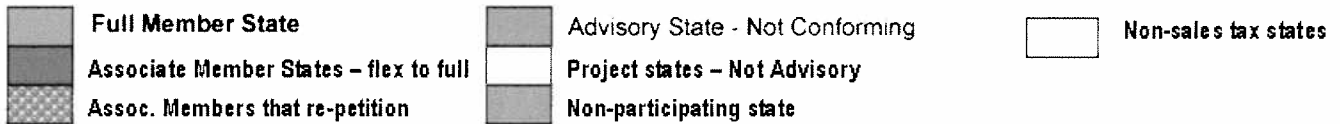
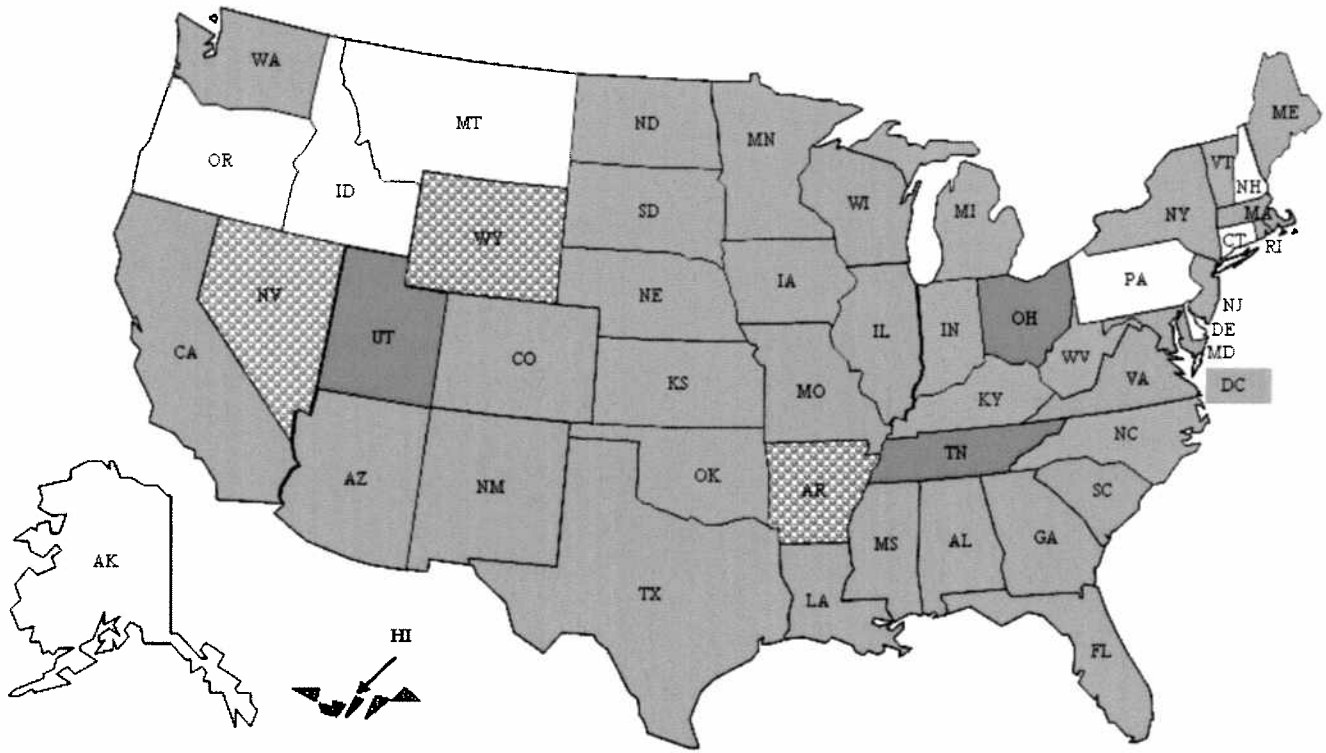
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Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us).

# Streamline Sales Tax State Status

as of 1/29/2007





# Streamlined Sales Tax Project

## Executive Summary

January 2005

### Steering Committee

Diane Hardt  
Co-Chair  
*Wisconsin*

Scott Peterson  
Co-Chair  
*South Dakota*

Richard Dobson  
*Kentucky*

Harold Fox  
*New Jersey*

Bruce Johnson  
*Utah*

Eleanor Kim  
*Texas*

Tom Kimmett  
*Pennsylvania*

Marshall Stranburg  
*Florida*

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The Project's proposals include tax law simplifications, more efficient administrative procedures, and emerging technologies to substantially reduce the burden of tax collection. The Project's proposals are focused on improving sales and use tax administration systems for both Main Street and remote sellers for all types of commerce.

Forty-two states and the District of Columbia are involved in the Project. Forty-five states and the District of Columbia impose a sales and use tax.

The Project was organized in March 2000. The Project is conducting its work through a steering committee with co-chairs, and a number of work groups. Project participants are generally state revenue department administrators but there are also representatives of state legislatures and local governments. Businesses — including national retailers, trade associations, manufacturers, direct marketers, telecommunications companies, leasing companies, technology companies, printers, accounting firms, and others — have actively participated in the Project by offering expertise and input, reviewing proposals, suggesting legislation, and testifying at public hearings.

The goal of the Streamlined Sales Tax Project is to provide states with a Streamlined Sales Tax System that includes the following key features:

- **Uniform definitions within tax laws.** Legislatures still choose what is taxable or exempt in their state. However, participating states will agree to use the common definitions for key items in the tax base and will not deviate from these definitions. As states move from their current definitions to the Project's definitions, a certain amount of impact on state revenues is inevitable. However, it is the intent of the Project to provide states with the ability to closely mirror their existing tax bases through common definitions.
- **Rate simplification.** States will be allowed one state rate and a second state rate in limited circumstances (food and drugs). Each local jurisdiction will be allowed one local rate. A state or local government may not choose to tax telecommunications services, for example, at one rate and all other items of tangible personal property or taxable services at another rate. State and local governments will accept responsibility for notice of rate and boundary

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changes at restricted times. States will provide an on-line rate/jurisdiction database to simplify rate determinations.

- **State level tax administration of all state and local sales and use taxes.** Businesses will no longer file tax returns with each local government within which it conducts business in a state. Each state will provide a central point of administration for all state and local sales and use taxes and the distribution of the local taxes to the local governments. A state and its local governments will use common tax bases.
- **Uniform sourcing rules.** The states will have uniform and simple rules for how they will source transactions to state and local governments. The uniform rules will be destination/delivery based and uniform for tangible personal property, digital property, and services. Special sourcing rules will be developed for unique industries.
- **Simplified exemption administration for use- and entity-based exemptions.** Sellers are relieved of the “good faith” requirements that exist in current law and will not be liable for uncollected tax. Purchasers will be responsible for paying the tax, interest and penalties for claiming incorrect exemptions. States will have a uniform exemption certificate in paper and electronic form.
- **Uniform audit procedures.** Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have limited scope audits, depending on the technology model used. The states may conduct joint audits of large multi-state businesses.
- **State funding of the system.** To reduce the financial burdens on sellers, states will assume responsibility for funding some of the technology models. The states are also participating in a joint business – government study of the costs of collection on sellers.

The Project proposes that states change their sales and use tax laws to conform with the simplifications as proposed by the Project. Thus, the simplifications would apply to all sellers. Sellers who do not have a physical presence or “nexus” are not required to collect sales and use taxes unless Congress chooses to require collection from all sellers for all types of commerce. Sellers without a physical presence can volunteer to collect under the proposed simplifications. Registration by sellers to voluntarily collect sales and use taxes will not infer that the business must pay business activity taxes, such as the corporate franchise or income tax.

The Streamlined Sales Tax System will provide sellers the opportunity to use one of three technology models. A seller may use Model 1 where a Certified Service Provider, compensated by the states, will perform all of the seller’s sales tax

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functions. A seller may use Model 2, a Certified Automated System, to perform only the tax calculation function. A larger seller with nationwide sales that has developed its own proprietary sales tax software may use Model 3 and have its own system certified by the states collectively. However, some sellers may choose to continue to use their current systems and still enjoy the benefits of the Project's simplifications.

The Streamlined Sales Tax Project envisions two components to the legislation necessary to accomplish the Project's goals. First, states would adopt enabling legislation referred to as the Uniform Sales and Use Tax Administration Act ("Act"). The Act allows the state to enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and all types of commerce. The Act does not require any amendments to a state's sales and use tax law.

Secondly, states would amend or modify their sales and use tax laws to achieve the simplifications and uniformity required by the participating states working together. The Project refers to this legislation as the Streamlined Sales and Use Tax Agreement ("Agreement"). Some states will require only minor changes to current law to implement the requirements of the Agreement. Other states with more complicated sales tax laws may require significant changes to current law to be in accord with the Agreement.

A certificate of compliance will document each state's compliance with the provisions of the Agreement and cite applicable statutes, rules or regulations, or other authorities supporting such compliance. Public notice and comment will be provided before a state becomes part of the interstate Agreement. A state is in compliance with the Agreement if the effect of the state's laws, rules or regulations, and policies is substantially compliant with each of the requirements of the Agreement. If a state is found to be out of compliance with the Agreement, it will not be accepted into the interstate Agreement or will be sanctioned or expelled by the other participating states. In a voluntary system, sellers who are voluntarily collecting sales taxes for participating states may decide to no longer collect for the expelled state. Also, that state may not have a vote on changes in the Agreement.

A governing board will be comprised of representatives of each member state of the Agreement. Each member state is entitled to one vote on the governing board. The governing board is responsible for interpretations of the Agreement, amendments to the Agreement, and issue resolution. A State and Local Government Advisory Council and a Business and Taxpayer Advisory Council from the private sector will advise the governing board.

On November 12, 2002, thirty states and the District of Columbia approved the interstate Agreement provisions. As of January 2005, twenty-one states have moved forward and enacted all or part of the conforming legislation.

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It's anticipated that states that enacted the conforming legislation and are found to be in compliance with the Agreement will continue as the governing states of the interstate Agreement of the future. States will verify compliance with the requirements of the Agreement in early 2005.

The project website is [www.streamlinedsalestax.org](http://www.streamlinedsalestax.org).

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Proposed Amendments to SB 502

Page 7. Amend Sec. 10.(a) as follows: The sales and use taxes for this State,(and)for each local government in this State “and Indian reservation or Indian colony in this State” that imposes such taxes.

Page 9. Amend Sec. 13. 4(a) as follows: Determine the amount of sales and use taxes that are due and payable to this State, (or) a local government of this State “or Indian reservation or Indian colony of this State” upon the purchase of tangible personal property from such a seller; and

Submitted by Ernie Adler on behalf of the Reno-Sparks Indian Colony

Telephone number: 775-883-5149

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Fourth Session  
May 10, 2007**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:44 p.m., on Thursday, May 10, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Kathy McClain, Chair  
Assemblyman David R. Parks, Vice Chair  
Assemblywoman Francis Allen  
Assemblyman Morse Arberry Jr.  
Assemblyman Mo Denis  
Assemblyman Tom Grady  
Assemblyman William Horne  
Assemblyman John W. Marvel  
Assemblyman James Ohrenschall  
Assemblywoman Peggy Pierce  
Assemblywoman Valerie E. Weber

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Harry Mortenson (Excused)

**STAFF MEMBERS PRESENT:**

Michael Nakamoto, Deputy Fiscal Analyst  
Mary Garcia, Committee Secretary  
Gillis Colgan, Committee Assistant

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of the property on which there are excess proceeds leaves you with nothing to sell. They convinced me of that as well.

Understand that this is the contract between the finder and his client. This is not in the application to the county for the excess funds. It deals with the finder's contract with the client and not with the county. We need that descriptive information at the county level so we know to which fund they are referring.

**Chair McClain:**

In Section 4 on page 3, line 10, we are adding "the creditor under a judgment." Could you give me an example of this?

**Dan Carroll:**

Suppose Mr. Kramer owned a piece of property, and I had a court judgment against Mr. Kramer for \$20,000 recorded against the property. I should have priority in getting the excess proceeds before Mr. Kramer. It would be just as if he sold the property in a private sale, where my judgment would be paid through escrow in order to clear the title. This provision gives the creditor the same status with regard to claiming the proceeds of a tax sale.

**Chair McClain:**

I understood you to say this is a prioritized list. [Mr. Kramer verified that.] I do not read it as being prioritized.

**Dan Carroll:**

That is on page 4, specifically lines 27–29. Priority goes to the persons in (b), (c), (d), and (g) of subsection 4 of *Nevada Revised Statutes* (NRS) 361.585, which gets back to the beneficiary under a note or deed of trust, the creditor under a judgment, or the successor in interest of a creditor. That gives the creditors priority over the owner just as they would have in a private sale.

**Chair McClain:**

Does anybody else have any questions? Does anybody in the audience want to weigh in on this one? [There was no response.] I will close the hearing on S.B. 375 (R1). I will open the hearing on Senate Bill 502 (1st Reprint).

**Senate Bill 502 (1st Reprint): Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement and repeals certain obsolete provisions for the administration of those taxes. (BDR 32-556)**

**Dino DiCianno, Executive Director, Department of Taxation:**

I am here to support S.B. 502 (R1). It is a Department of Taxation bill. It specifically relates to amending provisions within Chapter 360B of *Nevada Revised Statutes* (NRS) that relate to the Streamlined Sales and Use Tax Agreement. I provided you with some information (Exhibit C) that I thought would be helpful. That packet should include an abstract of S.B. 502 (R1), since the bill is rather lengthy. It should also contain proposed or draft language for a preamble to the portion within the bill that goes on the general ballot in November 2008. The packet should also include a map showing the status of all the states with regard to the Streamlined Sales and Use Tax Agreement. As you can tell from that map, Nevada is an associate member.

There should also be an executive summary put out by the Streamlined Sales and Use Tax Governing Board in 2005. The emphasis in the executive summary has not changed since that time. You should also have a copy of a resolution adopted in May 2005 by the National Conference of State Legislatures regarding the relationship between Streamlined Sales and Use Tax Agreement and Tribal Governments. The reason you have a first reprint is that one specific amendment was made on the Senate side that brought in the tribal governments based upon that resolution.

Because this is a lengthy bill, I will briefly go over the highlights. The bill amends the current statutes in line with all the amendments that have occurred in the agreement since 2005. By that I mean there have been additional changes to the definitions of a person, a certified automated system, dietary supplements, food, and sales price, and the addition of the Commonwealth of Puerto Rico.

The most important part of this bill, and the reason I am here to support it, is that since 2001 this Body has allowed Nevada to become a part of that Streamlined Sales Agreement. I have been the voting member for the State since 2000. We have worked on this for more than seven years, and I would hate to see that all go to waste. The prior Governor supported the Streamlined Sales and Use Tax Agreement; the current Governor, Jim Gibbons, supports the Streamlined Initiative.

The most significant part of the bill is in Sections 39 and 47. As you all know, we have lived under the referendum, or the vote of the people, since 1955. I believe it is time that changed. I believe it is important for this Body to have not only the ability to make decisions regarding the local portion of the sales tax, but also the ability to make decisions regarding the state portion. In other words, if someone comes before you requesting a change to the Sales and Use Tax Act of 1955, this Body should be able to legislate accordingly without

having to wait two years after a vote of the people before you can come back and address it.

This is very significant. We are one of the few states that still allow for referendum issues. Carole Vilardo has an amendment to the bill (Exhibit D) with suggested wording for the ballot measure. I do not have a problem with that. I believe that is a friendly amendment.

The other part of this bill repeals certain provisions within the statutes that have been found unconstitutional or no longer applicable.

**Chair McClain:**

You all have a copy of Ms. Vilardo's amendment (Exhibit D). She wants to add that "approval of this question will still require voter approval of any rate increase proposed to the Sales and Use Tax Act of 1955." The people are not voting away their right to approve increases. [Mr. DiCianno concurred.]

**Assemblyman Horne:**

In Sections 15 and 16, I am curious about the language about dietary supplements and preventing food-borne illnesses.

**Dino DiCianno:**

The reason we have to include those language changes is they were part of the discussions and approval by the Governing Board of the Streamlined Sales and Use Tax Agreement. Food and food ingredients mean substances—whether liquid, concentrate, et cetera—that are consumed for their taste or nutritional value, with the exception of alcoholic beverages, dietary supplements, and tobacco. They do not consider a dietary supplement to be food. In order to comply with the agreement, we have to include that in our statute.

There is a heating or cooking element involved in what is taxable and what is not taxable when it comes to prepared food. Part of the intent of Section 16 is to prevent food-borne illnesses. Cooking food or heating it to a certain temperature removes the possibility of food-borne illness, and that is the only reason that is there.

**Assemblyman Horne:**

Dietary supplements are excluded, but who made the determination that dietary supplements are not a food?

**Dino DiCianno:**

There are currently 22 states in this agreement. Nevada is one of only six associate members. As an associate member we cannot vote. The other

16 members are full members. There is a mechanism that allows member states to bring amendments to this agreement forward to the governing board. They review and discuss the amendments and vote on them. It was the conclusion of that board that dietary supplements should be excluded from the definition of food. They are not considered food products.

**Assemblyman Horne:**

If we were to say they were not food products here, this would relate to what provision of the tax code?

**Dino DiCianno:**

Dietary supplements are taxable. There is no question about that. Prepared food is taxable if it is intended for immediate consumption, but a loaf of bread and a carton of milk are not taxable.

**Chair McClain:**

Since Nevada does not have much say in this as an associate member, when are we going to be a full member? What do we have to do?

**Dino DiCianno:**

The reason this bill is in front of you is that we have to comply with those provisions within the agreement by January 1, 2008. I will be submitting a re-petition to the governing board to allow Nevada to become a full member. Without this bill being enacted, it will not happen.

**Chair McClain:**

Who authorized this board? Where did they come from?

**Dino DiCianno:**

That was the result of a discussion that occurred in 2000 amongst all the different administrators, such as myself. Congress charged the states to either simplify the Streamlined Sales and Use Tax Agreement or to not be able to tax Internet retail sales.

**Chair McClain:**

So it was a case of either the states fixing it or Congress fixing it for them? [Mr. DiCianno verified that.] I do not blame you for establishing the board.

**Assemblywoman Pierce:**

If a registered seller fails to collect the correct amount on any sales or use tax imposed using a certified service provider, is there any provision for our checking to see if this software has been hacked into or altered in some way, or to assess a penalty or any such thing?

**Dino DiCianno:**

There is. Each state has to certify service providers. In other words, we conduct audits on their process. We sign off on their viability. If they do not conform, then they are subject to those penalties and provisions, and they owe the tax they had collected.

**Assemblywoman Pierce:**

If you do not think they are collecting enough tax, do you check the software again to make sure it has not been altered or hacked into in some way?

**Dino DiCianno:**

There is a formal process with the governing board whereby the service providers have to show they can provide that service. They are acting as conduits between the remote sellers—those retail establishments that sell over the Internet—and each state. We do not have the ability to audit the remote sellers. We have the ability to audit those centralized service providers. We have to certify that what they have put in place is accurate and correct, that is key. If we do not believe they are performing their function properly—they have not incorporated a matrix of our rates and boundaries and all the tax rates of all the different states—they cannot be centralized service providers. All the states have to agree to this.

**Assemblywoman Pierce:**

What if the software gets altered past that point? What if the remote seller alters the software?

**Dino DiCianno:**

The remote seller would not be liable because of an error created by the centralized service provider. That service provider would be liable, not the retailer.

**Assemblywoman Pierce:**

Software can be altered at any point. [Mr. DiCianno concurred.] So what if the remote seller alters the software so that it is not collecting enough, but it appears that it is?

**Dino DiCianno:**

There are two mechanisms that will be put in place to ensure the remote seller's report is accurate and the proper amount of tax is remitted to each state. One is the centralized service provider. That means a remote seller could contract with the centralized service provider to provide the returns, collect the tax, and remit it to the state. The other is called the certified automated software, which would be sold to a remote seller or retailer. We still need to

certify that software. There is no question someone could alter the software. That is something we would have to deal with on an individual basis.

**Assemblywoman Pierce:**

A liability has been waived, and there does not seem to be any penalty for altering software or any way to get the taxes that were not collected.

**Dino DiCianno:**

If the states are aware that someone has altered the automated software, we will bring them in front of the governing board and yank his certification. He will no longer be allowed to use it. I do not believe that any state would allow someone to do something like that for any length of time.

Part of this process was a negotiation between the business communities in all the different states. Some give and take was part of the process. The whole idea was to level the playing field between the brick-and-mortar retailers and the remote sellers. They would all be taxed on the same level playing field. The difficulty is that we currently cannot collect sales tax on remote sales because remote sellers do not have nexus in this State.

**Chair McClain:**

Could you explain the need to repeal the tax exemption on aircraft?

**Dino DiCianno:**

That was an oversight during the 2005 Legislative Session. That provision should have been put on the ballot along with all the others—ocular, fine art, et cetera. We apologize for that oversight. This is not the same as NRS 372.317. That particular statute was found unconstitutional by the Nevada Supreme Court, which is why it is being deleted. However, this part of Chapter 374 of NRS remained on the books inadvertently. We can no longer have split rates. It is either fully taxable or fully exempt; we cannot have anything in between.

**Chair McClain:**

So they are not exempt, and we have to get this out of the *Nevada Constitution*. [Mr. DiCianno verified that.] Are there any other questions? [There were none.] Does anybody else want to testify on S.B. 502 (R1)?

**Ernie Adler, representing Reno-Sparks Indian Colony:**

Mr. DiCianno worked with us on the Senate side to include amendments to assist Indian tribes in being able to receive this same benefit. They did a very good job on the amendment, and this will work well for all the tribes in the

State of Nevada. It will, in some cases, greatly increase their tax revenues. Most of their purchases are actually made on the Internet or by mail-order, so this is a big benefit to all the Indian tribes in Nevada. We appreciate the Department of Taxation's effort in putting those amendments in this bill.

**Carole Vilardo, President, Nevada Taxpayers Association:**

For the record, I am speaking in support of S.B. 502 (R1). This is an important bill. Each session you wind up with a number of bills to take care of a major problem with sales tax that has been identified. Those issues then have to go on the ballot. In the last 15 to 16 years there has been only one general election in which we have not had a sales tax question on the ballot. Things are at a point where you are not taking away the authority of the Legislature to review any changes that are made, but particularly with the Streamlined Sales and Use Tax Agreement it is very important that if we are to become a signatory state, we are able to react when the Legislature is in session to make necessary corrections.

I hope I added an adequate explanation to the amendment I gave you (Exhibit D). It is so important that you be able to make these administrative and compliance changes. I would not want someone who is going into the voting booth to read that and think you are using it to increase the sales tax. It is very important to have a clear, definitive statement on the ballot question if we hope to get it passed. Thank you for your support of the bill and the amendment.

**Chair McClain:**

That is probably a good idea because people do not always read the explanations, but if it is right on the ballot they might. Are there any other questions? Does anybody else wish to testify on S.B. 502 (R1)? [There was no response.] We will close the hearing on S.B. 502 (R1) and open the hearing on Senate Bill 503 (1st Reprint).

**Senate Bill 503 (1st Reprint): Revises provisions governing fees and taxes administered by the Department of Taxation. (BDR 32-579)**

**Dino DiCianno, Executive Director, Department of Taxation:**

I am here in support of S.B. 503 (R1). This bill is basically housecleaning. We are attempting to correct an oversight of the 2005 Session whereby the penalty provisions for exhibitors was inadvertently left out. In other words, if someone fails to pay the business license fee, he should be subjected to the penalty just like anyone else under *Nevada Revised Statutes* (NRS) 360.417.

The other amendment that occurred on the Senate side was the addition of language in Section 2, which dealt with acquiring, free of charge at a trade

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## ABSTRACT OF SB 502

Intent of SB 502 is to revise and clarify various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement (NRS 360B.110 and NRS 360B.120).

**Sections 2, 5-7 and 15-17:** Clarify and update various administrative definitions to comply with the Agreement. These include the definition of a “person,” “certified automated system (software),” “certified service provider,” “the Commonwealth of Puerto Rico,” “dietary supplements,” “food,” and “sales price.”

**Section 3:** Requires certification by Nevada of the software of computer programs that calculate the taxes due on a sale and provides for a limited waiver of liability for persons who rely on that certification.

**Section 9:** Provides for the conditions under which multiple remittances of taxes may be required for a single tax return from a seller who registers under the Agreement.

**Section 10:** Requires the Department to post on its website certain tax information as required by the Agreement.

**Section 11:** Requires the Department to maintain a list of the combined sales tax rates imposed in each zip code per the Agreement; to include an Indian Reservation or Indian Colony.

**Section 12:** Provides for the waiver of liability of sellers and purchasers who rely on the tax information posted on the Department’s website per the Agreement.

**Sections 18-20 and 28-30:** Under existing law persons who conduct business as sellers in Nevada must register in accordance with the Agreement or obtain permits from the Department. These provisions clarify those statutes applicable to an application for such a permit does not apply to the registration of a seller pursuant to the Agreement.

**Sections 21-25 and 31-35:** Revises the statutory provisions governing resale certificates to combine some of the existing provisions for clarity and to carry out the requirements of the Agreement; regarding the acceptance of resale certificates from certain third party vendors, the contents of resale certificates and the liability of a seller for the improper use of a resale certificate by a purchaser.

**Sections 26 and 36:** Clarifies the definition of a “retailer” to include a certified service provider acting on behalf of a retailer who is registered in accordance with the Agreement for the purpose of claiming an exemption from the payment of taxes imposed by the Sales and Use Tax Act.

**Sections 27 and 37:** To ensure that existing law does not appear to create a threshold for the application of sales or use tax, as prohibited by the Agreement. An example of this is when a person acquires free of charge certain tangible personal property at a convention, trade show or other public event.

**Section 38:** This revises the requirements of a local ordinance in accordance with the Agreement requiring a common state and local sales tax base and imposing restrictions on the date of implementation of changes in tax rates. More specifically, any sales tax rate change at the local level becomes effective on the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

**Sections 39-47:** Provides for the submission to the voters of Nevada an amendment to the Sales and Use Tax Act to authorize the Legislature to amend that Act without any additional voter approval as necessary to carry out any federal law or interstate agreement for the administration of sales and use taxes. It also repeals NRS 372.317 that was declared unconstitutional by the Nevada Supreme Court.

**Section 49:** Repeals NRS 360B.270 in accordance with the Agreement, since the provisions of which have already been incorporated into other statutes through Sections 21, 24, 31 and 34 of this bill. Repeals NRS 372.728 and 374.728 which are obsolete given the State's membership into the Agreement and repeals NRS 372.726 that was declared unconstitutional.

The Legislature hereby finds and declares that:

1. There has been a rapid increase during recent years in the conduct of interstate commerce through telecommunication and electronic means.

2. Many of the merchants who transact these forms of interstate commerce have been discouraged by the substantial burdens of ascertaining and complying with the extremely diverse and detailed tax laws of each state, from making the efforts necessary to collect sales and use taxes on behalf of the states in which they do not maintain a place of business.

3. As a result of the proliferation of these forms of interstate commerce and federal restrictions on the ability of each state to collect sales and use taxes from merchants who do not maintain a place of business in that state, the people of this State are losing millions of dollars in state and local tax revenue.

4. The nonpayment of Nevada sales and use taxes by merchants in other states provides those merchants with an unfair competitive advantage over local merchants who lawfully pay the sales and use taxes due in this State.

5. As a result of the similarity of these circumstances in the various states, considerable efforts are being made to provide more uniformity, simplicity and fairness in the administration and collection of sales and use taxes in this country, including the introduction and consideration of Congressional legislation and the participation by Nevada and many other states in the Streamlined Sales and Use Tax Agreement.

6. Compliance with the Streamlined Sales and Use Tax Agreement and its amendments has and will continue to require amendments to the Nevada Sales and Use Tax Act, and it is anticipated that any Congressional legislation will also necessitate such amendments.

7. The Nevada Sales and Use Tax Act was approved by referendum at the General Election in 1956 and therefore, pursuant to Section 1 of Article 19 of the Constitution of the State of Nevada, may not be “amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people.”

8. Unlike the circumstances in other states where legislatures have the direct authority to amend sales and use tax laws in a timely manner, the period required for the legislative enactment and subsequent voter approval of any necessary amendments to the Nevada Sales and Use Tax Act has placed the ability of this State to comply with the Streamlined Sales and Use Tax Agreement and any Congressional legislation in serious jeopardy.

9. It would be beneficial to the public welfare for the people of this State by direct vote to authorize the Legislature to enact without any additional voter approval such amendments to the Nevada Sales and Use Tax Act as it determines to be necessary to carry out any Congressional legislation or interstate agreements for the administration, collection or enforcement of sales and use taxes.

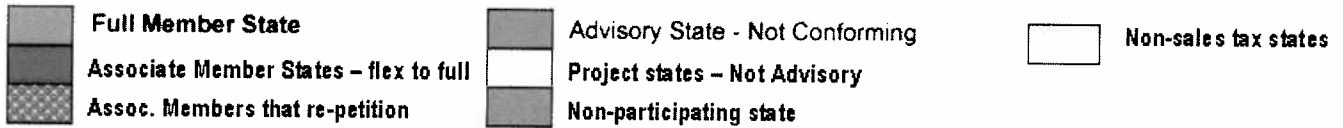
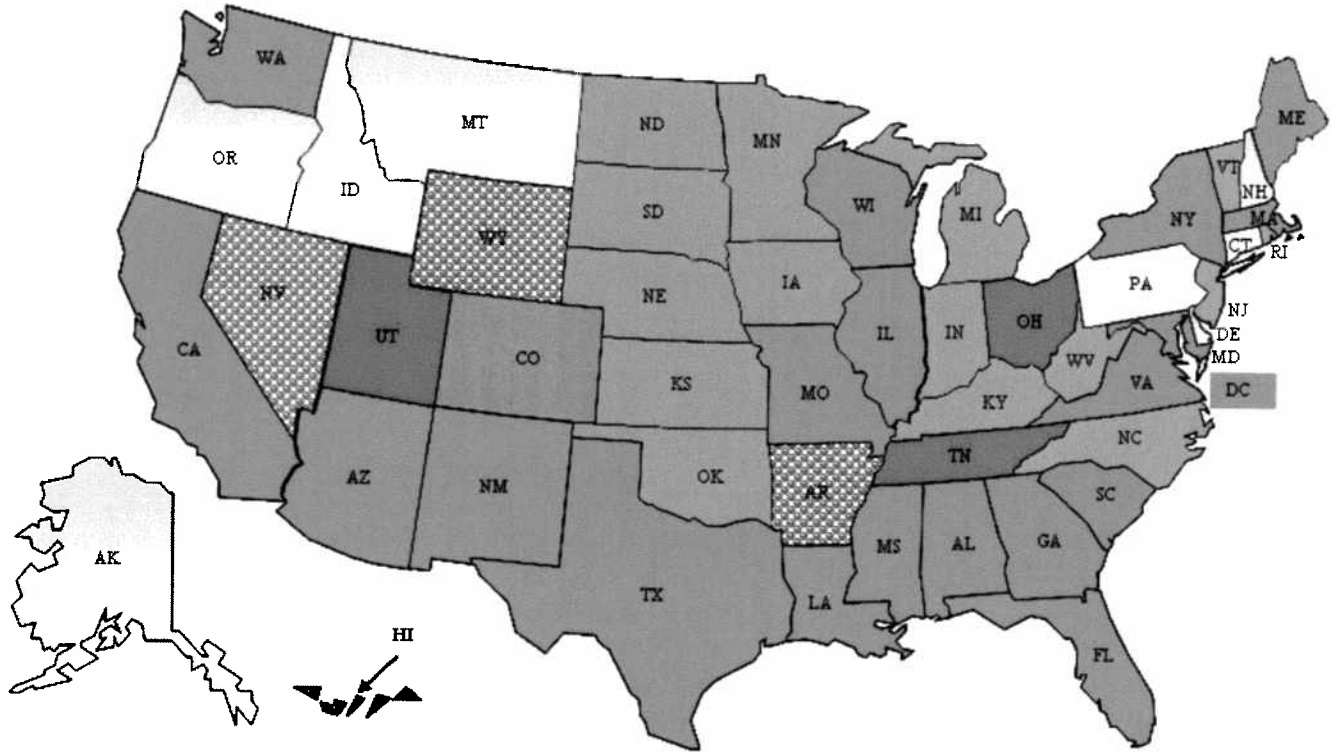
Section 1. The above-entitled Act, being Chapter 397, Statutes of Nevada 1955, at page 762, is hereby amended by adding thereto a new section to be designated as section 153.5, immediately following section 153.2, to read as follows:

*Sec. 153.5. The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being Chapter 397, Statutes of Nevada 1955, at page 762, whenever the Legislature determines that such legislation is necessary to carry out any federal statute or regulation or interstate agreement providing for the administration, collection or enforcement of sales and use taxes.*

Sec. 2. This act becomes effective on January 1, 2009.

# Streamline Sales Tax State Status

as of 1/29/2007





# Streamlined Sales Tax Project

## Executive Summary

January 2005

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The Project's proposals include tax law simplifications, more efficient administrative procedures, and emerging technologies to substantially reduce the burden of tax collection. The Project's proposals are focused on improving sales and use tax administration systems for both Main Street and remote sellers for all types of commerce.

### Steering Committee

Diane Hardt  
Co-Chair  
*Wisconsin*

Scott Peterson  
Co-Chair  
*South Dakota*

Richard Dobson  
*Kentucky*

Harold Fox  
*New Jersey*

Bruce Johnson  
*Utah*

Eleanor Kim  
*Texas*

Tom Kimmett  
*Pennsylvania*

Marshall Stranburg  
*Florida*

Forty-two states and the District of Columbia are involved in the Project. Forty-five states and the District of Columbia impose a sales and use tax.

The Project was organized in March 2000. The Project is conducting its work through a steering committee with co-chairs, and a number of work groups. Project participants are generally state revenue department administrators but there are also representatives of state legislatures and local governments. Businesses — including national retailers, trade associations, manufacturers, direct marketers, telecommunications companies, leasing companies, technology companies, printers, accounting firms, and others — have actively participated in the Project by offering expertise and input, reviewing proposals, suggesting language, and testifying at public hearings.

The goal of the Streamlined Sales Tax Project is to provide states with a Streamlined Sales Tax System that includes the following key features:

- **Uniform definitions within tax laws.** Legislatures still choose what is taxable or exempt in their state. However, participating states will agree to use the common definitions for key items in the tax base and will not deviate from these definitions. As states move from their current definitions to the Project's definitions, a certain amount of impact on state revenues is inevitable. However, it is the intent of the Project to provide states with the ability to closely mirror their existing tax bases through common definitions.
- **Rate simplification.** States will be allowed one state rate and a second state rate in limited circumstances (food and drugs). Each local jurisdiction will be allowed one local rate. A state or local government may not choose to tax telecommunications services, for example, at one rate and all other items of tangible personal property or taxable services at another rate. State and local governments will accept responsibility for notice of rate and boundary

changes at restricted times. States will provide an on-line rate/jurisdiction database to simplify rate determinations.

- **State level tax administration of all state and local sales and use taxes.** Businesses will no longer file tax returns with each local government within which it conducts business in a state. Each state will provide a central point of administration for all state and local sales and use taxes and the distribution of the local taxes to the local governments. A state and its local governments will use common tax bases.
- **Uniform sourcing rules.** The states will have uniform and simple rules for how they will source transactions to state and local governments. The uniform rules will be destination/delivery based and uniform for tangible personal property, digital property, and services. Special sourcing rules will be developed for unique industries.
- **Simplified exemption administration for use- and entity-based exemptions.** Sellers are relieved of the “good faith” requirements that exist in current law and will not be liable for uncollected tax. Purchasers will be responsible for paying the tax, interest and penalties for claiming incorrect exemptions. States will have a uniform exemption certificate in paper and electronic form.
- **Uniform audit procedures.** Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have limited scope audits, depending on the technology model used. The states may conduct joint audits of large multi-state businesses.
- **State funding of the system.** To reduce the financial burdens on sellers, states will assume responsibility for funding some of the technology models. The states are also participating in a joint business – government study of the costs of collection on sellers.

The Project proposes that states change their sales and use tax laws to conform with the simplifications as proposed by the Project. Thus, the simplifications would apply to all sellers. Sellers who do not have a physical presence or “nexus” are not required to collect sales and use taxes unless Congress chooses to require collection from all sellers for all types of commerce. Sellers without a physical presence can volunteer to collect under the proposed simplifications. Registration by sellers to voluntarily collect sales and use taxes will not infer that the business must pay business activity taxes, such as the corporate franchise or income tax.

The Streamlined Sales Tax System will provide sellers the opportunity to use one of three technology models. A seller may use Model 1 where a Certified Service Provider, compensated by the states, will perform all of the seller’s sales tax

functions. A seller may use Model 2, a Certified Automated System, to perform only the tax calculation function. A larger seller with nationwide sales that has developed its own proprietary sales tax software may use Model 3 and have its own system certified by the states collectively. However, some sellers may choose to continue to use their current systems and still enjoy the benefits of the Project's simplifications.

The Streamlined Sales Tax Project envisions two components to the legislation necessary to accomplish the Project's goals. First, states would adopt enabling legislation referred to as the Uniform Sales and Use Tax Administration Act ("Act"). The Act allows the state to enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and all types of commerce. The Act does not require any amendments to a state's sales and use tax law.

Secondly, states would amend or modify their sales and use tax laws to achieve the simplifications and uniformity required by the participating states working together. The Project refers to this legislation as the Streamlined Sales and Use Tax Agreement ("Agreement"). Some states will require only minor changes to current law to implement the requirements of the Agreement. Other states with more complicated sales tax laws may require significant changes to current law to be in accord with the Agreement.

A certificate of compliance will document each state's compliance with the provisions of the Agreement and cite applicable statutes, rules or regulations, or other authorities supporting such compliance. Public notice and comment will be provided before a state becomes part of the interstate Agreement. A state is in compliance with the Agreement if the effect of the state's laws, rules or regulations, and policies is substantially compliant with each of the requirements of the Agreement. If a state is found to be out of compliance with the Agreement, it will not be accepted into the interstate Agreement or will be sanctioned or expelled by the other participating states. In a voluntary system, sellers who are voluntarily collecting sales taxes for participating states may decide to no longer collect for the expelled state. Also, that state may not have a vote on changes in the Agreement.

A governing board will be comprised of representatives of each member state of the Agreement. Each member state is entitled to one vote on the governing board. The governing board is responsible for interpretations of the Agreement, amendments to the Agreement, and issue resolution. A State and Local Government Advisory Council and a Business and Taxpayer Advisory Council from the private sector will advise the governing board.

On November 12, 2002, thirty states and the District of Columbia approved the interstate Agreement provisions. As of January 2005, twenty-one states have moved forward and enacted all or part of the conforming legislation.

It's anticipated that states that enacted the conforming legislation and are found to be in compliance with the Agreement will continue as the governing states of the interstate Agreement of the future. States will verify compliance with the requirements of the Agreement in early 2005.

The project website is [www.streamlinedsalestax.org](http://www.streamlinedsalestax.org).



NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*

**RELATIONSHIP  
BETWEEN THE STREAMLINED SALES AND USE TAX AGREEMENT  
AND TRIBAL GOVERNMENTS**

**EXECUTIVE COMMITTEE TASK FORCE ON STATE AND LOCAL TAXATION OF  
TELECOMMUNICATIONS AND ELECTRONIC COMMERCE**

**WHEREAS**, the 1967 *Bellas Hess* and the 1992 *Quill* Supreme Court decisions denied states the authority to require the collection of sales and use taxes by out-of-state sellers that have no physical presence in the taxing state; and

**WHEREAS**, the combined weight of the inability to collect sales and use taxes on remote sales through traditional carriers and the tax erosion due to electronic commerce threatens the future viability of the sales tax as a stable revenue source for state and local governments; and

**WHEREAS**, tribal governments are sovereign entities that have the authority to levy and collect sales taxes on transactions that occur on tribal lands, including transactions that occur remotely conducted by a tribal member; and

**WHEREAS**, the sales tax regimes of tribal governments can be as different and complex as current state sales and use tax systems and thus tribal governments can encounter similar difficulties in collecting sales taxes on transactions that occur remotely; and

**WHEREAS**, the Streamlined Sales and Use Tax Agreement provides the states with a blueprint to create a simplified sales and use tax collection system that when implemented, allows justification for Congress to overturn the *Bellas Hess* and *Quill* decisions by granting to those states that comply with the Agreement the authority to require sellers, regardless of nexus, to collect those states' sales and use taxes; and

**WHEREAS**, the states have shown the resolve to acknowledge the complexities of the current sales and use tax collection system, have worked with the business community to formulate a truly simplified and streamlined collection system and have shown the political will to enact the necessary changes to make the streamlined collection system the law; and

C-H

**WHEREAS**, the National Congress of American Indians and the National Conference of State Legislatures began discussions with regard to the relationship of the Agreement to tribal governments in July of 2004; and

**WHEREAS**, these discussions have served to:

- provide an understanding to tribal government representatives the intent of the state governments to honor existing agreements between states and tribal governments,
- identify issues that need to be clarified between the Streamlined Sales and Use Tax Agreement and its impact on members of tribal areas, and
- identify the interest of some tribal governments to participate as members of the Agreement;

**NOW, THEREFORE BE IT RESOLVED THAT** the National Conference of State Legislatures supports the participation of tribal governments as individual cooperating sovereign members of the Streamlined Sales and Use Tax Agreement; and

**BE IT FURTHER RESOLVED THAT** the National Conference of State Legislatures agrees to proceed with further discussions with the National Congress of American Indians, tribal government representatives, members of the Streamlined Sales and Use Tax Implementing States and representatives of the business community to facilitate the participation of those tribal governments wishing to comply with the Streamlined Sales and Use Tax Agreement and become members of the Agreement's Governing Board; and

**BE IT FURTHER RESOLVED THAT** these discussions serve to establish safeguards for the collection of sales and use taxes under the Streamlined Sales and Use Tax Agreement that will not infringe upon the sovereignty of tribal governments, tribal taxing authority and the tax status of tribal members.

*Unanimously adopted by Task Force on State and Local Taxation of Telecommunications and Electronic Commerce, Friday, May 13, 2005 in Annapolis, Maryland.*

*Unanimously adopted by NCSL's Executive Committee on Saturday, May 14, 2005 in Annapolis, Maryland.*

**Nakamoto, Michael**

**From:** Nevada Taxpayers Association [nta@gbis.com]  
**Sent:** Thursday, May 10, 2007 11:28 AM  
**To:** McClain, Kathy Assemblywoman  
**Cc:** Nakamoto, Michael; Guindon, Russell; Dino DiCianno; Griffin, Marge  
**Subject:** SB 502 - first reprint

Kathy -

I totally forgot to send you the following suggested amendment regarding the Streamlined Sales Tax bill.

Section 42 of the bill (page 23) provides for a ballot question to ask the voters if the Act can be changed, amended, etc. etc. to allow the legislature to make changes required by federal statute, interstate agreement.

This is a change that is very much needed in my opinion. However, I am concerned that there will be groups that will oppose this by arguing that it will give the legislature the opportunity to raise the state portion of the sales tax rate without going to a vote of the people.

Therefore, I ask your consideration of the following amendment to provide additional language to the ballot question:

*"Approval of this question will still require voter approval of any rate increase proposed to the Sales and Use Tax Act of 1955."*

I have spoken to Dino DiCianno about the amendment and he did not have a problem with the amendment. I have included him on this email so he can see the language.

Again, my apologies for not getting this to you sooner.

Carole

**NEVADA TAXPAYERS ASSOCIATION - CELEBRATING 85 YEARS!**

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Las Vegas, Nevada 89104  
Phone: 702/457-8442  
Fax: 702/457-6361

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5/10/2007

D-1 30A 1

ASSEMBLY COMMITTEE ON TAXATION  
DATE: 5/10/07 EXHIBIT D PAGE 1 OF 1  
SUBMITTED BY: Carole Vilardo

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Fourth Session  
May 17, 2007**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:11 p.m., on Thursday, May 17, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Kathy McClain, Chair  
Assemblyman David R. Parks, Vice Chair  
Assemblywoman Francis Allen  
Assemblyman Morse Arberry, Jr.  
Assemblyman Mo Denis  
Assemblyman Tom Grady  
Assemblyman William Horne  
Assemblyman John W. Marvel  
Assemblyman Harry Mortenson  
Assemblyman James Ohrenschall  
Assemblywoman Peggy Pierce  
Assemblywoman Valerie E. Weber

**STAFF MEMBERS PRESENT:**

Russell J. Guindon, Senior Deputy Fiscal Analyst  
Michael Nakamoto, Deputy Fiscal Analyst  
Mary Garcia, Committee Secretary  
Gillis Colgan, Committee Assistant  
Marge Griffin, Committee Manager

Minutes ID: 1191



**Senate Bill 502 (1st Reprint): Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement and repeals certain obsolete provisions for the administration of those taxes. (BDR 32-556)**

**Michael Nakamoto, Deputy Fiscal Analyst:**

This is the Department of Taxation's bill regarding the Streamlined Sales and Use Tax Agreement. The bill makes various changes governing the administration of sales and use tax to reflect changes that have been made to the agreement since the 2005 Session. The bill also provides for a ballot question in the 2008 General Election that would, if passed, allow the Legislature to make administrative changes to the Sales and Use Tax Act of 1955 without voter approval. The ballot question would also ask for the removal of an exemption for aircraft parts that was deemed to be unconstitutional.

Testimony in support of S.B. 502 (R1) was provided by Dino DiCianno, Executive Director of the Department of Taxation. Mr. DiCianno provided background on the history of the Agreement and stressed the necessity for the provisions of the bill as a means of maintaining compliance with the Agreement. He noted Nevada is currently a nonvoting associate member, and passage of this bill is required for Nevada to become a full voting member of the Agreement as long as the provisions are enacted before January 1, 2008.

Questions were raised about certain provisions of the bill, such as the addition of dietary supplements to the definition of food. Mr. DiCianno indicated the change was part of the requirement for the Agreement and would mean that dietary supplements would not be considered as food but would be taxable. Ms. Pierce raised questions about the integrity of software used by registered sellers or certified service providers. Mr. DiCianno indicated the states are still responsible for certifying service providers and that the states have the power to audit the software accordingly. He noted the states would take appropriate action against persons who altered software for the purpose of avoiding tax liability.

Ernie Adler, representing the Reno-Sparks Indian Colony, testified with respect to amendments added to the bill in the Senate designed to assist Indian reservations and colonies with the collection of sales taxes. He indicated the bill would greatly increase the amount of revenues received by Indian tribes and colonies.

Carole Vilaro from the Nevada Taxpayers Association also spoke in support of the bill with the proposed amendment. She noted that the ballot question, if

enacted, would allow the Legislature to react to administrative provisions necessary under the Agreement rather than having to wait for the next general election.

There was no testimony received in opposition to the bill. There was an amendment from Carole Vilardo that would specify, on the proposed ballot question, that voter approval would still be required for any proposal that would increase the sales tax rate under the Sales and Use Tax Act of 1955. Mr. DiCianno indicated he had no issues with that amendment.

**Assemblyman Horne:**

I am still not comfortable with the issue of dietary supplements. When we say dietary supplements, are we including everything from children's vitamins to Geritol to glucosamine, or is it broken down? Is there a definition of that?

**Dino DiCianno, Executive Director, Department of Taxation:**

There is a definition for dietary supplements in the glossary of the Streamlined Sales and Use Tax Agreement. I do not have that with me, but I believe it would include a number of those items. Vitamins are not currently considered food; they are taxable.

**Assemblyman Horne:**

What would be the effect if we took out dietary supplements?

**Dino DiCianno:**

We would not be in compliance with the Agreement.

**Assemblyman Horne:**

What would be the effect of not being in compliance with the Agreement?

**Dino DiCianno:**

Nevada would no longer be able to participate with the Streamlined Agreement. Also, we would not be able to share in the revenues that would come from the sales of products over the Internet.

**Chair McClain:**

Perhaps once we are a full-blown member we could work on changing some of those provisions. We would have more say in it then.

**Dino DiCianno:**

That is absolutely correct. The State of Nevada would have direct input in amending the Streamlined Agreement in order to address these very issues. We currently cannot vote on anything because we are not a full member.

**Assemblyman Horne:**

That concerns me because people often use these dietary supplements as part of their healthy lifestyles and to avoid having to move to prescription drugs and the like. I hope for those very reasons that they will not be taxed in the future. I was curious if that was possible.

**Dino DiCianno:**

If the ballot measure passes, you will have the opportunity to bring that forward to this Body in 2009.

**Chair McClain:**

The proposed amendment is the language Ms. Vilardo wants included on the ballot question.

**Michael Nakamoto:**

I emailed the language to all the members. The amendment would add the following language to the ballot question: "Approval of this question will still require voter approval of any rate increase proposed to the Sales and Use Tax Act of 1955."

ASSEMBLYMAN PARKS MOVED TO AMEND AND DO PASS  
SENATE BILL 502 (1st REPRINT) WITH THE AMENDMENT TO  
ADD TO THE BALLOT QUESTION THE WORDS "APPROVAL OF  
THIS QUESTION WILL STILL REQUIRE VOTER APPROVAL OF ANY  
RATE INCREASE PROPOSED TO THE SALES AND USE TAX ACT  
OF 1955."

ASSEMBLYMAN MARVEL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MORTENSON WAS  
ABSENT FOR THE VOTE.)

**Chair McClain:**

We can now consider Senate Bill 503 (1st Reprint).

**Senate Bill 503 (1st Reprint): Revises provisions governing fees and taxes administered by the Department of Taxation. (BDR 32-579)**

**Michael Nakamoto, Deputy Fiscal Analyst:**

This bill was also brought forth by the Department of Taxation. The first reprint of the bill adds a penalty of 10 percent of the amount due, plus interest of 1 percent a month, for failure to pay the business license fee imposed for exhibitors at trade shows, craft shows, or conventions. The bill also exempts

**MINUTES OF THE  
SENATE COMMITTEE ON TAXATION**

**Seventy-fourth Session  
May 28, 2007**

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 2:20 p.m. on Monday, May 28, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Mike McGinness, Chair  
Senator Dean A. Rhoads  
Senator Mark E. Amodei  
Senator Bob Coffin  
Senator Michael A. Schneider  
Senator Terry Care

**COMMITTEE MEMBERS ABSENT:**

Senator Randolph J. Townsend, Vice Chair (Excused)

**STAFF MEMBERS PRESENT:**

Tina Calilung, Deputy Fiscal Analyst  
Russell J. Guindon, Senior Deputy Fiscal Analyst  
Julie Birnberg, Committee Secretary

**OTHERS PRESENT:**

Vicky T. Oldenburg, Senior Deputy Attorney General, Office of the Attorney General  
Dino DiCianno, Executive Director, Department of Taxation  
Samuel P. McMullen, Philip Morris USA Inc., Altria Group, Inc.

CHAIR MCGINNESS:

I call this meeting of the Senate Committee on Taxation to order. Ms. Oldenburg, are you here on behalf of the Attorney General?

Senate Committee on Taxation  
May 28, 2007  
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SENATOR RHOADS MOVED TO CONCUR WITH AMENDMENT NO. 749  
TO S.B. 374.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TOWNSEND WAS ABSENT FOR THE  
VOTE.)

\* \* \* \* \*

CHAIR MCGINNESS:

The Assembly has amended S.B. 502 with Amendment No. 850.

**SENATE BILL 502 (2nd Reprint)**: Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement and repeals certain obsolete provisions for the administration of those taxes. (BDR 32-556)

Ms. CALILUNG:

Senate Bill 502 in its first reprint included a provision where the submission of a ballot question at the November 4, 2008, general election asking voters to amend the Sales and Use Tax Act of 1955 to authorize the Legislature to enact, without an additional direct vote of the people, any legislation deemed necessary to carry out any federal law or interstate agreement for the administration of sales and use taxes. As presented to the Committee, this measure would allow the state to comply with the Sales and Use Tax Agreement without having to go to the vote of the people every time there was a change to the tax base. Amendment No. 850 adds language to section 42 to specify in the ballot question that voter approval must still be obtained for any rate increases proposed for the 2-percent sales and use tax.

SENATOR AMODEI MOVED TO CONCUR WITH AMENDMENT NO. 850  
TO SENATE BILL 502.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TOWNSEND WAS ABSENT FOR THE  
VOTE.)

# FLOOR ACTIONS

## AMENDMENTS ON SECOND READING FLOOR VOTES AND STATEMENTS OTHER ACTIONS

**NOTE:** THESE FLOOR ACTIONS ARE TAKEN FROM THE *DAILY JOURNALS* ([HTTP://WWW.LEG.STATE.NV.US/SESSION/74TH2007/JOURNAL/](http://www.leg.state.nv.us/session/74th2007/journal/)), WHICH ARE NOT THE OFFICIAL FINALIZED VERSIONS OF THE *JOURNALS*. CONSULT THE PRINT VERSION FOR THE OFFICIAL RECORD.

**THE SEVENTY-EIGHTH DAY**

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CARSON CITY (Monday), April 23, 2007

Senate called to order at 12:27 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Marie Hanson.

I invite you to join with me and everyone in this room, in this building, in this city, in this State, in this Nation, in this world everywhere, for we are one.

Let us now let go of all it took to be here this afternoon. Give this moment to the light and joy and peace that abides in you. Know the light and joy and peace that abides in you comes forward in all your activities today.

May you recognize only the light and joy and peace that abides in your brothers and sisters. Allow it to move through each thought, each word you write, each word you speak today and every day. For you are the light and joy and peace, and so it is.

AMEN.

Pledge of Allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Human Resources and Education, to which was referred Senate Bill No. 52, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

*Mr. President:*

Your Committee on Judiciary, to which were referred Senate Bills Nos. 45, 216, 232, 242, 302, 380, 471, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

*Mr. President:*

Your Committee on Transportation and Homeland Security, to which were referred Senate Bills Nos. 62, 293, 434, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 17, 2007

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 26 to Assembly Bill No. 9.

LUCINDA BENJAMIN

*Assistant Chief Clerk of the Assembly*

2. In lieu of the annual registration and fees required by this chapter, and of the governmental services tax imposed by chapter 371 of NRS, the owner of a fire truck *or ambulance* may submit:

(a) An affidavit to the Department indicating that the fire truck ~~[-]~~ *or ambulance*:

(1) Will only be used for the permitted purposes enumerated in subsection 1;

(2) Has been inspected and found safe to be operated on the highways of this State; and

(3) Qualifies as a fire truck pursuant to regulations adopted by the Department for this purpose ~~[-]~~ *or qualifies as an ambulance pursuant to chapter 450B of NRS.*

(b) The following fees for the issuance of these license plates:

(1) For the first issuance \$15

(2) For a renewal sticker 5

3. If the owner elects to use the fire truck *or ambulance* as general transportation, he shall pay the regular annual registration and fees prescribed by law and the governmental services tax imposed by chapter 371 of NRS.

4. License plates issued pursuant to this section must bear the inscription "Fire Truck" *or "Ambulance," as appropriate*, and the plates must be numbered consecutively.

5. The cost of the die and the modifications necessary for the issuance of a license plate pursuant to this section must be paid from private sources without any expense to the State of Nevada.

6. *As used in this section, "ambulance" means an ambulance, as defined in NRS 450B.040, owned or operated by a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance pursuant to chapter 450B of NRS.*

~~[Sec. 8.] Sec. 9. [The provisions of NRS 372.7287 and 374.7315, as amended by this act, apply retroactively to the sale, on or after November 1, 2002, of an air ambulance, as defined in NRS 450B.030, to a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an air ambulance pursuant to chapter 450B of NRS, including any type of air ambulance transferred for use by such a nonprofit organization, whether by sale or lease and regardless of whether title to the air ambulance passes to the nonprofit organization at any time during the use of the air ambulance.] (Deleted by amendment.)~~

~~[Sec. 9.]~~ Sec. 10. This act becomes effective on July 1, 2007.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 502.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:  
Amendment No. 437.

"SUMMARY—Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement and repeals certain obsolete provisions for the administration of those taxes. (BDR 32-556)"

"AN ACT relating to taxes on retail sales; revising various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement; providing for the direct payment by certain purchasers of any sales and use taxes due to an Indian reservation or Indian colony in this State; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to repeal a tax exemption for the sale of aircraft and major components of aircraft to an airline based in Nevada and to authorize the Legislature to amend or repeal a provision of that Act without additional voter approval when necessary to carry out a federal law or interstate agreement for the administration of sales and use taxes; repealing certain obsolete provisions for the administration of sales and use taxes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110) Sections 2, 5-7 and 15-17 of this bill set forth and clarify various administrative definitions required pursuant to the Agreement, as amended. Section 3 of this bill contains the requirements of a recent amendment to the Agreement regarding the certification by the State of the software of certain computer programs that calculate the taxes due on a sale and the provision of a limited waiver of liability for the persons who rely on that certification. Section 9 of this bill carries out a recent amendment to the Agreement regarding the conditions under which multiple remittances of taxes may be required for a single tax return from a seller who registers under the Agreement. Section 10 of this bill clarifies the duties of the Department of Taxation to post on its website certain tax information required by the Agreement. Section 11 of this bill clarifies the statutory provisions governing the contents and use of a list required by the Agreement for determining the combined rate of taxes imposed in each zip code. Section 12 of this bill carries out and clarifies the requirements of the Agreement, as amended, to

waive the liability of sellers and purchasers who rely on the tax information posted on the Department's website in accordance with the Agreement.

Existing law authorizes a person who obtains a direct pay permit to pay any applicable sales and use taxes due on certain purchases directly to this State and its local governments instead of to the seller. (NRS 360B.260) Section 13 of this bill additionally provides for the direct payment of any applicable sales and use taxes due on such a purchase to an Indian reservation or Indian colony in this State.

Under existing law, persons who desire to conduct business as sellers in this State must register pursuant to the Streamlined Sales and Use Tax Agreement or obtain permits from the Department of Taxation. (NRS 372.125 and 374.130) Sections 18-20 and 28-30 of this bill clarify that the statutory provisions applicable to an application for such a permit do not apply to the registration of a seller pursuant to the Agreement.

Existing law creates a presumption that a sale is subject to sales and use taxes unless the seller obtains a certificate from the purchaser indicating that the property is purchased for resale. (NRS 372.155, 372.225, 374.160, 374.230) Sections 21-25 and 31-35 of this bill revise the statutory provisions governing resale certificates to combine some of the existing provisions for clarity and to carry out the requirements of the Streamlined Sales and Use Tax Agreement regarding the acceptance of resale certificates from certain third-party vendors, the contents of resale certificates and the liability of a seller for the improper use of a resale certificate by a purchaser.

Existing law prohibits the Department of Taxation, in administering use taxes, from considering the taxability of certain property acquired free of charge at a convention, trade show or other public event. (NRS 372.7275, 374.726) Sections 27 and 37 of this bill ensure that existing law does not appear to create a threshold for the application of a sales or use tax, as prohibited by the Streamlined Sales and Use Tax Agreement.

Existing law authorizes the adoption of an ordinance for the imposition of a sales and use tax in Clark County to employ and equip additional police officers. (Clark County Sales and Use Tax Act of 2005) Section 38 of this bill revises the requirements for such an ordinance in accordance with the provisions of the Streamlined Sales and Use Tax Agreement requiring a common state and local tax base and imposing restrictions on the date of implementation of changes in tax rates.

Existing law includes various provisions of the Sales and Use Tax Act of 1955. (NRS 372.010-372.115, 372.185-372.205, 372.260-372.284, 372.285-372.325, 372.327-372.345, 372.350) Under existing law, the provisions of that Act, which was submitted to and approved by the voters at the 1956 General Election, cannot be amended or repealed without additional voter approval. (Nev. Const. Art. 19, § 1) Sections 39-47 of this bill provide for the submission to the voters of an amendment to that Act to authorize the Legislature to amend that Act without any additional voter approval as necessary to carry out any federal law or interstate agreement for the

administration of sales and use taxes, and to repeal a section of that Act that was declared unconstitutional by the Nevada Supreme Court in *Worldcorp v. State, Department of Taxation*, 113 Nev. 1032 (1997).

Section 49 of this bill repeals NRS 360B.270 in accordance with a recent amendment to the Streamlined Sales and Use Tax Agreement, NRS 372.160, 372.230, 374.165 and 374.235, the provisions of which have been incorporated into other statutes by sections 21, 24, 31 and 34 of this bill, NRS 372.728 and 374.728, which are obsolete, and, if the proposed amendment to the Sales and Use Tax Act of 1955 is approved by the voters, NRS 372.726, which provides for the administration of the section that was declared unconstitutional.

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

Section 1. Chapter 360B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Person" includes a government, governmental agency or political subdivision of a government.*

Sec. 3. *The Department shall:*

1. *Review the software submitted for the certification of a certified automated system pursuant to the Agreement and, if the Department determines that the software adequately classifies each exemption from the sales and use taxes imposed in this State which is based upon the description of a product, certify its acceptance of the classifications made by the system.*

2. *Except as otherwise provided in subsection 3:*

(a) *If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that certified service provider, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:*

(1) *The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and*

(2) *Any penalties and interest on that amount.*

(b) *If a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that registered seller, waive any liability of the registered seller for:*

(1) *The amount of the sales or use tax which the registered seller fails to collect as a result of that reliance; and*

(2) *Any penalties and interest on that amount.*

3. *Notify a certified service provider or a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 if*

*the Department determines that the taxability of any item or transaction is being incorrectly classified by the certified automated system used by the certified service provider or registered seller. The provisions of subsection 2 do not require the waiver of any liability for the incorrect classification of an item or transaction regarding which notice was provided to the certified service provider or registered seller pursuant to this subsection if the incorrect classification occurs more than 10 days after the receipt of that notice.*

Sec. 4. NRS 360B.030 is hereby amended to read as follows:

360B.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 360B.050 is hereby amended to read as follows:

360B.050 "Certified automated system" means software certified ~~jointly by the states that are signatories~~ pursuant to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

Sec. 6. NRS 360B.060 is hereby amended to read as follows:

360B.060 "Certified service provider" means an agent certified ~~jointly by the states that are signatories~~ pursuant to the Agreement to perform all of a seller's sales *and use* tax functions ~~;~~, *other than the seller's obligation to remit the taxes on its own purchases.*

Sec. 7. NRS 360B.090 is hereby amended to read as follows:

360B.090 "State" means any state of the United States, ~~and~~ the District of Columbia ~~;~~ *and the Commonwealth of Puerto Rico.*

Sec. 8. NRS 360B.110 is hereby amended to read as follows:

360B.110 The Nevada Tax Commission shall:

1. Except as otherwise provided in NRS 360B.120, enter into the Agreement.

2. Act jointly with other states that are members of the Agreement to establish standards for:

- (a) Certification of a certified service provider;
- (b) A certified automated system; *and*
- (c) Performance of multistate sellers. ~~;~~ *and*
- ~~(d) An address-based system for determining the applicable sales and use taxes.~~

3. Take all other actions reasonably required to implement the provisions of this chapter and the provisions of the Agreement, including, without limitation, the:

- (a) Adoption of regulations to carry out the provisions of this chapter and the provisions of the Agreement; *and*
- (b) Procurement, jointly with other member states, of goods and services.

4. Represent, or have its designee represent, the State of Nevada before the other states that are signatories to the Agreement.

5. Designate not more than four delegates, who may be members of the Commission, to represent the State of Nevada for the purposes of reviewing or amending the Agreement.

Sec. 9. NRS 360B.200 is hereby amended to read as follows:

360B.200 1. The Department shall, in cooperation with any other states that are members of the Agreement, establish and maintain a central, electronic registration system that allows a seller to register to collect and remit the sales and use taxes imposed in this State and in the other states that are members of the Agreement.

2. A seller who registers pursuant to this section agrees to collect and remit sales and use taxes in accordance with the provisions of this chapter, the regulations of the Department and the applicable law of each state that is a member of the Agreement, including any state that becomes a member of the Agreement after the registration of the seller pursuant to this section. The cancellation or revocation of the registration of a seller pursuant to this section, the withdrawal of a state from the Agreement or the revocation of the Agreement does not relieve a seller from liability pursuant to this subsection to remit any taxes previously or subsequently collected on behalf of a state.

3. When registering pursuant to this section, a seller may:

(a) Elect to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases;

(b) Elect to use a certified automated system to calculate the amount of sales or use taxes due on its sales transactions;

(c) Under such conditions as the Department deems appropriate in accordance with the Agreement, elect to use its own proprietary automated system to calculate the amount of sales or use taxes due on its sales transactions; or

(d) Elect to use any other method authorized by the Department for performing the functions of the seller relating to sales and use taxes.

4. A seller who registers pursuant to this section agrees to submit its sales and use tax returns, and to remit any sales and use taxes due, to the Department at such times and in such a manner and format as the Department prescribes by regulation. Those regulations must:

(a) Require from each seller who registers pursuant to this section:

(1) Only one tax return for each taxing period for all the sales and use taxes collected on behalf of this State and each local government in this State; and

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if [

~~(1) The seller collects} the seller:~~

(1) Collects more than \$30,000 in sales and use taxes on behalf of this State and the local governments in this State during the preceding calendar year;

(II) ~~[The]~~ *Is allowed to determine the* amount of ~~[the]~~ *any* additional remittance ~~[is determined]~~ by a method of calculation instead of by the actual amount collected; and

(III) ~~[The seller is]~~ *Is* not required to file any tax returns in addition to those otherwise required in accordance with this subsection.

(b) Allow any seller who registers pursuant to this section and makes an election pursuant to paragraph (a), (b) or (c) of subsection 3 to submit tax returns in a simplified format that does not include any more data fields than are permitted in accordance with the Agreement.

(c) Allow any seller who registers pursuant to this section, does not maintain a place of business in this State and has not made an election pursuant to paragraph (a), (b) or (c) of subsection 3, to file tax returns at a frequency that does not exceed once per year unless the seller accumulates more than \$1,000 in the collection of sales and use taxes on behalf of this State and the local governments in this State.

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails.

(e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted using uniform codes for the type of tax and payment in accordance with the Agreement.

5. The registration of a seller and the collection and remission of sales and use taxes pursuant to this section may not be considered as a factor in determining whether a seller has a nexus with this State for the purposes of determining his liability to pay any tax imposed by this State.

Sec. 10. NRS 360B.230 is hereby amended to read as follows:

360B.230 1. The Department shall post on a website or other Internet site that is operated or administered by or on behalf of the Department ~~[;]~~, *in any format which may be required by the Agreement:*

(a) The rates of sales and use taxes for this State and for each local government *and Indian reservation or Indian colony* in this State that imposes such taxes. ~~[The Department shall identify this State and each local government using the Federal Information Processing Standards developed by the National Institute of Standards and Technology.]~~

(b) Any change in those rates.

(c) Any amendments to the statutory provisions and administrative regulations of this State governing the registration of sellers and the collection of sales and use taxes.

(d) Any change in the boundaries of local governments in this State that impose sales and use taxes.

(e) The list maintained pursuant to NRS 360B.240.

(f) *A matrix for determining the taxability of products in this State and any change in the taxability of a product listed in that matrix.*

(g) Any other information the Department deems appropriate.

2. The Department shall make a reasonable effort to provide sellers with as much advance notice as possible of any changes or amendments required to be posted pursuant to subsection 1 and of any other changes in the information posted pursuant to subsection 1. Except as otherwise provided in NRS 360B.250, the failure of the Department to provide such notice and the failure of a seller to receive such notice does not affect the obligation of the seller to collect and remit any applicable sales and use taxes.

Sec. 11. NRS 360B.240 is hereby amended to read as follows:

360B.240 1. The Department shall maintain a list that denotes for each five-digit and nine-digit zip code in this State the combined rates of sales taxes and the combined rates of use taxes imposed in the area of that zip code, and the applicable taxing jurisdictions ~~[ ]~~, *including, without limitation, any pertinent Indian reservation or Indian colony*. If the combined rate of all the sales taxes or use taxes respectively imposed within the area of a zip code is not the same for the entire area of the zip code, the Department shall denote in the list the lowest combined tax rates for the entire zip code.

2. If a street address does not have a nine-digit zip code or if a registered seller *or certified service provider* is unable to determine the nine-digit zip code ~~[of a purchaser]~~ *applicable to a purchase* after exercising due diligence to determine that information, that seller *or certified service provider* may, except as otherwise provided in subsection 3, apply the rate denoted for the five-digit zip code in the list maintained pursuant to this section. For the purposes of this subsection, there is a rebuttable presumption that a registered seller *or certified service provider* has exercised due diligence if the seller *or certified service provider* has attempted to determine the nine-digit zip code ~~[of a purchaser]~~ *applicable to a purchase* by using software approved by the Department which makes that determination from the street address and five-digit zip code ~~[of the purchaser.]~~ *applicable to the purchase*.

3. The list maintained pursuant to this section does not apply to and must not be used for any transaction regarding which a purchased product is received by the purchaser at the business location of the seller.

Sec. 12. NRS 360B.250 is hereby amended to read as follows:

360B.250 The Department shall ~~[waive any liability of]~~ :

1. ~~If a registered seller [and a certified service provider acting on behalf of a registered seller who,] fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, [collects the incorrect amount of any sales or use tax imposed in this State,] waive any liability of the registered seller for:~~

~~[1.] (a) The amount of the sales or use tax which the registered seller [and certified service provider fail] fails to collect as a result of that reliance; and~~  
~~[2.] (b) Any penalties and interest on that amount.~~

2. ~~If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this~~

*State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:*

*(a) The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and*

*(b) Any penalties and interest on that amount.*

*3. Waive any liability of a purchaser for any sum for which the liability of a registered seller or certified service provider is required to be waived pursuant to subsection 1 or 2 with regard to a transaction involving that purchaser.*

*4. If a purchaser fails to pay the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230, waive any liability of the purchaser for:*

*(a) The amount of the sales or use tax which the purchaser fails to pay as a result of that reliance; and*

*(b) Any penalties and interest on that amount.*

Sec. 13. NRS 360B.260 is hereby amended to read as follows:

360B.260 1. A purchaser may purchase tangible personal property without paying to the seller at the time of purchase the sales and use taxes that are due thereon if:

(a) The seller does not maintain a place of business in this State; and

(b) The purchaser has obtained a direct pay permit pursuant to the provisions of this section.

2. A purchaser who wishes to obtain a direct pay permit must file with the Department an application for such a permit that:

(a) Is on a form prescribed by the Department; and

(b) Sets forth such information as is required by the Department.

3. The application must be signed by:

(a) The owner if he is a natural person;

(b) A member or partner if the seller is an association or partnership; or

(c) An executive officer or some other person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

4. Any purchaser who obtains a direct pay permit pursuant to this section shall:

(a) Determine the amount of sales and use taxes that are due and payable to this State, ~~or~~ a local government of this State or an Indian reservation or Indian colony in this State upon the purchase of tangible personal property from such a seller; and

(b) Report and pay those taxes to the appropriate authority.

~~[5. If a purchaser who has obtained a direct pay permit purchases tangible personal property that will be available for use digitally or electronically in more than one jurisdiction, he may, to determine the amount~~

~~of tax that is due to this State or to a local government of this State, use any reasonable, consistent and uniform method to apportion the use of the property among the various jurisdictions in which it will be used that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.]~~

Sec. 14. NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold must state separately any amount received by the seller for:

1. Any installation charges for the property;
2. ~~[The value of any exempt property given to the purchaser if the exempt property and any taxable property are sold as a single product or piece of merchandise;~~
- 3.] Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;
- ~~[4.]~~ 3. Any interest, financing and carrying charges from credit extended on the sale; and
- ~~[5.]~~ 4. Any taxes legally imposed directly on the consumer.

Sec. 15. NRS 360B.445 is hereby amended to read as follows:

360B.445 "Food" and "food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value, except alcoholic beverages , *dietary supplements* and tobacco.

Sec. 16. NRS 360B.460 is hereby amended to read as follows:

360B.460 "Prepared food" means:

1. Food sold in a heated state or heated by the seller;
2. Two or more food ingredients mixed or combined by the seller for sale as a single item, unless the food ingredients:
  - (a) Are only cut, repackaged or pasteurized by the seller; or
  - (b) Contain any raw eggs, fish, meat or poultry, or other such raw animal foods ~~[, for which]~~ *requiring* cooking by the consumer ~~[is]~~ *to prevent food-borne illnesses, as recommended pursuant to the Food Code published by the Food and Drug Administration of the United States Department of Health and Human Services; and*
3. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins or straws. For the purposes of this ~~[paragraph,]~~ *subsection*, "plates" does not include any containers or packaging used to transport food.

Sec. 17. NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

- (a) The seller's cost of the property sold;

(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges and excluding any installation charges which are stated separately pursuant to NRS 360B.290; and

(d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

(a) Any installation charges which are stated separately pursuant to NRS 360B.290;

(b) ~~{The value of any exempt personal property given to the purchaser if:~~  
 (1) ~~The exempt property and any taxable property are sold as a single product or piece of merchandise; and~~

~~(2) The value of the exempt property is stated separately pursuant to NRS 360B.290;~~

~~(c)~~ Any credit for any trade-in which is:

(1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and

(2) Stated separately pursuant to NRS 360B.290;

~~(d)~~ (c) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

~~(e)~~ (d) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to NRS 360B.290; and

~~(f)~~ (e) Any taxes legally imposed directly on the consumer which are stated separately pursuant to NRS 360B.290.

3. *The term includes consideration received by a seller from a third party if:*

(a) *The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;*

(b) *The seller has an obligation to pass the price reduction or discount through to the purchaser;*

(c) *The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and*

(d) *Any of the following criteria is satisfied:*

(1) *The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.*

(2) *The purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.*

(3) *The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.*

Sec. 18. NRS 372.125 is hereby amended to read as follows:

372.125 1. Every person desiring to engage in or conduct business as a seller within this State must ~~{register}~~ :

(a) *Register* with the Department pursuant to NRS 360B.200 ; or ~~{file}~~

(b) *File* with the Department an application for a permit for each place of business.

2. Every application for a permit must:

(a) Be made upon a form prescribed by the Department.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.

(c) Set forth *any* other information which the Department may require.

~~{3.—The application must be}~~

(d) *Be signed by:*

~~{(a)}~~ (1) The owner if he is a natural person;

~~{(b)}~~ (2) A member or partner if the seller is an association or partnership;

or

~~{(c)}~~ (3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

Sec. 19. NRS 372.130 is hereby amended to read as follows:

372.130 At the time of making an application ~~{,}~~ *for a permit pursuant to NRS 372.125*, the applicant must pay to the Department a ~~{permit}~~ fee of \$5 for each permit.

Sec. 20. NRS 372.135 is hereby amended to read as follows:

372.135 1. Except as otherwise provided in NRS 360.205 and 372.145, after compliance with NRS 372.125, 372.130 and 372.510 by ~~{the applicant,}~~ *an applicant for a permit*, the Department shall:

(a) Grant and issue to ~~{each}~~ *the* applicant a separate permit for each place of business within the State.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and

(III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated on it. It must at all times be conspicuously displayed at the place for which it is issued.

Sec. 21. NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[-]~~ *and the purchaser:*

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

(1) *Is engaged in the business of selling tangible personal property; and*

(2) *Is selling the property in the regular course of business.*

Sec. 22. NRS 372.165 is hereby amended to read as follows:

372.165 ~~[-]~~ A resale certificate must:

~~[(a) Be signed by and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 372.135.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2.—The certificate must be]~~

~~1. Be substantially in such form and include such information as the Department may prescribe [-]; and~~

~~2. Unless submitted in electronic form, be signed by the purchaser.~~

Sec. 23. NRS 372.170 is hereby amended to read as follows:

372.170 1. If a purchaser who gives a *resale* certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business ~~[, the]~~ :

(a) *The use is taxable to the purchaser as of the time the property is first so used by him, and the sales price of the property to him is the measure of the tax. ~~[Only when there is an unsatisfied use tax liability on this basis is the seller liable for sales tax with respect to the sale of the property to the purchaser.]~~ If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the sales price of the property to him.*

(b) *The seller is liable for the sales tax with respect to the sale of the property to the purchaser only if:*

(1) *There is an unsatisfied use tax liability pursuant to paragraph (a); and*

(2) *The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.*

2. *As used in this section, "seller" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.*

Sec. 24. NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[,]~~ *and the purchaser:*

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

- (1) *Is engaged in the business of selling tangible personal property; and*
- (2) *Is selling the property in the regular course of business.*

Sec. 25. NRS 372.235 is hereby amended to read as follows:

372.235 ~~[1.]~~ A resale certificate must:

~~[(a) Be signed and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 372.135.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2.—The certificate must be]~~

*1. Be substantially in such form and include such information as the Department may prescribe [.] ; and*

*2. Unless submitted in electronic form, be signed by the purchaser.*

Sec. 26. NRS 372.347 is hereby amended to read as follows:

372.347 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such identifying information from the purchaser at the time of sale as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department ~~[.]~~ *and provide those records to the Department upon request.*

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

6. *As used in this section, "retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.*

Sec. 27. NRS 372.7275 is hereby amended to read as follows:

372.7275 In its administration of the use tax imposed by NRS 372.185, the Department shall not consider the storage, use or other consumption in this State of tangible personal property which ~~[is:~~

~~1.—Worth \$100 or less; and~~

~~2.—Acquired] :~~

*1. Does not have significant value; and*

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

Sec. 28. NRS 374.130 is hereby amended to read as follows:

374.130 1. Every person desiring to engage in or conduct business as a seller within a county ~~shall register~~ *must*:

(a) Register with the Department pursuant to NRS 360B.200 ; or ~~file~~

(b) File with the Department an application for a permit for each place of business.

2. Every application for a permit must:

(a) Be made upon a form prescribed by the Department.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.

(c) Set forth such other information as the Department may require.

~~{3.—The application must be}~~

(d) Be signed by:

~~{(a)}~~ (1) The owner if he is a natural person;

~~{(b)}~~ (2) A member or partner if the seller is an association or partnership;

or

~~{(c)}~~ (3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

Sec. 29. NRS 374.135 is hereby amended to read as follows:

374.135 At the time of making an application ~~{,}~~ *for a permit pursuant to NRS 374.130*, the applicant shall pay to the Department a ~~{permit}~~ fee of \$5 for each permit.

Sec. 30. NRS 374.140 is hereby amended to read as follows:

374.140 1. Except as otherwise provided in NRS 360.205 and 374.150, after compliance with NRS 374.130, 374.135 and 374.515 by ~~{the applicant,}~~ *an applicant for a permit*, the Department shall:

(a) Grant and issue to ~~{each}~~ *the* applicant a separate permit for each place of business within the county.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and

(III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated

therein. A permit must at all times be conspicuously displayed at the place for which it is issued.

Sec. 31. NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it ~~shall be~~ is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[-]~~ and the purchaser:

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

(1) *Is engaged in the business of selling tangible personal property; and*

(2) *Is selling the property in the regular course of business.*

Sec. 32. NRS 374.170 is hereby amended to read as follows:

374.170 ~~[-]~~ A resale certificate must:

~~[(a) Be signed by and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 374.140.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2.—The certificate must be]~~

~~1. Be substantially in such form and include such information as the Department may prescribe [-]; and~~

~~2. Unless submitted in electronic form, be signed by the purchaser.~~

Sec. 33. NRS 374.175 is hereby amended to read as follows:

374.175 1. If a purchaser who gives a *resale* certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business ~~[-, the use shall be]~~ :

(a) *The use is taxable to the purchaser as of the time the property is first so used by him, and the sales price of the property to him [shall be deemed] is*

the measure of the tax. ~~[Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser.]~~ If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the sales price of the property to him.

*(b) The seller is liable for the sales tax with respect to the sale of the property to the purchaser only if:*

*(1) There is an unsatisfied use tax liability pursuant to paragraph (a); and*

*(2) The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.*

*2. As used in this section, "seller" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.*

Sec. 34. NRS 374.230 is hereby amended to read as follows:

374.230 *1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it ~~[shall be]~~ is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[ ]~~ and the purchaser:*

*(a) Is engaged in the business of selling tangible personal property;*

*(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and*

*(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

*2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:*

*(a) The third-party vendor:*

*(1) Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

*(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

*(b) His customer:*

*(1) Is engaged in the business of selling tangible personal property; and*

*(2) Is selling the property in the regular course of business.*

Sec. 35. NRS 374.240 is hereby amended to read as follows:

374.240 ~~[1.]~~ A resale certificate must:

~~[(a) Be signed and bear the name and address of the purchaser.]~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 374.140.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2.—The certificate must be]~~

~~1. Be substantially in such form and include such information as the Department may prescribe [-]; and~~

~~2. Unless submitted in electronic form, be signed by the purchaser.~~

Sec. 36. NRS 374.352 is hereby amended to read as follows:

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such identifying information from the purchaser at the time of sale as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department [-] and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

6. As used in this section, "retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

Sec. 37. NRS 374.726 is hereby amended to read as follows:

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

~~1.—Worth \$100 or less; and~~

~~2.—Acquired] :~~

~~1. Does not have significant value; and~~

~~2. Is acquired free of charge at a convention, trade show or other public event.~~

Sec. 38. Section 10 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 914, is hereby amended to read as follows:

Sec. 10. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate of:

(a) One-quarter of 1 percent if the date on which the tax must first be imposed is on October 1, 2005; and

(b) Up to an additional one-quarter of 1 percent if the date on which the increased rate must first be imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate,  
 ↪ the total rate not to exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that ~~[exempts from the tax the gross receipts from]~~ *a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:*

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed ~~[,]~~ *or on which any change in the rate of tax becomes effective, which must ~~[not be earlier than]~~ be the first day of the ~~[second calendar month following]~~ first calendar quarter that begins at least 120 days after the effective date of the ordinance.*

Sec. 39. The Legislature hereby finds and declares that:

1. There has been a rapid increase during recent years in the conduct of interstate commerce through telecommunication and electronic means.

2. Many of the merchants who transact these forms of interstate commerce have been discouraged by the substantial burdens of ascertaining and complying with the extremely diverse and detailed tax laws of each state

from making the efforts necessary to collect sales and use taxes on behalf of the states in which they do not maintain a place of business.

3. As a result of the proliferation of these forms of interstate commerce and federal restrictions on the ability of each state to collect sales and use taxes from merchants who do not maintain a place of business in that state, the people of this State are losing millions of dollars in state and local tax revenue.

4. The nonpayment of Nevada sales and use taxes by merchants in other states provides those merchants with an unfair competitive advantage over local merchants who lawfully pay the sales and use taxes due in this State.

5. As a result of the similarity of these circumstances in the various states, considerable efforts are being made to provide more uniformity, simplicity and fairness in the administration and collection of sales and use taxes in this country, including the introduction and consideration of Congressional legislation and the participation by Nevada and many other states in the Streamlined Sales and Use Tax Agreement.

6. Compliance with the Streamlined Sales and Use Tax Agreement and its amendments has and will continue to require amendments to the Nevada Sales and Use Tax Act, and it is anticipated that any Congressional legislation will also necessitate such amendments.

7. The Nevada Sales and Use Tax Act was approved by referendum at the General Election in 1956 and therefore, pursuant to Section 1 of Article 19 of the Constitution of the State of Nevada, may not be "amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people."

8. Unlike the circumstances in other states where legislatures have the direct authority to amend sales and use tax laws in a timely manner, the period required for the legislative enactment and subsequent voter approval of any necessary amendments to the Nevada Sales and Use Tax Act has placed the ability of this State to comply with the Streamlined Sales and Use Tax Agreement and any Congressional legislation in serious jeopardy.

9. It would be beneficial to the public welfare for the people of this State by direct vote to authorize the Legislature to enact without any additional voter approval such amendments to the Nevada Sales and Use Tax Act as it determines to be necessary to carry out any Congressional legislation or interstate agreements for the administration, collection or enforcement of sales and use taxes.

Sec. 40. At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 41. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 42. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

"AN ACT to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS  
FOLLOWS:

Section 1. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 788, is hereby amended by adding thereto a new section to be designated as section 153.5, immediately following section 153.2, to read as follows:

*Sec. 153.5. The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, whenever the Legislature determines that such legislation is necessary to carry out any federal statute or regulation or interstate agreement providing for the administration, collection or enforcement of sales and use taxes.*

Sec. 2. Section 61.5 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 466, Statutes of Nevada 1985, at page 1441, is hereby repealed.

Sec. 3. This act becomes effective on January 1, 2009.

Sec. 43. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to repeal an exemption from the taxes imposed by this Act on the gross receipts from the sale of aircraft and major components of aircraft to scheduled air carriers based in this State, and to authorize the Legislature to amend or repeal any provision of this Act without an additional direct vote of the people whenever necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?

Yes  No

Sec. 44. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would repeal an exemption from the taxes imposed by this Act for the sale of aircraft and major components of aircraft to a scheduled air carrier which is based in Nevada, and would authorize the Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval whenever that legislation is necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes.

Sec. 45. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 46. All general election laws not inconsistent with this act are applicable.

Sec. 47. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 48. The amendatory provisions of section 38 of this act do not apply to any ordinance enacted before October 1, 2007.

Sec. 49. 1. NRS 360B.270, 372.160, 372.230, 372.728, 374.165, 374.235 and 374.728 are hereby repealed.

2. NRS 372.726 is hereby repealed.

Sec. 50. 1. This section and sections 1 to 48, inclusive, and subsection 1 of section 49 of this act become effective on October 1, 2007.

2. Subsection 2 of section 49 of this act becomes effective on January 1, 2009, only if the proposal submitted pursuant to sections 40 to 44, inclusive, of this act is approved by the voters at the general election on November 4, 2008.

LEADLINES OF REPEALED SECTIONS OF NRS AND  
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

360B.270 Purchases of tangible personal property that will be used digitally or electronically in multiple jurisdictions.

372.160 Effect of resale certificate.

372.230 Effect of resale certificate.

372.726 Application of exemption for aircraft and major components of aircraft.

372.728 Construction of "retailer maintaining place of business in this State."

374.165 Effect of resale certificate.

374.235 Effect of resale certificate.

374.728 Construction of "retailer maintaining place of business in county."

Section 61.5 of chapter 397, Statutes of Nevada 1955:

Sec. 61.5. There are exempted from the taxes imposed by this act the gross receipts from the sale of aircraft and major components of aircraft, such as engines and other components made for use only in aircraft, to an air carrier which:

1. Holds a certificate to engage in air transportation issued pursuant to 49 U.S.C. § 1371 and is not solely a charter air carrier or a supplemental air carrier as described in Title 49 of the United States Code; and

2. Maintains its central office in Nevada and bases a majority of its aircraft in Nevada.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 509.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 252.

"SUMMARY—Makes various changes to provisions relating to state financial administration and the acquisition of property. (BDR 31-424)"

"AN ACT relating to state financial administration; requiring state agencies to advertise for proposals before entering into certain lease-purchase and installment-purchase agreements; making various other changes to provisions relating to lease-purchase and installment-purchase agreements; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes state agencies to enter into lease-purchase and installment-purchase agreements to acquire real property, an interest in real property or an improvement to real property. (NRS 353.500-353.630) Section 2 of this bill requires a state agency to advertise for proposals before it enters into a lease-purchase or installment-purchase agreement for the purpose of acquiring an existing building that is located on property which is not owned by the State. Section 3 of this bill specifies the requirements for such an advertisement. Section 2 also requires that, if a state agency wishes to enter into a lease-purchase or installment-purchase agreement requiring

**THE SEVENTY-NINTH DAY**

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CARSON CITY (Tuesday), April 24, 2007

Senate called to order at 11:31 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Marie Hanson.

Please join with me now as we invite the presence and power within each of us into our awareness, into our oneness, with all that is. From this point of light and unity, may we know and accept divine and perfect order in our affairs, schedules and deadlines.

May we know and accept Your ease and effortlessness in accomplishing all that is before us today. May we invite the great and Holy Spirit to give us His strength to do that which will be done. For this, we celebrate in thanksgiving today. And, so it is.

AMEN.

Pledge of Allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

*Mr. President:*

Your Committee on Transportation and Homeland Security, to which was referred Senate Bill No. 394, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 23, 2007

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 12, 25, 39, 53, 70, 80, 97, 101, 139, 145, 147, 207, 209, 234, 263, 278, 279, 283, 285, 297, 311, 321, 335, 352, 365, 375, 383, 396, 415, 424, 431, 433, 439, 446, 461, 462, 478, 490, 491, 494, 496, 506, 507, 513, 527, 535, 569, 570, 576, 577, 592, 600, 602, 605.

LUCINDA BENJAMIN

*Assistant Chief Clerk of the Assembly*

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 24, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 45, 52, 499.

GARY GHIGGERI

*Fiscal Analysis Division*

Senate Bill No. 495.

Bill read third time.

Roll call on Senate Bill No. 495:

YEAS—21.

NAYS—None.

Senate Bill No. 495 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 502.

Bill read third time.

Roll call on Senate Bill No. 502:

YEAS—21.

NAYS—None.

Senate Bill No. 502 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 509.

Bill read third time.

Roll call on Senate Bill No. 509:

YEAS—21.

NAYS—None.

Senate Bill No. 509 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 511.

Bill read third time.

Roll call on Senate Bill No. 511:

YEAS—21.

NAYS—None.

Senate Bill No. 511 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 549.

Bill read third time.

Roll call on Senate Bill No. 549:

YEAS—18.

NAYS—Care, Schneider, Titus—3.

Senate Bill No. 549 having received a constitutional majority,  
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

# NEVADA LEGISLATURE

Seventy-Fourth Session, 2007

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## ASSEMBLY DAILY JOURNAL

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### THE ONE HUNDRED AND SIXTH DAY

CARSON CITY (Monday), May 21, 2007

Assembly called to order at 11:56 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

O Lord, keep strong our faith in the power of prayer as we unite our petitions in this sacred moment. We have asked for Your guidance in difficult decisions many times, yet it has not always come when we thought it should. Many of the situations and relationships which we have asked You to change have remained the same. Forgive us for thinking, therefore, that You are unwilling to help us in our dilemmas or that there is nothing You can do. Remind us, O God, that when we plug in an electric iron and it fails to work, we do not conclude that electricity has lost its power, nor do we plead with the iron. We look at once to the wiring to find what has broken or blocked the connection with the source of power.

May we do the same with ourselves, that You can work through us to do Your will. This we ask in the name of our Lord.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Ocegüera moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

#### REPORTS OF COMMITTEES

*Madam Speaker:*

Your Committee on Education, to which were referred Senate Bills Nos. 312, 313, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

Sec. 51. (Deleted by amendment.)

Sec. 52. NRS 87.003 is hereby repealed.

#### TEXT OF REPEALED SECTION

87.003 "Professional service" defined. "Professional service" means any type of personal service that may legally be performed only pursuant to a license or certificate of registration.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 502.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 850.

AN ACT relating to taxes on retail sales; revising various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement; providing for the direct payment by certain purchasers of any sales and use taxes due to an Indian reservation or Indian colony in this State; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to repeal a tax exemption for the sale of aircraft and major components of aircraft to an airline based in Nevada and to authorize the Legislature to amend or repeal a provision of that Act without additional voter approval when necessary to carry out a federal law or interstate agreement for the administration of sales and use taxes; repealing certain obsolete provisions for the administration of sales and use taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS

360B.110) Sections 2, 5-7 and 15-17 of this bill set forth and clarify various administrative definitions required pursuant to the Agreement, as amended. Section 3 of this bill contains the requirements of a recent amendment to the Agreement regarding the certification by the State of the software of certain computer programs that calculate the taxes due on a sale and the provision of a limited waiver of liability for the persons who rely on that certification. Section 9 of this bill carries out a recent amendment to the Agreement regarding the conditions under which multiple remittances of taxes may be required for a single tax return from a seller who registers under the Agreement. Section 10 of this bill clarifies the duties of the Department of Taxation to post on its website certain tax information required by the Agreement. Section 11 of this bill clarifies the statutory provisions governing the contents and use of a list required by the Agreement for determining the combined rate of taxes imposed in each zip code. Section 12 of this bill carries out and clarifies the requirements of the Agreement, as amended, to waive the liability of sellers and purchasers who rely on the tax information posted on the Department's website in accordance with the Agreement.

Existing law authorizes a person who obtains a direct pay permit to pay any applicable sales and use taxes due on certain purchases directly to this State and its local governments instead of to the seller. (NRS 360B.260) Section 13 of this bill additionally provides for the direct payment of any applicable sales and use taxes due on such a purchase to an Indian reservation or Indian colony in this State.

Under existing law, persons who desire to conduct business as sellers in this State must register pursuant to the Streamlined Sales and Use Tax Agreement or obtain permits from the Department of Taxation. (NRS 372.125 and 374.130) Sections 18-20 and 28-30 of this bill clarify that the statutory provisions applicable to an application for such a permit do not apply to the registration of a seller pursuant to the Agreement.

Existing law creates a presumption that a sale is subject to sales and use taxes unless the seller obtains a certificate from the purchaser indicating that the property is purchased for resale. (NRS 372.155, 372.225, 374.160, 374.230) Sections 21-25 and 31-35 of this bill revise the statutory provisions governing resale certificates to combine some of the existing provisions for clarity and to carry out the requirements of the Streamlined Sales and Use Tax Agreement regarding the acceptance of resale certificates from certain third-party vendors, the contents of resale certificates and the liability of a seller for the improper use of a resale certificate by a purchaser.

Existing law prohibits the Department of Taxation, in administering use taxes, from considering the taxability of certain property acquired free of charge at a convention, trade show or other public event. (NRS 372.7275, 374.726) Sections 27 and 37 of this bill ensure that existing law does not

appear to create a threshold for the application of a sales or use tax, as prohibited by the Streamlined Sales and Use Tax Agreement.

Existing law authorizes the adoption of an ordinance for the imposition of a sales and use tax in Clark County to employ and equip additional police officers. (Clark County Sales and Use Tax Act of 2005) Section 38 of this bill revises the requirements for such an ordinance in accordance with the provisions of the Streamlined Sales and Use Tax Agreement requiring a common state and local tax base and imposing restrictions on the date of implementation of changes in tax rates.

Existing law includes various provisions of the Sales and Use Tax Act of 1955. (NRS 372.010-372.115, 372.185-372.205, 372.260-372.284, 372.285-372.325, 372.327-372.345, 372.350) Under existing law, the provisions of that Act, which was submitted to and approved by the voters at the 1956 General Election, cannot be amended or repealed without additional voter approval. (Nev. Const. Art. 19, § 1) Sections 39-47 of this bill provide for the submission to the voters of an amendment to that Act to authorize the Legislature to amend that Act without any additional voter approval as necessary to carry out any federal law or interstate agreement for the administration of sales and use taxes, **unless the amendment would increase the rate of a tax imposed pursuant to that Act**, and to repeal a section of that Act that was declared unconstitutional by the Nevada Supreme Court in *Worldcorp v. State, Department of Taxation*, 113 Nev. 1032 (1997).

Section 49 of this bill repeals NRS 360B.270 in accordance with a recent amendment to the Streamlined Sales and Use Tax Agreement, NRS 372.160, 372.230, 374.165 and 374.235, the provisions of which have been incorporated into other statutes by sections 21, 24, 31 and 34 of this bill, NRS 372.728 and 374.728, which are obsolete, and, if the proposed amendment to the Sales and Use Tax Act of 1955 is approved by the voters, NRS 372.726, which provides for the administration of the section that was declared unconstitutional.

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

Section 1. Chapter 360B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Person" includes a government, governmental agency or political subdivision of a government.*

Sec. 3. *The Department shall:*

1. *Review the software submitted for the certification of a certified automated system pursuant to the Agreement and, if the Department determines that the software adequately classifies each exemption from the*

*sales and use taxes imposed in this State which is based upon the description of a product, certify its acceptance of the classifications made by the system.*

2. *Except as otherwise provided in subsection 3:*

(a) *If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that certified service provider, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:*

(1) *The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and*

(2) *Any penalties and interest on that amount.*

(b) *If a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that registered seller, waive any liability of the registered seller for:*

(1) *The amount of the sales or use tax which the registered seller fails to collect as a result of that reliance; and*

(2) *Any penalties and interest on that amount.*

3. *Notify a certified service provider or a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 if the Department determines that the taxability of any item or transaction is being incorrectly classified by the certified automated system used by the certified service provider or registered seller. The provisions of subsection 2 do not require the waiver of any liability for the incorrect classification of an item or transaction regarding which notice was provided to the certified service provider or registered seller pursuant to this subsection if the incorrect classification occurs more than 10 days after the receipt of that notice.*

Sec. 4. NRS 360B.030 is hereby amended to read as follows:

360B.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 5. NRS 360B.050 is hereby amended to read as follows:

360B.050 "Certified automated system" means software certified ~~jointly by the states that are signatories]~~ *pursuant to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.*

Sec. 6. NRS 360B.060 is hereby amended to read as follows:

360B.060 "Certified service provider" means an agent certified ~~jointly by the states that are signatories~~ pursuant to the Agreement to perform all of a seller's sales and use tax functions ~~], other than the seller's obligation to remit the taxes on its own purchases.~~

Sec. 7. NRS 360B.090 is hereby amended to read as follows:

360B.090 "State" means any state of the United States, ~~and~~ the District of Columbia ~~], and the Commonwealth of Puerto Rico.~~

Sec. 8. NRS 360B.110 is hereby amended to read as follows:

360B.110 The Nevada Tax Commission shall:

1. Except as otherwise provided in NRS 360B.120, enter into the Agreement.

2. Act jointly with other states that are members of the Agreement to establish standards for:

(a) Certification of a certified service provider;

(b) A certified automated system; and

(c) Performance of multistate sellers. ~~]; and~~

~~(d) An address-based system for determining the applicable sales and use taxes.]~~

3. Take all other actions reasonably required to implement the provisions of this chapter and the provisions of the Agreement, including, without limitation, the:

(a) Adoption of regulations to carry out the provisions of this chapter and the provisions of the Agreement; and

(b) Procurement, jointly with other member states, of goods and services.

4. Represent, or have its designee represent, the State of Nevada before the other states that are signatories to the Agreement.

5. Designate not more than four delegates, who may be members of the Commission, to represent the State of Nevada for the purposes of reviewing or amending the Agreement.

Sec. 9. NRS 360B.200 is hereby amended to read as follows:

360B.200 1. The Department shall, in cooperation with any other states that are members of the Agreement, establish and maintain a central, electronic registration system that allows a seller to register to collect and remit the sales and use taxes imposed in this State and in the other states that are members of the Agreement.

2. A seller who registers pursuant to this section agrees to collect and remit sales and use taxes in accordance with the provisions of this chapter, the regulations of the Department and the applicable law of each state that is a member of the Agreement, including any state that becomes a member of the Agreement after the registration of the seller pursuant to this section. The cancellation or revocation of the registration of a seller pursuant to this section, the withdrawal of a state from the Agreement or the revocation of the

Agreement does not relieve a seller from liability pursuant to this subsection to remit any taxes previously or subsequently collected on behalf of a state.

3. When registering pursuant to this section, a seller may:

(a) Elect to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases;

(b) Elect to use a certified automated system to calculate the amount of sales or use taxes due on its sales transactions;

(c) Under such conditions as the Department deems appropriate in accordance with the Agreement, elect to use its own proprietary automated system to calculate the amount of sales or use taxes due on its sales transactions; or

(d) Elect to use any other method authorized by the Department for performing the functions of the seller relating to sales and use taxes.

4. A seller who registers pursuant to this section agrees to submit its sales and use tax returns, and to remit any sales and use taxes due, to the Department at such times and in such a manner and format as the Department prescribes by regulation. Those regulations must:

(a) Require from each seller who registers pursuant to this section:

(1) Only one tax return for each taxing period for all the sales and use taxes collected on behalf of this State and each local government in this State; and

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if ~~[-~~

~~(I) The seller collects} the seller:~~

~~(I) Collects~~ more than \$30,000 in sales and use taxes on behalf of this State and the local governments in this State during the preceding calendar year;

~~(II) The} Is allowed to determine the~~ amount of ~~the} any~~ additional remittance ~~is determined} by a method of calculation instead of by the actual amount collected; and~~

~~(III) The seller is} Is~~ not required to file any tax returns in addition to those otherwise required in accordance with this subsection.

(b) Allow any seller who registers pursuant to this section and makes an election pursuant to paragraph (a), (b) or (c) of subsection 3 to submit tax returns in a simplified format that does not include any more data fields than are permitted in accordance with the Agreement.

(c) Allow any seller who registers pursuant to this section, does not maintain a place of business in this State and has not made an election pursuant to paragraph (a), (b) or (c) of subsection 3, to file tax returns at a frequency that does not exceed once per year unless the seller accumulates

more than \$1,000 in the collection of sales and use taxes on behalf of this State and the local governments in this State.

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails.

(e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted using uniform codes for the type of tax and payment in accordance with the Agreement.

5. The registration of a seller and the collection and remission of sales and use taxes pursuant to this section may not be considered as a factor in determining whether a seller has a nexus with this State for the purposes of determining his liability to pay any tax imposed by this State.

Sec. 10. NRS 360B.230 is hereby amended to read as follows:

360B.230 1. The Department shall post on a website or other Internet site that is operated or administered by or on behalf of the Department [;], *in any format which may be required by the Agreement:*

(a) The rates of sales and use taxes for this State and for each local government *and Indian reservation or Indian colony* in this State that imposes such taxes. [~~The Department shall identify this State and each local government using the Federal Information Processing Standards developed by the National Institute of Standards and Technology.~~]

(b) Any change in those rates.

(c) Any amendments to the statutory provisions and administrative regulations of this State governing the registration of sellers and the collection of sales and use taxes.

(d) Any change in the boundaries of local governments in this State that impose sales and use taxes.

(e) The list maintained pursuant to NRS 360B.240.

(f) *A matrix for determining the taxability of products in this State and any change in the taxability of a product listed in that matrix.*

(g) Any other information the Department deems appropriate.

2. The Department shall make a reasonable effort to provide sellers with as much advance notice as possible of any changes or amendments required to be posted pursuant to subsection 1 and of any other changes in the information posted pursuant to subsection 1. Except as otherwise provided in NRS 360B.250, the failure of the Department to provide such notice and the failure of a seller to receive such notice does not affect the obligation of the seller to collect and remit any applicable sales and use taxes.

Sec. 11. NRS 360B.240 is hereby amended to read as follows:

360B.240 1. The Department shall maintain a list that denotes for each five-digit and nine-digit zip code in this State the combined rates of sales

taxes and the combined rates of use taxes imposed in the area of that zip code, and the applicable taxing jurisdictions ~~[.]~~, *including, without limitation, any pertinent Indian reservation or Indian colony*. If the combined rate of all the sales taxes or use taxes respectively imposed within the area of a zip code is not the same for the entire area of the zip code, the Department shall denote in the list the lowest combined tax rates for the entire zip code.

2. If a street address does not have a nine-digit zip code or if a registered seller *or certified service provider* is unable to determine the nine-digit zip code ~~[of a purchaser]~~ *applicable to a purchase* after exercising due diligence to determine that information, that seller *or certified service provider* may, except as otherwise provided in subsection 3, apply the rate denoted for the five-digit zip code in the list maintained pursuant to this section. For the purposes of this subsection, there is a rebuttable presumption that a registered seller *or certified service provider* has exercised due diligence if the seller *or certified service provider* has attempted to determine the nine-digit zip code ~~[of a purchaser]~~ *applicable to a purchase* by using software approved by the Department which makes that determination from the street address and five-digit zip code ~~[of the purchaser.]~~ *applicable to the purchase*.

3. The list maintained pursuant to this section does not apply to and must not be used for any transaction regarding which a purchased product is received by the purchaser at the business location of the seller.

Sec. 12. NRS 360B.250 is hereby amended to read as follows:

360B.250 The Department shall ~~[waive any liability of]~~ :

1. ~~If a registered seller [and a certified service provider acting on behalf of a registered seller who,] fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, [collects the incorrect amount of any sales or use tax imposed in this State,] waive any liability of the registered seller for:~~

~~[1.] (a) The amount of the sales or use tax which the registered seller [and certified service provider fail] fails to collect as a result of that reliance; and~~

~~[2.] (b) Any penalties and interest on that amount.~~

2. *If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:*

*(a) The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and*

*(b) Any penalties and interest on that amount.*

3. *Waive any liability of a purchaser for any sum for which the liability of a registered seller or certified service provider is required to be waived pursuant to subsection 1 or 2 with regard to a transaction involving that purchaser.*

4. *If a purchaser fails to pay the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230, waive any liability of the purchaser for:*

(a) *The amount of the sales or use tax which the purchaser fails to pay as a result of that reliance; and*

(b) *Any penalties and interest on that amount.*

Sec. 13. NRS 360B.260 is hereby amended to read as follows:

360B.260 1. A purchaser may purchase tangible personal property without paying to the seller at the time of purchase the sales and use taxes that are due thereon if:

(a) The seller does not maintain a place of business in this State; and

(b) The purchaser has obtained a direct pay permit pursuant to the provisions of this section.

2. A purchaser who wishes to obtain a direct pay permit must file with the Department an application for such a permit that:

(a) Is on a form prescribed by the Department; and

(b) Sets forth such information as is required by the Department.

3. The application must be signed by:

(a) The owner if he is a natural person;

(b) A member or partner if the seller is an association or partnership; or

(c) An executive officer or some other person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

4. Any purchaser who obtains a direct pay permit pursuant to this section shall:

(a) Determine the amount of sales and use taxes that are due and payable to this State, ~~or~~ a local government of this State *or an Indian reservation or Indian colony in this State* upon the purchase of tangible personal property from such a seller; and

(b) Report and pay those taxes to the appropriate authority.

~~[5. If a purchaser who has obtained a direct pay permit purchases tangible personal property that will be available for use digitally or electronically in more than one jurisdiction, he may, to determine the amount of tax that is due to this State or to a local government of this State, use any reasonable, consistent and uniform method to apportion the use of the property among the various jurisdictions in which it will be used that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.]~~

Sec. 14. NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold must state separately any amount received by the seller for:

1. Any installation charges for the property;
2. ~~[The value of any exempt property given to the purchaser if the exempt property and any taxable property are sold as a single product or piece of merchandise;~~
- 3.] Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;
- [4.] 3. Any interest, financing and carrying charges from credit extended on the sale; and
- [5.] 4. Any taxes legally imposed directly on the consumer.

Sec. 15. NRS 360B.445 is hereby amended to read as follows:

360B.445 "Food" and "food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value, except alcoholic beverages , *dietary supplements* and tobacco.

Sec. 16. NRS 360B.460 is hereby amended to read as follows:

360B.460 "Prepared food" means:

1. Food sold in a heated state or heated by the seller;
2. Two or more food ingredients mixed or combined by the seller for sale as a single item, unless the food ingredients:
  - (a) Are only cut, repackaged or pasteurized by the seller; or
  - (b) Contain any raw eggs, fish, meat or poultry, or other such raw animal foods ~~[, for which]~~ *requiring* cooking by the consumer ~~[is]~~ *to prevent food-borne illnesses, as recommended pursuant to the Food Code published by the Food and Drug Administration of the United States Department of Health and Human Services;* and
3. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins or straws. For the purposes of this ~~[paragraph,]~~ *subsection*, "plates" does not include any containers or packaging used to transport food.

Sec. 17. NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

- (a) The seller's cost of the property sold;

(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges and excluding any installation charges which are stated separately pursuant to NRS 360B.290; and

(d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

(a) Any installation charges which are stated separately pursuant to NRS 360B.290;

(b) ~~{The value of any exempt personal property given to the purchaser if:~~  
~~(1) The exempt property and any taxable property are sold as a single product or piece of merchandise; and~~

~~(2) The value of the exempt property is stated separately pursuant to NRS 360B.290;~~

~~(e)}~~ Any credit for any trade-in which is:

(1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and

(2) Stated separately pursuant to NRS 360B.290;

~~{(d)}~~ (c) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

~~{(e)}~~ (d) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to NRS 360B.290; and

~~{(f)}~~ (e) Any taxes legally imposed directly on the consumer which are stated separately pursuant to NRS 360B.290.

3. *The term includes consideration received by a seller from a third party if:*

(a) *The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;*

(b) *The seller has an obligation to pass the price reduction or discount through to the purchaser;*

(c) *The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and*

(d) *Any of the following criteria is satisfied:*

(1) *The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a*

*third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.*

*(2) The purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.*

*(3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.*

Sec. 18. NRS 372.125 is hereby amended to read as follows:

372.125 1. Every person desiring to engage in or conduct business as a seller within this State must ~~{register}~~ :

*(a) Register with the Department pursuant to NRS 360B.200 ; or ~~{file}~~*

*(b) File with the Department an application for a permit for each place of business.*

2. Every application for a permit must:

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

*(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.*

*(c) Set forth any other information which the Department may require.*

~~{3.—The application must be}~~

*(d) Be signed by:*

~~{(a)}~~ *(1) The owner if he is a natural person;*

~~{(b)}~~ *(2) A member or partner if the seller is an association or partnership;*  
or

~~{(c)}~~ *(3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.*

Sec. 19. NRS 372.130 is hereby amended to read as follows:

372.130 At the time of making an application ~~{,}~~ *for a permit pursuant to NRS 372.125, the applicant must pay to the Department a ~~{permit}~~ fee of \$5 for each permit.*

Sec. 20. NRS 372.135 is hereby amended to read as follows:

372.135 1. Except as otherwise provided in NRS 360.205 and 372.145, after compliance with NRS 372.125, 372.130 and 372.510 by ~~{the applicant,}~~ *an applicant for a permit, the Department shall:*

*(a) Grant and issue to ~~{each}~~ the applicant a separate permit for each place of business within the State.*

*(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:*

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:

- (I) An explanation of the circumstances under which a service provided by the applicant is taxable;
- (II) The procedures for administering exemptions; and
- (III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated on it. It must at all times be conspicuously displayed at the place for which it is issued.

Sec. 21. NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[.]~~ *and the purchaser:*

- (a) *Is engaged in the business of selling tangible personal property;*
- (b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and*
- (c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:*

- (a) *The third-party vendor:*
  - (1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*
  - (2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*
- (b) *His customer:*
  - (1) *Is engaged in the business of selling tangible personal property; and*
  - (2) *Is selling the property in the regular course of business.*

Sec. 22. NRS 372.165 is hereby amended to read as follows:

372.165 ~~[.]~~ A resale certificate must:

- ~~[(a) Be signed by and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 372.135.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2. The certificate must be}~~

~~1. Be substantially in such form and include such information as the Department may prescribe [-]; and~~

~~2. Unless submitted in electronic form, be signed by the purchaser.~~

Sec. 23. NRS 372.170 is hereby amended to read as follows:

372.170 1. If a purchaser who gives a *resale* certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business [-, the] :

(a) *The use is taxable to the purchaser as of the time the property is first so used by him, and the sales price of the property to him is the measure of the tax. [Only when there is an unsatisfied use tax liability on this basis is the seller liable for sales tax with respect to the sale of the property to the purchaser.]* If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the sales price of the property to him.

(b) *The seller is liable for the sales tax with respect to the sale of the property to the purchaser only if:*

(1) *There is an unsatisfied use tax liability pursuant to paragraph (a); and*

(2) *The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.*

2. *As used in this section, "seller" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.*

Sec. 24. NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale [-] and the purchaser:

(a) *Is engaged in the business of selling tangible personal property;*

*(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and*

*(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

*2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:*

*(a) The third-party vendor:*

*(1) Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

*(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

*(b) His customer:*

*(1) Is engaged in the business of selling tangible personal property; and*

*(2) Is selling the property in the regular course of business.*

Sec. 25. NRS 372.235 is hereby amended to read as follows:

372.235 ~~[1.]~~ A resale certificate must:

~~[(a) Be signed and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 372.135.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2.—The certificate must be]~~

~~1. Be substantially in such form and include such information as the Department may prescribe [–]; and~~

~~2. Unless submitted in electronic form, be signed by the purchaser.~~

Sec. 26. NRS 372.347 is hereby amended to read as follows:

372.347 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such identifying information from the purchaser at the time of sale as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department [–] and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

6. *As used in this section, “retailer” includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.*

Sec. 27. NRS 372.7275 is hereby amended to read as follows:

372.7275 In its administration of the use tax imposed by NRS 372.185, the Department shall not consider the storage, use or other consumption in this State of tangible personal property which ~~is:~~

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

~~2. Acquired] :~~

1. *Does not have significant value; and*

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

Sec. 28. NRS 374.130 is hereby amended to read as follows:

374.130 1. Every person desiring to engage in or conduct business as a seller within a county ~~[shall register]~~ *must:*

(a) *Register* with the Department pursuant to NRS 360B.200 ; or ~~[file]~~

(b) *File* with the Department an application for a permit for each place of business.

2. Every application for a permit *must:*

(a) Be made upon a form prescribed by the Department.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.

(c) Set forth such other information as the Department may require.

~~[3.—The application must be]~~

(d) *Be signed by:*

~~[(a)]~~ (1) The owner if he is a natural person;

~~[(b)]~~ (2) A member or partner if the seller is an association or partnership;

or

~~[(e)]~~ (3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer’s authority must be attached to the application.

Sec. 29. NRS 374.135 is hereby amended to read as follows:

374.135 At the time of making an application ~~[,]~~ *for a permit pursuant to NRS 374.130*, the applicant shall pay to the Department a ~~[permit]~~ fee of \$5 for each permit.

Sec. 30. NRS 374.140 is hereby amended to read as follows:

374.140 1. Except as otherwise provided in NRS 360.205 and 374.150, after compliance with NRS 374.130, 374.135 and 374.515 by ~~the applicant,~~ *an applicant for a permit*, the Department shall:

(a) Grant and issue to ~~each~~ *the* applicant a separate permit for each place of business within the county.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and

(III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. A permit must at all times be conspicuously displayed at the place for which it is issued.

Sec. 31. NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it ~~shall be~~ *is* presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[-]~~ *and the purchaser:*

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

(1) *Is engaged in the business of selling tangible personal property; and*

(2) *Is selling the property in the regular course of business.*

Sec. 32. NRS 374.170 is hereby amended to read as follows:

374.170 ~~[1.]~~ A resale certificate must:

~~[(a) Be signed by and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 374.140.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2. The certificate must be]~~

~~1. Be substantially in such form and include such information as the Department may prescribe [-]; and~~

~~2. Unless submitted in electronic form, be signed by the purchaser.~~

Sec. 33. NRS 374.175 is hereby amended to read as follows:

374.175 1. If a purchaser who gives a *resale* certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business ~~[-, the use shall be] :~~

(a) *The use is taxable to the purchaser as of the time the property is first so used by him, and the sales price of the property to him [shall be deemed] is the measure of the tax. [Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser.]* If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the sales price of the property to him.

(b) *The seller is liable for the sales tax with respect to the sale of the property to the purchaser only if:*

(1) *There is an unsatisfied use tax liability pursuant to paragraph (a); and*

(2) *The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.*

2. *As used in this section, "seller" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.*

Sec. 34. NRS 374.230 is hereby amended to read as follows:

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it

~~[shall be]~~ is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[.]~~ and the purchaser:

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

(1) *Is engaged in the business of selling tangible personal property; and*

(2) *Is selling the property in the regular course of business.*

Sec. 35. NRS 374.240 is hereby amended to read as follows:

374.240 ~~[1.]~~ A resale certificate must:

~~[(a) Be signed and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 374.140.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2.—The certificate must be]~~

1. *Be substantially in such form and include such information as the Department may prescribe ~~[.]~~; and*

2. *Unless submitted in electronic form, be signed by the purchaser.*

Sec. 36. NRS 374.352 is hereby amended to read as follows:

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such identifying information from the purchaser at the time of sale as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required

to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department ~~[.]~~ *and provide those records to the Department upon request.*

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

6. *As used in this section, "retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.*

Sec. 37. NRS 374.726 is hereby amended to read as follows:

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

~~1.—Worth \$100 or less; and~~

~~2.—Acquired] :~~

1. *Does not have significant value; and*

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

Sec. 38. Section 10 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 914, is hereby amended to read as follows:

Sec. 10. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate of:

(a) One-quarter of 1 percent if the date on which the tax must first be imposed is on October 1, 2005; and

(b) Up to an additional one-quarter of 1 percent if the date on which the increased rate must first be imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate,

↳ the total rate not to exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that ~~[exempts from the tax the gross receipts from]~~ *a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:*

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed ~~[,]~~ *or on which any change in the rate of tax becomes effective, which must ~~[not be earlier than]~~ be the first day of the ~~[second calendar month following]~~ first calendar quarter that begins at least 120 days after the effective date of the ordinance.*

Sec. 39. The Legislature hereby finds and declares that:

1. There has been a rapid increase during recent years in the conduct of interstate commerce through telecommunication and electronic means.

2. Many of the merchants who transact these forms of interstate commerce have been discouraged by the substantial burdens of ascertaining and complying with the extremely diverse and detailed tax laws of each state from making the efforts necessary to collect sales and use taxes on behalf of the states in which they do not maintain a place of business.

3. As a result of the proliferation of these forms of interstate commerce and federal restrictions on the ability of each state to collect sales and use taxes from merchants who do not maintain a place of business in that state, the people of this State are losing millions of dollars in state and local tax revenue.

4. The nonpayment of Nevada sales and use taxes by merchants in other states provides those merchants with an unfair competitive advantage over local merchants who lawfully pay the sales and use taxes due in this State.

5. As a result of the similarity of these circumstances in the various states, considerable efforts are being made to provide more uniformity, simplicity and fairness in the administration and collection of sales and use taxes in this country, including the introduction and consideration of Congressional legislation and the participation by Nevada and many other states in the Streamlined Sales and Use Tax Agreement.

6. Compliance with the Streamlined Sales and Use Tax Agreement and its amendments has and will continue to require amendments to the Nevada Sales and Use Tax Act, and it is anticipated that any Congressional legislation will also necessitate such amendments.

7. The Nevada Sales and Use Tax Act was approved by referendum at the General Election in 1956 and therefore, pursuant to Section 1 of Article 19 of the Constitution of the State of Nevada, may not be “amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people.”

8. Unlike the circumstances in other states where legislatures have the direct authority to amend sales and use tax laws in a timely manner, the period required for the legislative enactment and subsequent voter approval of any necessary amendments to the Nevada Sales and Use Tax Act has placed the ability of this State to comply with the Streamlined Sales and Use Tax Agreement and any Congressional legislation in serious jeopardy.

9. It would be beneficial to the public welfare for the people of this State by direct vote to authorize the Legislature to enact without any additional voter approval such amendments to the Nevada Sales and Use Tax Act as it determines to be necessary to carry out any Congressional legislation or interstate agreements for the administration, collection or enforcement of sales and use taxes.

Sec. 40. At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 41. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 42. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

AN ACT to amend an Act entitled “An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto.” approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 788, is hereby amended by adding thereto a new section to be designated as section 153.5, immediately following section 153.2, to read as follows:

*Sec. 153.5. The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, whenever the Legislature determines that such legislation is necessary to carry out any federal statute or regulation or interstate agreement providing for the administration, collection or enforcement of sales and use taxes ~~7~~, unless such legislation would increase the rate of any tax imposed pursuant to this Act.*

Sec. 2. Section 61.5 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 466, Statutes of Nevada 1985, at page 1441, is hereby repealed.

Sec. 3. This act becomes effective on January 1, 2009.

Sec. 43. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to repeal an exemption from the taxes imposed by this Act on the gross receipts from the sale of aircraft and major components of aircraft to scheduled air carriers based in this State, and to authorize the Legislature to amend or repeal any provision of this Act without an additional direct vote of the people whenever necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?

Yes  No

Sec. 44. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would repeal an exemption from the taxes imposed by this Act for the sale of aircraft and major components of aircraft to a scheduled air carrier which is

based in Nevada, and would authorize the Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval whenever that legislation is necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes. **The proposed amendment would not authorize any legislation that increases the rate of any tax imposed pursuant to this Act.**

Sec. 45. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 46. All general election laws not inconsistent with this act are applicable.

Sec. 47. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 48. The amendatory provisions of section 38 of this act do not apply to any ordinance enacted before October 1, 2007.

Sec. 49. 1. NRS 360B.270, 372.160, 372.230, 372.728, 374.165, 374.235 and 374.728 are hereby repealed.

2. NRS 372.726 is hereby repealed.

Sec. 50. 1. This section and sections 1 to 48, inclusive, and subsection 1 of section 49 of this act become effective on October 1, 2007.

2. Subsection 2 of section 49 of this act becomes effective on January 1, 2009, only if the proposal submitted pursuant to sections 40 to 44, inclusive, of this act is approved by the voters at the general election on November 4, 2008.

#### LEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

360B.270 Purchases of tangible personal property that will be used digitally or electronically in multiple jurisdictions.

372.160 Effect of resale certificate.

372.230 Effect of resale certificate.

372.726 Application of exemption for aircraft and major components of aircraft.

372.728 Construction of “retailer maintaining place of business in this State.”

374.165 Effect of resale certificate.

374.235 Effect of resale certificate.

374.728 Construction of “retailer maintaining place of business in county.”

Section 61.5 of chapter 397, Statutes of Nevada 1955:

Sec. 61.5. There are exempted from the taxes imposed by this act the gross receipts from the sale of aircraft and major components of aircraft, such as engines and other components made for use only in aircraft, to an air carrier which:

1. Holds a certificate to engage in air transportation issued pursuant to 49 U.S.C. § 1371 and is not solely a charter air carrier or a supplemental air carrier as described in Title 49 of the United States Code; and

2. Maintains its central office in Nevada and bases a majority of its aircraft in Nevada.

Assemblyman Parks moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 503.

Bill read second time and ordered to third reading.

Senate Bill No. 533.

Bill read second time and ordered to third reading.

Senate Bill No. 536.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 858.

AN ACT relating to public health; exempting certain entities that comply with the provisions of federal law governing the electronic transmission of certain health information from provisions of state law that provide more stringent privacy requirements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects the privacy of certain individually identifiable health information. (Public Law No. 104-191) HIPAA and the federal regulations to carry out that Act contain provisions which address the use and disclosure of individually identifiable health information by certain covered entities, including certain health plans, health care providers and health care

# NEVADA LEGISLATURE

Seventy-Fourth Session, 2007

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## ASSEMBLY DAILY JOURNAL

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### THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 25, 2007

Assembly called to order at 10:32 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Lord, give us the faith to believe that the words now spoken and the yearnings of the hearts now open before You are heard and understood in Your presence. Hold us steady lest we lose our poise. Blunt out speech lest by cutting words and careless deeds we hurt our colleagues and the cause for which we speak. Where we differ in approaches to a problem, may we ever be open to consider another and a better way, guided not by whether it be popular, or expedient, or practical, but always whether it be right. Where we are wrong, make us willing to change and where we are right make us easy to live with. Hear our prayer, O Lord.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Ocegüera moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

#### REPORTS OF COMMITTEES

*Madam Speaker:*

Your Committee on Judiciary, to which was referred Senate Joint Resolution No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chair*

*Madam Speaker:*

Your Committee on Transportation, to which were referred Assembly Bill No. 624; Senate Bill No. 161, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chair*

Senate Bill No. 500 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 502.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Senate Bill No. 502:

YEAS—42.

NAYS—None.

Senate Bill No. 502 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 503.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Senate Bill No. 503:

YEAS—42.

NAYS—None.

Senate Bill No. 503 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 504.

Bill read third time.

Remarks by Assemblywoman Pierce.

Roll call on Senate Bill No. 504:

YEAS—42.

NAYS—None.

Senate Bill No. 504 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 508.

Bill read third time.

Remarks by Assemblymen Goicoechea, Anderson, Kirkpatrick, and Bobzien.

Assemblyman Bobzien requested that the following remarks be entered in the Journal.

ASSEMBLYMAN GOICOCHEA:

Senate Bill 508 creates the Office of Information Security within the Department of Information Technology. This measure shifts responsibility for the development of the security standards for the Executive Branch from the Planning and Resource Unit to the director of the

# BILLS AND AMENDMENTS

SEE LINKS ON BILL HISTORY PAGE  
FOR COMPLETE TEXT

# SUPPLEMENTAL MATERIALS

**State of Nevada**

**Statewide**

**Ballot Questions**

**2008**



**To Appear on the November 4, 2008  
General Election Ballot**

**Issued by  
Ross Miller  
Secretary of State**

## QUESTION NO. 4

Amendment to the Sales and Use Tax Act of 1955

Senate Bill No. 502 of the 74<sup>th</sup> Session

Yes: 229,739

No: 629,009



### CONDENSATION (Ballot Question)

**Shall the Sales and Use Tax Act of 1955 be amended to authorize the Legislature to amend or repeal any provision of this Act without an additional direct vote of the people whenever necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes, and to repeal an exemption from the taxes imposed by this Act on certain aircraft and aircraft components?**

### EXPLANATION

This proposed amendment to the Sales and Use Tax Act of 1955 (Act) would authorize the Nevada Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval whenever that legislation is necessary to carry out any federal law or interstate agreement for the administration, collection, or enforcement of sales and use taxes. The proposed amendment would not authorize the Legislature to enact any legislation that increases the rate of the tax imposed pursuant to this Act, currently 2 percent, without obtaining voter approval.

Additionally, this amendment would repeal an exemption from the taxes imposed by the Act for the sale of aircraft and major components of aircraft to a scheduled air carrier based in Nevada. The language in the Act providing this exemption from the state's portion of the sales and use tax was declared unconstitutional by the Nevada Supreme Court in 1997. Thus, although the language remains in the Act, the exemption is no longer provided to air carriers. The Legislature cannot enact legislation to remove this unconstitutional language from the Act without voter approval.

Existing law provides for the administration of sales and use taxes in Nevada pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act, and the Local School Support Tax Law. The state's portion of the sales and use tax is administered under provisions of the Act that were submitted to and approved by the voters at the 1956 General Election. These provisions cannot be amended or repealed without additional voter approval.

Nevada has entered into the interstate "Streamlined Sales and Use Tax Agreement" to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and types of commerce. To maintain compliance with the provisions the Agreement, the Legislature may be required to enact legislation amending the Sales and Use Tax

Act and the Local School Support Tax Law in response to federal legislation approved by Congress affecting the Agreement or to interstate actions amending the Agreement. The Legislature has the authority to amend the Local School Support Tax Law without voter approval, but the Sales and Use Tax Act cannot be amended without voter approval.

**A “Yes” vote would authorize the Legislature to amend or repeal any provision of the Sales and Use Tax Act of 1955 without voter approval in order to carry out federal law or interstate agreements for the administration, collection, or enforcement of the sales and use tax, except for legislation that would increase the rate of tax imposed pursuant to the Act. A “Yes” vote would also repeal an exemption from the taxes imposed on the sale of aircraft and major components of aircraft to an air carrier based in Nevada.**

**A “No” vote would continue to require the Legislature to obtain voter approval before enacting any legislation amending or repealing any provision of the Sales and Use Tax Act of 1955, including legislation required to carry out federal law or an interstate agreement, and would retain the exemption for the sale of aircraft and major components of aircraft to an air carrier based in Nevada.**

#### **ARGUMENTS FOR PASSAGE**

This proposed amendment would authorize the Nevada Legislature to amend or repeal provisions of the Sales and Use Tax Act without voter approval only for legislation necessary to comply with a federal law or an interstate agreement, such as the Streamlined Sales and Use Tax Agreement, for the administration, collection, and enforcement of sales and use taxes in Nevada. Authorizing the Legislature to enact legislation without voter approval would allow the Legislature to respond more flexibly and efficiently to federal legislation and interstate agreements.

This amendment does not authorize the Legislature to increase the rate of tax without voter approval. Thus, the sales and use tax rate for the state’s portion of the tax (currently 2 percent) could not be increased by the Legislature without voter approval.

The language in the Sales and Use Tax Act of 1955 granting an exemption from the state’s portion of the sales and use tax for the sale of aircraft and major components of aircraft to a scheduled air carrier based in Nevada was declared unconstitutional by the Nevada Supreme Court in 1997. This exemption has not been allowed by the Department of Taxation to any air carrier based in Nevada since it was declared unconstitutional. The purpose of repealing this exemption is simply to eliminate obsolete language. The repeal will not impact any air carrier because the unconstitutional exemption is not being offered.

## **ARGUMENTS AGAINST PASSAGE**

Amendments to the Sales and Use Tax Act of 1955 have required voter approval since 1956 when Nevada voters approved the Act through the constitutional referendum process. Since 1956, the Department of Taxation has been able to administer sales and use taxes and the Nevada Legislature has been able to enact appropriate legislation to maintain compliance with federal law and interstate agreements with voter approval when required. The citizens of Nevada should not surrender their right to approve legislation that makes changes to the administration, collection, and enforcement of sales and use taxes whether to comply with federal law or interstate agreements, or for any other reason.

Finally, there is no need to repeal the unconstitutional language concerning aircraft from the Act because it is not being applied.

## **FISCAL NOTE**

### **Financial Impact – Cannot Be Determined**

If this proposal to amend the Sales and Use Tax Act of 1955 is approved by voters, the Nevada Legislature would be authorized to amend the Act without voter approval for legislation necessary to carry out federal law or interstate agreements affecting the administration, collection, or enforcement of the sales and use tax in Nevada. It cannot be determined with any degree of certainty what changes to federal law or existing interstate agreements may occur and the legislative actions that would be required by the Legislature to maintain compliance with the federal law or these interstate agreements, such as the Streamlined Sales and Use Tax Agreement. If this proposed amendment is not approved, and voter approval is still required, it cannot be determined which legislative actions may or may not be approved by voters. Thus, the financial impact on the sales and use taxes collected in the state or individual taxpayers cannot be determined.

Since the proposed amendment to repeal the exemption from the State 2 percent sales and use tax for the sale of aircraft and major components of aircraft to a scheduled air carrier which is based in Nevada has been declared unconstitutional and is not currently provided to any air carrier in the state by the Department of Taxation, there is no financial impact.

### **FULL TEXT OF MEASURE**

Senate Bill No. 502–Committee on Taxation

CHAPTER.....

AN ACT relating to taxes on retail sales; revising various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement; providing for the direct payment by certain purchasers of any sales and use taxes due to an Indian reservation or Indian colony in this State; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to repeal a tax exemption for the sale of aircraft and major components of aircraft to an airline based in Nevada and to authorize the Legislature to amend or repeal a provision of that Act without additional voter approval when necessary to carry out a federal law or interstate agreement for the

administration of sales and use taxes; repealing certain obsolete provisions for the administration of sales and use taxes; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110) **Sections 2, 5-7 and 15-17** of this bill set forth and clarify various administrative definitions required pursuant to the Agreement, as amended. **Section 3** of this bill contains the requirements of a recent amendment to the Agreement regarding the certification by the State of the software of certain computer programs that calculate the taxes due on a sale and the provision of a limited waiver of liability for the persons who rely on that certification. **Section 9** of this bill carries out a recent amendment to the Agreement regarding the conditions under which multiple remittances of taxes may be required for a single tax return from a seller who registers under the Agreement. **Section 10** of this bill clarifies the duties of the Department of Taxation to post on its website certain tax information required by the Agreement. **Section 11** of this bill clarifies the statutory provisions governing the contents and use of a list required by the Agreement for determining the combined rate of taxes imposed in each zip code.

**Section 12** of this bill carries out and clarifies the requirements of the Agreement, as amended, to waive the liability of sellers and purchasers who rely on the tax information posted on the Department's website in accordance with the Agreement. Existing law authorizes a person who obtains a direct pay permit to pay any applicable sales and use taxes due on certain purchases directly to this State and its local governments instead of to the seller. (NRS 360B.260)

**Section 13** of this bill additionally provides for the direct payment of any applicable sales and use taxes due on such a purchase to an Indian reservation or Indian colony in this State. Under existing law, persons who desire to conduct business as sellers in this State must register pursuant to the Streamlined Sales and Use Tax Agreement or obtain permits from the Department of Taxation. (NRS 372.125 and 374.130)

**Sections 18-20 and 28-30** of this bill clarify that the statutory provisions applicable to an application for such a permit do not apply to the registration of a seller pursuant to the Agreement. Existing law creates a presumption that a sale is subject to sales and use taxes unless the seller obtains a certificate from the purchaser indicating that the property is purchased for resale. (NRS 372.155, 372.225, 374.160, 374.230)

**Sections 21-25 and 31-35** of this bill revise the statutory provisions governing resale certificates to combine some of the existing provisions for clarity and to carry out the requirements of the Streamlined Sales and Use Tax Agreement regarding the acceptance of resale certificates from

certain third-party vendors, the contents of resale certificates and the liability of a seller for the improper use of a resale certificate by a purchaser. Existing law prohibits the Department of Taxation, in administering use taxes, from considering the taxability of certain property acquired free of charge at a convention, trade show or other public event. (NRS 372.7275, 374.726)

**Sections 27 and 37** of this bill ensure that existing law does not appear to create a threshold for the application of a sales or use tax, as prohibited by the Streamlined Sales and Use Tax Agreement. Existing law authorizes the adoption of an ordinance for the imposition of a sales and use tax in Clark County to employ and equip additional police officers. (Clark County Sales and Use Tax Act of 2005) **Section 38** of this bill revises the requirements for such an ordinance in accordance with the provisions of the Streamlined Sales and Use Tax Agreement requiring a common state and local tax base and imposing restrictions on the date of implementation of changes in tax rates. Existing law includes various provisions of the Sales and Use Tax Act of 1955. (NRS 372.010-372.115, 372.185-372.205, 372.260-372.284, 372.285-372.325, 372.327-372.345, 372.350) Under existing law, the provisions of that Act, which was submitted to and approved by the voters at the 1956 General Election, cannot be amended or repealed without additional voter approval. (Nev. Const. Art. 19, §1) **Sections 39-47** of this bill provide for the submission to the voters of an amendment to that Act to authorize the Legislature to amend that Act without any additional voter approval as necessary to carry out any federal law or interstate agreement for the administration of sales and use taxes, unless the amendment would increase the rate of a tax imposed pursuant to that Act, and to repeal a section of that Act that was declared unconstitutional by the Nevada Supreme Court in *Worldcorp v. State, Department of Taxation*, 113 Nev. 1032 (1997).

**Section 49** of this bill repeals NRS 360B.270 in accordance with a recent amendment to the Streamlined Sales and Use Tax Agreement, NRS 372.160, 372.230, 374.165 and 374.235, the provisions of which have been incorporated into other statutes by **sections 21, 24, 31 and 34** of this bill, NRS 372.728 and 374.728, which are obsolete, and, if the proposed amendment to the Sales and Use Tax Act of 1955 is approved by the voters, NRS 372.726, which provides for the administration of the section that was declared unconstitutional.

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

**Section 1.** Chapter 360B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

**Sec. 2.** *“Person” includes a government, governmental agency or political subdivision of a government.*

**Sec. 3.** *The Department shall: 1. Review the software submitted for the certification of a certified automated system pursuant to the Agreement and, if the Department determines that the software adequately classifies each exemption from the sales and use taxes imposed in this State which is based upon the description of a product, certify its acceptance of the classifications made by the system. 2. Except as otherwise provided in subsection 3:*

*(a) If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that certified service provider, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:*

*(1) The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and*

*(2) Any penalties and interest on that amount.*

*(b) If a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that registered seller, waive any liability of the registered seller for:*

*(1) The amount of the sales or use tax which the registered seller fails to collect as a result of that reliance; and*

*(2) Any penalties and interest on that amount. 3. Notify a certified service provider or a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 if the Department determines that the taxability of any item or transaction is being incorrectly classified by the certified automated system used by the certified service provider or registered seller. The provisions of subsection 2 do not require the waiver of any liability for the incorrect classification of an item or transaction regarding which notice was provided to the certified service provider or registered seller pursuant to this subsection if the incorrect classification occurs more than 10 days after the receipt of that notice.*

**Sec. 4.** NRS 360B.030 is hereby amended to read as follows:

360B.030 as used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

**Sec. 5.** NRS 360B.050 is hereby amended to read as follows:

360B.050 “Certified automated system” means software certified *[jointly by the states that are signatories] pursuant* to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

**Sec. 6.** NRS 360B.060 is hereby amended to read as follows:

360B.060 “Certified service provider” means an agent certified *[jointly by the states that are signatories] pursuant* to the Agreement to perform all of a seller’s sales *and use* tax functions *[.] , other than the seller’s obligation to remit the taxes on its own purchases.*

**Sec. 7.** NRS 360B.090 is hereby amended to read as follows:

360B.090 “State” means any state of the United States , *[and]* the District of Columbia *[.] and the Commonwealth of Puerto Rico.*

**Sec. 8.** NRS 360B.110 is hereby amended to read as follows:

360B.110 The Nevada Tax Commission shall:

1. Except as otherwise provided in NRS 360B.120, enter into the Agreement.
2. Act jointly with other states that are members of the Agreement to establish standards for:
  - (a) Certification of a certified service provider;
  - (b) A certified automated system; *and*
  - (c) Performance of multistate sellers . [; and
  - (d) An address-based system for determining the applicable sales and use taxes.]
3. Take all other actions reasonably required to implement the provisions of this chapter and the provisions of the Agreement, including, without limitation, the:
  - (a) Adoption of regulations to carry out the provisions of this chapter and the provisions of the Agreement; and
  - (b) Procurement, jointly with other member states, of goods and services.
4. Represent, or have its designee represent, the State of Nevada before the other states that are signatories to the Agreement.
5. Designate not more than four delegates, who may be members of the Commission, to represent the State of Nevada for the purposes of reviewing or amending the Agreement.

**Sec. 9.** NRS 360B.200 is hereby amended to read as follows:

360B.200 1. The Department shall, in cooperation with any other states that are members of the Agreement, establish and maintain a central, electronic registration system that allows a seller to register to collect and remit the sales and use taxes imposed in this State and in the other states that are members of the Agreement.

2. A seller who registers pursuant to this section agrees to collect and remit sales and use taxes in accordance with the provisions of this chapter, the regulations of the Department and the applicable law of each state that is a member of the Agreement, including any state that becomes a member of the Agreement after the registration of the seller pursuant to this section. The cancellation or revocation of the registration of a seller pursuant to this section, the withdrawal of a state from the Agreement or the revocation of the Agreement does not relieve a seller from liability pursuant to this subsection to remit any taxes previously or subsequently collected on behalf of a state.

3. When registering pursuant to this section, a seller may:

(a) Elect to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases;

(b) Elect to use a certified automated system to calculate the amount of sales or use taxes due on its sales transactions;

(c) Under such conditions as the Department deems appropriate in accordance with the Agreement, elect to use its own proprietary automated system to calculate the amount of sales or use taxes due on its sales transactions; or

(d) Elect to use any other method authorized by the Department for performing the functions of the seller relating to sales and use taxes.

4. A seller who registers pursuant to this section agrees to submit its sales and use tax returns, and to remit any sales and use taxes due, to the Department at such times and in such a manner and format as the Department prescribes by regulation. Those regulations must:

(a) Require from each seller who registers pursuant to this section:

(1) Only one tax return for each taxing period for all the sales and use taxes collected on behalf of this State and each local government in this State; and

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if [:(I) **The seller collects**] *the seller*:

(I) **Collects** more than \$30,000 in sales and use taxes on behalf of this State and the local governments in this State during the preceding calendar year;

(II) **[The] Is allowed to determine the** amount of **[the] any** additional remittance **[is determined]** by a method of calculation instead of by the actual amount collected; and

(III) **[The seller is] Is** not required to file any tax returns in addition to those otherwise required in accordance with this subsection.

(b) Allow any seller who registers pursuant to this section and makes an election pursuant to paragraph (a), (b) or (c) of subsection 3 to submit tax returns in a simplified format that does not include any more data fields than are permitted in accordance with the Agreement.

(c) Allow any seller who registers pursuant to this section, does not maintain a place of business in this State and has not made an election pursuant to paragraph (a), (b) or (c) of subsection 3, to file tax returns at a frequency that does not exceed once per year unless the seller accumulates more than \$1,000 in the collection of sales and use taxes on behalf of this State and the local governments in this State.

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails. (e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted using uniform codes for the type of tax and payment in accordance with the Agreement.

5. The registration of a seller and the collection and remission of sales and use taxes pursuant to this section may not be considered as a factor in determining whether a seller has a nexus with this State for the purposes of determining his liability to pay any tax imposed by this State.

**Sec. 10.** NRS 360B.230 is hereby amended to read as follows:

360B.230 1. The Department shall post on a website or other Internet site that is operated or administered by or on behalf of the Department [:], ***in any format which may be required by the Agreement:*** (a) The rates of sales and use taxes for this State and for each local government ***and Indian reservation or Indian colony*** in this State that imposes such taxes. **[The Department shall identify this State and each local government using the Federal Information Processing Standards developed by the National Institute of Standards and Technology.]**

(b) Any change in those rates.

(c) Any amendments to the statutory provisions and administrative regulations of this State governing the registration of sellers and the collection of sales and use taxes.

(d) Any change in the boundaries of local governments in this State that impose sales and use taxes.

(e) The list maintained pursuant to NRS 360B.240.

(f) ***A matrix for determining the taxability of products in this State and any change in the taxability of a product listed in that matrix.***

(g) Any other information the Department deems appropriate. 2. The Department shall make a reasonable effort to provide sellers with as much advance notice as possible of any changes or amendments required to be posted pursuant to subsection 1 and of any other changes in the information posted pursuant to subsection 1. Except as otherwise provided in NRS 360B.250, the failure of the Department to provide such notice and the failure of a seller to

receive such notice does not affect the obligation of the seller to collect and remit any applicable sales and use taxes.

**Sec. 11.** NRS 360B.240 is hereby amended to read as follows:

360B.240 1. The Department shall maintain a list that denotes for each five-digit and nine-digit zip code in this State the combined rates of sales taxes and the combined rates of use taxes imposed in the area of that zip code, and the applicable taxing jurisdictions **[.] , including, without limitation, any pertinent Indian reservation or Indian colony.** If the combined rate of all the sales taxes or use taxes respectively imposed within the area of a zip code is not the same for the entire area of the zip code, the Department shall denote in the list the lowest combined tax rates for the entire zip code.

2. If a street address does not have a nine-digit zip code or if a registered seller **or certified service provider** is unable to determine the nine-digit zip code **[of a purchaser] applicable to a purchase** after exercising due diligence to determine that information, that seller **or certified service provider** may, except as otherwise provided in subsection 3, apply the rate denoted for the five-digit zip code in the list maintained pursuant to this section. For the purposes of this subsection, there is a rebuttable presumption that a registered seller **or certified service provider** has exercised due diligence if the seller **or certified service provider** has attempted to determine the nine-digit zip code **[of a purchaser] applicable to a purchase** by using software approved by the Department which makes that determination from the street address and five-digit zip code **[of the purchaser.] applicable to the purchase.**

3. The list maintained pursuant to this section does not apply to and must not be used for any transaction regarding which a purchased product is received by the purchaser at the business location of the seller.

**Sec. 12.** NRS 360B.250 is hereby amended to read as follows:

360B.250 The Department shall **[waive any liability of] :**

**1. If** a registered seller **[and a certified service provider acting on behalf of a registered seller who,] fails to collect the correct amount of any sales or use tax imposed in this State** as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, **[collects the incorrect amount of any sales or use tax imposed in this State,] waive any liability of the registered seller** for:

**[1.] (a)** The amount of the sales or use tax which the registered seller **[and certified service provider fail] fails** to collect as a result of that reliance; and

**[2.] (b)** Any penalties and interest on that amount.

**2. If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:**

**(a) The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and**

**(b) Any penalties and interest on that amount.**

**3. Waive any liability of a purchaser for any sum for which the liability of a registered seller or certified service provider is required to be waived pursuant to subsection 1 or 2 with regard to a transaction involving that purchaser.**

***4. If a purchaser fails to pay the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230, waive any liability of the purchaser for:***

***(a) The amount of the sales or use tax which the purchaser fails to pay as a result of that reliance; and***

***(b) Any penalties and interest on that amount.***

**Sec. 13.** NRS 360B.260 is hereby amended to read as follows:

360B.260 1. A purchaser may purchase tangible personal property without paying to the seller at the time of purchase the sales and use taxes that are due thereon if:

(a) The seller does not maintain a place of business in this State; and

(b) The purchaser has obtained a direct pay permit pursuant to the provisions of this section.

2. A purchaser who wishes to obtain a direct pay permit must file with the Department an application for such a permit that:

(a) Is on a form prescribed by the Department; and

(b) Sets forth such information as is required by the Department.

3. The application must be signed by:

(a) The owner if he is a natural person;

(b) A member or partner if the seller is an association or partnership; or

(c) An executive officer or some other person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

4. Any purchaser who obtains a direct pay permit pursuant to this section shall:

(a) Determine the amount of sales and use taxes that are due and payable to this State , **[or]** a local government of this State ***or an Indian reservation or Indian colony in this State*** upon the purchase of tangible personal property from such a seller; and (b) Report and pay those taxes to the appropriate authority.

***[5. If a purchaser who has obtained a direct pay permit purchases tangible personal property that will be available for use digitally or electronically in more than one jurisdiction, he may, to determine the amount of tax that is due to this State or to a local government of this State, use any reasonable, consistent and uniform method to apportion the use of the property among the various jurisdictions in which it will be used that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.]***

**Sec. 14.** NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold must state separately any amount received by the seller for:

1. Any installation charges for the property;

2. ***[The value of any exempt property given to the purchaser if the exempt property and any taxable property are sold as a single product or piece of merchandise;***

***3.]*** Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;

***[4.]*** 3. Any interest, financing and carrying charges from credit extended on the sale; and

***[5.]*** 4. Any taxes legally imposed directly on the consumer.

**Sec. 15.** NRS 360B.445 is hereby amended to read as follows:

360B.445 “Food” and “food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value, except alcoholic beverages , *dietary supplements* and tobacco.

**Sec. 16.** NRS 360B.460 is hereby amended to read as follows:

360B.460 “Prepared food” means:

1. Food sold in a heated state or heated by the seller;
2. Two or more food ingredients mixed or combined by the seller for sale as a single item, unless the food ingredients:
  - (a) Are only cut, repackaged or pasteurized by the seller; or
  - (b) Contain any raw eggs, fish, meat or poultry, or other such raw animal foods [ , for which] *requiring* cooking by the consumer [is] *to prevent food-borne illnesses, as* recommended pursuant to the Food Code published by the Food and Drug Administration of the United States Department of Health and Human Services; and
3. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins or straws. For the purposes of this [paragraph,] *subsection*, “plates” does not include any containers or packaging used to transport food.

**Sec. 17.** NRS 360B.480 is hereby amended to read as follows:

360B.480 1. “Sales price” means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

- (a) The seller’s cost of the property sold;
  - (b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
  - (c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges and excluding any installation charges which are stated separately pursuant to NRS 360B.290; and
  - (d) Except as otherwise provided in subsection 2, any credit for any trade-in.
2. The term does not include:
- (a) Any installation charges which are stated separately pursuant to NRS 360B.290;
  - (b) [The value of any exempt personal property given to the purchaser if:
    - (1) The exempt property and any taxable property are sold as a single product or piece of merchandise; and
    - (2) The value of the exempt property is stated separately pursuant to NRS 360B.290;
  - (c) Any credit for any trade-in which is:
    - (1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and
    - (2) Stated separately pursuant to NRS 360B.290;
  - [[d)] (c) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;
  - [(e)] (d) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to NRS 360B.290; and
  - [(f)] (e) Any taxes legally imposed directly on the consumer which are stated separately pursuant to NRS 360B.290.

**3. The term includes consideration received by a seller from a third party if:**

*(a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;*

*(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;*

*(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and*

*(d) Any of the following criteria is satisfied:*

*(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.*

*(2) The purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.*

*(3) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.*

**Sec. 18.** NRS 372.125 is hereby amended to read as follows:

372.125 1. Every person desiring to engage in or conduct business as a seller within this State must **[register]** :

*(a) Register* with the Department pursuant to NRS 360B.200 ; or **[file]**

*(b) File* with the Department an application for a permit for each place of business.

2. Every application for a permit must:

(a) Be made upon a form prescribed by the Department.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.

(c) Set forth **any** other information which the Department may require.

**[3. The application must be]**

*(d) Be* signed by:

**[(a)] (1)** The owner if he is a natural person;

**[(b)] (2)** A member or partner if the seller is an association or partnership; or

**[(c)] (3)** An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

**Sec. 19.** NRS 372.130 is hereby amended to read as follows:

372.130 At the time of making an application **[,]** *for a permit pursuant to NRS 372.125*, the applicant must pay to the Department a **[permit]** fee of \$5 for each permit.

**Sec. 20.** NRS 372.135 is hereby amended to read as follows:

372.135 1. Except as otherwise provided in NRS 360.205 and 372.145, after compliance with NRS 372.125, 372.130 and 372.510 by **[the applicant,]** *an applicant for a permit*, the Department shall:

(a) Grant and issue to **[each] the** applicant a separate permit for each place of business within the State.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and

(III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated on it. It must at all times be conspicuously displayed at the place for which it is issued.

**Sec. 21.** NRS 372.155 is hereby amended to read as follows:

372.155 **1.** For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax , it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale **[.] and the purchaser:**

*(a) Is engaged in the business of selling tangible personal property;*

*(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and*

*(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

**2.** *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:*

*(a) The third-party vendor:*

*(1) Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

*(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

*(b) His customer:*

*(1) Is engaged in the business of selling tangible personal property; and*

*(2) Is selling the property in the regular course of business.*

**Sec. 22.** NRS 372.165 is hereby amended to read as follows:

372.165 **[1.]** A resale certificate must:

**[(a) Be signed by and bear the name and address of the purchaser.**

**(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 372.135.**

**(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.**

**2. The certificate must be]**

1. *Be* substantially in such form *and include such information* as the Department may prescribe [.] ; and
2. *Unless submitted in electronic form, be signed by the purchaser.*

**Sec. 23.** NRS 372.170 is hereby amended to read as follows:

372.170 **1.** If a purchaser who gives a *resale* certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business [the] :

(a) *The* use is taxable to the purchaser as of the time the property is first so used by him, and the sales price of the property to him is the measure of the tax. [Only when there is an unsatisfied use tax liability on this basis is the seller liable for sales tax with respect to the sale of the property to the purchaser.] If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the sales price of the property to him.

(b) *The seller is liable for the sales tax with respect to the sale of the property to the purchaser only if:*

(1) *There is an unsatisfied use tax liability pursuant to paragraph (a); and*

(2) *The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.*

2. *As used in this section, “seller” includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.*

**Sec. 24.** NRS 372.225 is hereby amended to read as follows:

372.225 **1.** For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale [.] *and the purchaser:*

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

(1) *Is engaged in the business of selling tangible personal property; and*

(2) *Is selling the property in the regular course of business.*

**Sec. 25.** NRS 372.235 is hereby amended to read as follows:

372.235 [1.] A resale certificate must: [(a) Be signed and bear the name and address of the purchaser.

(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 372.135.

(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.

2. The certificate must be]

1. *Be* substantially in such form *and include such information* as the Department may prescribe [.] ; *and*

2. *Unless submitted in electronic form, be signed by the purchaser.*

**Sec. 26.** NRS 372.347 is hereby amended to read as follows:

372.347 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such identifying information from the purchaser at the time of sale as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department [.] *and provide those records to the Department upon request.*

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

6. *As used in this section, "retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.*

**Sec. 27.** NRS 372.7275 is hereby amended to read as follows:

372.7275 In its administration of the use tax imposed by NRS 372.185, the Department shall not consider the storage, use or other consumption in this State of tangible personal property which [is:

1. *Worth \$100 or less; and 2. Acquired*] :

1. *Does not have significant value; and*

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

**Sec. 28.** NRS 374.130 is hereby amended to read as follows:

374.130 1. Every person desiring to engage in or conduct business as a seller within a county [shall register] *must:*

(a) *Register* with the Department pursuant to NRS 360B.200 ; or [file]

(b) *File* with the Department an application for a permit for each place of business.

2. Every application for a permit must:

- (a) Be made upon a form prescribed by the Department.
- (b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.
- (c) Set forth such other information as the Department may require.

**[3. The application must be]**

**(d) Be** signed by:

- [(a)] (1)** The owner if he is a natural person;
- [(b)] (2)** A member or partner if the seller is an association or partnership; or
- [(c)] (3)** An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

**Sec. 29.** NRS 374.135 is hereby amended to read as follows:

374.135 At the time of making an application **[.] for a permit pursuant to NRS 374.130**, the applicant shall pay to the Department a **[permit]** fee of \$5 for each permit.

**Sec. 30.** NRS 374.140 is hereby amended to read as follows:

374.140 1. Except as otherwise provided in NRS 360.205 and 374.150, after compliance with NRS 374.130, 374.135 and 374.515 by **[the applicant,] an applicant for a permit**, the Department shall:

(a) Grant and issue to **[each] the** applicant a separate permit for each place of business within the county.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and (III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. A permit must at all times be conspicuously displayed at the place for which it is issued.

**Sec. 31.** NRS 374.160 is hereby amended to read as follows:

374.160 **I.** For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it **[shall be] is** presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes **in good faith** from the purchaser a certificate to the effect that the property is purchased for resale **[.] and the purchaser:**

**(a) Is engaged in the business of selling tangible personal property;**

**(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and**

*(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

*2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:*

*(a) The third-party vendor:*

*(1) Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

*(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

*(b) His customer:*

*(1) Is engaged in the business of selling tangible personal property; and*

*(2) Is selling the property in the regular course of business.*

**Sec. 32.** NRS 374.170 is hereby amended to read as follows:

374.170 **[1.]** A resale certificate must:

**[(a) Be signed by and bear the name and address of the purchaser.**

**(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 374.140.**

**(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.**

**2. The certificate must be]**

**1. Be** substantially in such form **and include such information** as the Department may prescribe **]; and**

**2. Unless submitted in electronic form, be signed by the purchaser.**

**Sec. 33.** NRS 374.175 is hereby amended to read as follows:

374.175 **1.** If a purchaser who gives a **resale** certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business **[, the use shall be]:**

**(a) The use is** taxable to the purchaser as of the time the property is first **so** used by him, and the sales price of the property to him **[shall be deemed] is** the measure of the tax. **[Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser.]** If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the sales price of the property to him.

**(b) The seller is liable for the sales tax with respect to the sale of the property to the purchaser only if:**

**(1) There is an unsatisfied use tax liability pursuant to paragraph (a); and**

**(2) The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.**

**2. As used in this section, “seller” includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.**

**Sec. 34.** NRS 374.230 is hereby amended to read as follows:

374.230 **1.** For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it **[shall be] is** presumed that tangible personal

property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale [.] *and the purchaser:*

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

(1) *Is engaged in the business of selling tangible personal property; and*

(2) *Is selling the property in the regular course of business.*

**Sec. 35.** NRS 374.240 is hereby amended to read as follows:

374.240 [1.] A resale certificate must:

(a) *Be signed and bear the name and address of the purchaser.*

(b) *Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 374.140.*

(c) *Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.*

2. *The certificate must be]*

1. *Be substantially in such form and include such information as the Department may prescribe [.] ; and*

2. *Unless submitted in electronic form, be signed by the purchaser.*

**Sec. 36.** NRS 374.352 is hereby amended to read as follows:

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such identifying information from the purchaser at the time of sale as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department [.] *and provide those records to the Department upon request.*

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser

improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

*6. As used in this section, “retailer” includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.*

**Sec. 37.** NRS 374.726 is hereby amended to read as follows:

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

1. Worth \$100 or less; and

2. Acquired];

*1. Does not have significant value; and*

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

**Sec. 38.** Section 10 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 914, is hereby amended to read as follows:

Sec. 10. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate of:

(a) One-quarter of 1 percent if the date on which the tax must first be imposed is on October 1, 2005; and

(b) Up to an additional one-quarter of 1 percent if the date on which the increased rate must first be imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate, the total rate not to exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that [exempts from the tax the gross receipts from] *a purchaser is entitled to a refund, in*

*accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon* the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed [.] *or on which any change in the rate of tax becomes effective*, which must [not be earlier than] *be* the first day of the [second calendar month following] *first calendar quarter that begins at least 120 days after* the effective date of the ordinance.

**Sec. 39.** The Legislature hereby finds and declares that:

1. There has been a rapid increase during recent years in the conduct of interstate commerce through telecommunication and electronic means.
2. Many of the merchants who transact these forms of interstate commerce have been discouraged by the substantial burdens of ascertaining and complying with the extremely diverse and detailed tax laws of each state from making the efforts necessary to collect sales and use taxes on behalf of the states in which they do not maintain a place of business.
3. As a result of the proliferation of these forms of interstate commerce and federal restrictions on the ability of each state to collect sales and use taxes from merchants who do not maintain a place of business in that state, the people of this State are losing millions of dollars in state and local tax revenue.
4. The nonpayment of Nevada sales and use taxes by merchants in other states provides those merchants with an unfair competitive advantage over local merchants who lawfully pay the sales and use taxes due in this State.
5. As a result of the similarity of these circumstances in the various states, considerable efforts are being made to provide more uniformity, simplicity and fairness in the administration and collection of sales and use taxes in this country, including the introduction and consideration of Congressional legislation and the participation by Nevada and many other states in the Streamlined Sales and Use Tax Agreement.
6. Compliance with the Streamlined Sales and Use Tax Agreement and its amendments has and will continue to require amendments to the Nevada Sales and Use Tax Act, and it is anticipated that any Congressional legislation will also necessitate such amendments.
7. The Nevada Sales and Use Tax Act was approved by referendum at the General Election in 1956 and therefore, pursuant to Section 1 of Article 19 of the Constitution of the State of Nevada, may not be “amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people.”
8. Unlike the circumstances in other states where legislatures have the direct authority to amend sales and use tax laws in a timely manner, the period required for the legislative enactment and subsequent voter approval of any necessary amendments to the Nevada Sales and Use Tax Act has placed the ability of this State to comply with the Streamlined Sales and Use Tax Agreement and any Congressional legislation in serious jeopardy.
9. It would be beneficial to the public welfare for the people of this State by direct vote to authorize the Legislature to enact without any additional voter approval such amendments to the Nevada Sales and Use Tax Act as it determines to be necessary to carry out any Congressional legislation or interstate agreements for the administration, collection or enforcement of sales and use taxes.

**Sec. 40.** At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47<sup>th</sup> Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

**Sec. 41.** At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

**Sec. 42.** The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

AN ACT to amend an Act entitled “An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto.” approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 788, is hereby amended by adding thereto a new section to be designated as section 153.5, immediately following section 153.2, to read as follows:

*Sec. 153.5. The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, whenever the Legislature determines that such legislation is necessary to carry out any federal statute or regulation or interstate agreement providing for the administration, collection or enforcement of sales and use taxes, unless such legislation would increase the rate of any tax imposed pursuant to this Act.*

Sec. 2. Section 61.5 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 466, Statutes of Nevada 1985, at page 1441, is hereby repealed.

Sec. 3. This act becomes effective on January 1, 2009.

**Sec. 43.** The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to repeal an exemption from the taxes imposed by this Act on the gross receipts from the sale of aircraft and major components of aircraft to scheduled air carriers based in this State, and to authorize the Legislature to amend or repeal any provision of this Act without an additional direct vote of the people whenever necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?

Yes \_ No \_

**Sec. 44.** The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would repeal an exemption from the taxes imposed by this Act for the sale of aircraft and major components of aircraft to a scheduled air carrier which is based in Nevada, and would

authorize the Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval whenever that legislation is necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes. The proposed amendment would not authorize any legislation that increases the rate of any tax imposed pursuant to this Act.

**Sec. 45.** If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

**Sec. 46.** All general election laws not inconsistent with this act are applicable.

**Sec. 47.** Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

**Sec. 48.** The amendatory provisions of section 38 of this act do not apply to any ordinance enacted before October 1, 2007.

**Sec. 49.** 1. NRS 360B.270, 372.160, 372.230, 372.728, 374.165, 374.235 and 374.728 are hereby repealed.

2. NRS 372.726 is hereby repealed.

**Sec. 50.** 1. This section and sections 1 to 48, inclusive, and subsection 1 of section 49 of this act become effective on October 1, 2007.

2. Subsection 2 of section 49 of this act becomes effective on January 1, 2009, only if the proposal submitted pursuant to sections 40 to 44, inclusive, of this act is approved by the voters at the general election on November 4, 2008.

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