

AB 514 - 2003

Introduced on: Mar 24, 2003

By Taxation

Provides for enactment of certain provisions that are necessary to carry out Streamlined Sales and Use Tax Agreement. (BDR 32-1292)

DECLARED EXEMPT

Fiscal Notes

Effect on Local Government: *No.*

Effect on State: *Yes.*

Most Recent History Action: Approved by the Governor. Chapter 400.
(See full list below) On 2004 Ballot

Past Hearings

Assembly Taxation	Apr-01-2003	No Action
Assembly Taxation	Apr-10-2003	Amend, and do pass as amended
Senate Taxation	May-08-2003	No Action
Senate Taxation	May-15-2003	Amend, and do pass as amended

Votes

Assembly Final Passage	Apr-22	Yea 37,	Nay 5,	Excused 0,	Not Voting 0,	Absent 0
Senate Final Passage	May-23	Yea 21,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0

Bill Text (PDF) [As Introduced](#) [1st Reprint](#) [2nd Reprint](#) [As Enrolled](#)

Bill Text (HTML) [As Introduced](#) [1st Reprint](#) [2nd Reprint](#) [As Enrolled](#)

Amendments (HTML) [Amend. No.352](#) [Amend. No.768](#)

Bill History

Mar 24, 2003	Read first time. Referred to Committee on Taxation. To printer.
Mar 25, 2003	From printer. To committee.
Apr 07, 2003	Notice of exemption.
Apr 21, 2003	From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. (Amend. No. 352). To printer.
Apr 22, 2003	From printer. To engrossment. Engrossed. First reprint. Read third time. Passed, as amended. Title approved, as amended. (Yeas: 37, Nays: 5). To Senate.
Apr 24, 2003	In Senate. Read first time. Referred to Committee on Taxation. To committee.

May 23, 2003 From committee: Amend, and do pass as amended.
Placed on Second Reading File.
Read second time. Amended. (Amend. No. 768.) To printer.
From printer. To re-engrossment. Re-engrossed. Second reprint.
Declared an emergency measure under the Constitution.
Read third time. Passed, as amended. Title approved, as amended. (Yeas: 21,
Nays: None) To Assembly.

May 24, 2003 In Assembly.

May 27, 2003 Senate Amendment No. 768 concurred in. To enrollment.

May 29, 2003 Enrolled and delivered to Governor.

Jun 09, 2003 Approved by the Governor. Chapter 400.

Sections 102 and 139 of this act effective June 9, 2003. Sections 103 to 135, inclusive, of this act effective July 1, 2003. Sections 1 to 29, inclusive, 32 to 38, inclusive, 40 to 50, inclusive, 52 to 57, inclusive, 66, 67, 69 to 72, inclusive, 74 to 80, inclusive, 83, 84, 85, 87 to 92, inclusive, 94 to 101, inclusive, 136 and 137 of this act effective: (a) June 9, 2003, for purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and (b) January 1, 2006, for all other purposes. Sections 30 and 39 of this act effective January 1, 2006, only if the proposal submitted pursuant to sections 103 to 107, inclusive, of this act is approved by the voters at the general election on November 2, 2004. Sections 31, 51, 58 to 65, inclusive, 68, 73, 81, 82, 86, 93 and 138 of this act effective January 1, 2006, only if the proposal submitted pursuant to sections 103 to 107, inclusive, of this act is not approved by the voters at the general election on November 2, 2004.



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

BILL SUMMARY
72nd REGULAR SESSION
OF THE NEVADA STATE LEGISLATURE

ASSEMBLY BILL 514
(Enrolled)

Topic

Assembly Bill 514 relates to the Streamlined Sales and Use Tax Agreement.

Summary

Assembly Bill 514 revises existing statutes and adds new provisions relating to sales and use taxes in order to implement the Streamlined Sales and Use Tax Agreement. The Agreement is designed to facilitate the collection of sales taxes on Internet purchases and other forms of remote sales. The measure allows for electronic registration of sellers and for electronic payment of taxes. Further, A.B. 514 establishes requirements for determining the place of sale and for claiming an exemption from taxes.

The bill provides for a ballot question at the 2004 General Election to conform the state sales and use tax law to the Streamlined Sales and Use Tax Agreement. The ballot question will ask voters to approve certain abatements, definitions, and exemptions that will align the provisions of the State Sales and Use Tax Act and the Local School Support Tax so that transactions under state and local sales and use taxes will be similarly treated. Specifically, the ballot question relates to trade-ins on vehicle purchases, occasional vehicle sales, ophthalmic or ocular devices, farm machinery and equipment, fine art for public display, certain aircraft and parts of aircrafts, and engines and chassis of professional racing vehicles.

Effective Date

For the purpose of adopting regulations and performing other preparatory tasks, the provisions of the bill are effective upon passage and approval. The remaining provisions of the act become effective on January 1, 2006, in conformance with the outcome of the ballot question at the 2004 General Election.

Background Information

The key provisions of the bill allow Nevada to become a party to the Streamlined Sales and Use Tax Agreement on January 1, 2006.

LEGISLATIVE HEARINGS

MINUTES AND EXHIBITS

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

**Seventy-Second Session
April 1, 2003**

The Committee on Taxation was called to order at 1:30 p.m., on Tuesday, April 1, 2003. Chairman David Parks presided in Room 3142 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

Note: *These minutes are compiled in the modified verbatim style. Bracketed material indicates language used to clarify and further describe testimony. Actions of the Committee are presented in the traditional legislative style.*

COMMITTEE MEMBERS PRESENT:

Mr. David Parks, Chairman
Mr. David Goldwater, Vice Chairman
Mr. Bernie Anderson
Mrs. Dawn Gibbons
Mr. Tom Grady
Mr. Josh Griffin
Mr. Lynn Hettrick
Mr. John Marvel
Ms. Kathy McClain
Mr. Harry Mortenson
Ms. Peggy Pierce

COMMITTEE MEMBERS ABSENT:

Mr. Morse Arberry Jr.

GUEST LEGISLATORS PRESENT:

Assemblyman Chad Christensen, District No. 13
Assemblyman John Carpenter, District No. 33

[Mr. DiCianno, continued] I just want to read [*Nevada Revised Statutes*] NRS 361.260 and hope that I will not bore you too much, but I think it is important. Paragraph 5 of Chapter 361.260 of the NRS is associated with the improvement factors. "For any property not appraised in the current assessment year, the County Assessor shall determine its assessed value for that year by applying a factor for improvements, if any, and a factor for the land to the assessed value of the preceding year. The factor for improvements must reasonably represent the change, if any, in the taxable value of typical improvements in the area since the preceding year, and it must take into account all applicable depreciation and obsolescence."

The reason I am quoting this, Mr. Chairman, is that the mechanism is already in place to adjust these things. There is also the opportunity for anyone, including the Assessors, to come before the Tax Commission to provide public input as to what those improvement factors are. It is there. As Gaylyn Spriggs indicated, the Tax Commission this year, at its last meeting, postponed the adoption of those improvement factors based on concern that was expressed by the general public. Therefore, as far as the Department of Taxation is concerned, there is an open forum for this discussion. It exists today.

Assemblyman Mortenson:

Just out of curiosity, is there a general policy, a factor, or a percentage on a residence with regard to annual obsolescence and depreciation?

Dino DiCianno:

By statute, this legislative body established policy, as several Assessors have indicated, that the main method for assessment is the cost-approach. By statute, depreciation is already established at 1.5 percent per year. That is not the only level for depreciation. We also have to take into consideration obsolescence, whether it is economic or functional, with respect to the property.

Assemblyman Mortenson:

Can you explain that?

Dino DiCianno:

I will leave that to Mr. Chairman.

Chairman Parks:

Are there further questions? Thank you very much for that testimony. We will close the hearing on A.B. 348 and proceed to A.B. 514. That was a Committee-recommended bill, and Mr. Goldwater served as the legislative representative to the project, the Streamlined Sales and Use Tax Agreement.

Assembly Bill 514: Provides for enactment of certain provisions that are necessary to carry out Streamlined Sales and Use Tax Agreement. (BDR 32-1292)

Assemblyman Goldwater, Clark County, District No. 10:

I have before you today A.B. 514 that is this Committee's continued effort to streamline our sales and use tax and its method of collection. You will notice that A.B. 514 furthers Nevada's effort to continue to participate in the Streamlined Sales Tax Project. By doing this, we accomplish a number of different things. First, we move closer to collecting a transaction tax in an equitable fashion. We also move further down the road in the Streamlined Sales Tax Project by remaining a governing state of this project, having a vote, and continuing to be leaders in the West. Lastly, we do a few things to bring our Taxation Department a little closer to the twenty-first century; but, given the current level of technology in our Taxation Department, we will just say we will bring them into the 1990s.

First, it would be helpful to tell the Committee what the Streamlined Sales Tax Project is and what we are trying to accomplish. When something is purchased, for example, on the Internet, we are having a very difficult time collecting those sales taxes. In fact, in many cases those taxes are not collected at all. The standard for how you collect a tax on a remote sale is whether or not they have nexus or a substantial physical presence in Nevada. That is found in the 1992 U.S. Supreme Court decision, *Quill v. North Dakota*, which governs transactional sales for tax.

This pamphlet (Exhibit E) explains what the Streamlined Sales Tax Project is about and what simplification would do. Let me read, for the record, a few of the bullet points. "It would streamline the country's more than 7,500 diverse sales tax jurisdictions, each of which has different definitions of what is taxable. States must enact legislation to simplify their sales tax systems as a first step to congressional passage of legislation permitting states to require collection of sales tax by remote sellers."

It is not a new tax. We have decided in this state that we want to tax sales transactions and use of taxable goods. These are things that we have decided are already taxable. It is not an Internet tax at all. It is not taxing things on the Internet. It is an agreement about the collection of owed taxes on purchases made online or from any other remote source. It is not a tax prohibited by Congress. What Congress has said is that states have the right to govern their own taxation.

[Assemblyman Goldwater, continued] Inside your book (Exhibit E) is a fact sheet emphasizing these facts. I should also point out what Nevada is estimated to have lost. This estimate is from the GAO Office and from Professor Fox at the University of Tennessee. In the last legislative session, I had a presentation about Professor Fox's estimates. Those estimates looked so big back then [2001], and we thought we would never meet them. Governor Guinn has been an advocate of the Streamlined Sales Tax Project, as well as our Budget and Fiscal Departments. All of our estimates include a major discount factor to sales tax collections because of remote sales. I think Professor Fox underestimated what Nevada is losing.

We have lost in 2003, an approximate \$2 million; in 2006 it is estimated at \$441 million; and in 2011, you are looking at \$600 million. I encourage you to look through this book (Exhibit E). It is very informative. Also, Chairman Parks has a letter from the National Conference of State Legislatures (Exhibit F). I was a member of the Executive Task Force On Remote Sales and Internet Taxation, and I happily participated in many of the policy developments.

Another important thing about this bill [A.B. 514] and about the Streamlined Sales Tax Project is that we are not mandating anything. We are saying to retailers, "If you would like to volunteer to register with the Taxation Department, volunteer and do so. Register." It gets you out of some of the carrots and sticks in the legislation if you volunteer and register as a remote seller with the Tax Department. The state of Nevada cannot come back at some time and say, "We know you have been in Nevada for ten years, and you should have collected ten-years-worth of taxes, and we will come get you." That is how the Streamlined Sales Tax Project works.

Let's walk through the bill [A.B. 514]. It is all voluntary and mostly "carrots and sticks." The Department of Taxation shall post a Web site or other Internet site. It talks about rates, changes, and amendments to statutory provisions so that people have access to our tax code and can work on it. The Department shall establish and maintain a central electronic registration system that allows a seller to register. Those are things that the registration system may use as a factor to determine if the seller has a nexus in this state for purposes of determining the liability. Section 4 is just conformity with the use tax.

What the Streamlined Sales Tax Project tries to do is resolve some of the complexities involved in trying to establish a simplified system between states. Some states exempt food or cookies as food, but not candy. Shoes, in some states, are taxable, but work boots are not. How is the Nevada Tax Department going to make that determination? Rates between counties and cities are very difficult to determine. Who gets those taxes will depend on

where these things [transactions] happen. These are things that can be worked out by an interstate agreement, and we are slowly moving that way. It takes the passage of this [A.B. 514] to slowly but surely get us there. What A.B. 514 does is it gets the Tax Department on its way to providing information, to setting itself up, to allow sellers to register, and to move us down the road to collect these sales taxes as they should be collected.

[Assemblyman Goldwater, continued] Section 21 allows the Department of Taxation to accept credit cards, debit cards, and electronic transfers for the payment of taxes due. That is an essential part of this [A.B. 514] and something we have found challenging in this state. Other states do not have that much challenge.

I will summarize. Nevada has been a leader in the West, and we have a distinct advantage compared to a number of other states regarding our sales tax. As complicated as it is, it is still relatively simple compared to most other states where the exemptions are voluminous, and the rates and distribution are unbelievably complex. We have a real opportunity to continue to be a leader, not only on the West Coast, but also in the country. I encourage your passage of A.B. 514.

Assemblyman Hettrick:

It is my understanding that the Streamlined Sales and Use Tax Agreement has some kind of implementation based upon when a certain number of states enact the legislation. Does the bill address that? Could you explain for the Committee what that is?

Assemblyman Goldwater:

There is a critical mass of states needed to participate and have adequate membership in order to have this legislation passed for Congress to look at either an interstate agreement or legislation governing the sales tax and recognizing the work of the Project.

Ted Zuend, Deputy Fiscal Analyst:

On November 12, 2002, the implementing states approved the Streamlined Sales and Use Tax Agreement and sent it to the states. At least ten states comprising at least 20 percent of the total population of all states imposing a state's sales tax must be found to be in compliance with its requirements. I believe South Dakota has already passed legislation. They may be the only state so far that is totally in agreement. [A bill explanation document for A.B. 514 (Exhibit H) was distributed by Ted Zuend.]

Chairman Parks:

In the pamphlet (Exhibit E), it refers to \$199 million for 2003. Are your eBay purchases part of that \$199 million?

Assemblyman Goldwater:

They probably are. Last year, I sent the Committee some of my receipts from items I purchased over time. We know, for example, Amazon.com has a nexus in Nevada, in Assemblyman Grady's district, and they have not charged sales tax. They have not collected any. I think the Department of Taxation has collected some estimated sales tax from them. They have collected intermittently from me, but the Quill court decision says they should be collecting every time.

Chairman Parks:

Are there any further questions? We do have a number of guests who signed in to speak on A.B. 514.

Dino DiCianno:

I submitted some material (Exhibit G) for distribution to the Committee. I need to tell you that I have been the voting member for the state of Nevada for the implementing states. What I can do is fill in some gaps and answer some questions on the specifics associated with the Streamlined Agreement and with Nevada's involvement.

The bill in front of you is in skeleton form. It does not have all of the changes necessary with respect to all of the provisions that need to be put into [NRS Chapters] 372 and 374. I am working with Brenda Erdoes, Legislative Counsel, Legal Division, LCB, with respect to that. I need to express the importance with respect to this Committee and this Legislature of passing A.B. 514. It would allow Nevada to be a governing state. This is very important, because, as a governing state, you will sit amongst other states that have passed this, with respect to the adoption of rules, the costs associated with the remote sellers reporting, and other issues that Nevada may have with respect to the Streamlined Sales Tax Agreement. This is very important.

Initially, Woody Thorne, former Deputy Director of the Department of Taxation, who is now with PERS [Public Employees' Retirement System], worked very diligently with the Project four years ago. This has been an ongoing project. Initially, there were certain naysayers who said the states would never come to an agreement to simplify the application of sales and use tax. Initially, California and New York were not members, but if you look at Exhibit G, California and New York are becoming participating states, and this is significant. In response to Mr. Hettrick's question, it does take ten states with

20 percent of the population. With California and New York on board, I do not think I need to tell you what kind of weight that will bear on Congress to allow the states to determine their own destiny with respect to taxation of Internet sales.

[Mr. DiCianno, continued] Let me give you an example of why we think A.B. 514 is very important to Nevada, to retailers, to consumers, and to everyone, including local governments. I can go to a particular electronics store in Reno or visit their Web site where it says "no sales tax owed." So, as an astute consumer, if I do not have to pay sales tax, I will probably purchase that particular item over the Internet; however, March Madness is upon us, and I want to watch the "final four, and I am not about to wait six weeks to get that television that I want in order to watch the games." So, I go to the retailer in Reno, who has exactly what I want, and I approach the sales representative and say, "I can go to your Web site, and I do not have to pay sales tax. What can you do for me?" What happens is the representative wants to make that sale, so he reduces the sales price by the amount of the sales tax that would have been owed if purchased at the original price at that store. The net effect is that the consumer wins, no question. The state loses, and local governments lose. When that retailer, in essence, goes to report to the Department of Taxation, he eats the reduced value and pays the tax on the reduced value. The consumer pays nothing. You may think that is good for the consumer; however, from a policy standpoint, it is not the proper thing to do.

Within the exhibit package (Exhibit G), I have tried to provide you some information with respect to the Streamlined Sales Tax. There are some questions and answers, some of which were covered by Assemblyman Goldwater. It is also an extension of what this body, the Taxation Committee, did during the last legislative session with respect to A.B. 455 of the Seventy-First Session. It got us on the road. I need to stress that Governor Guinn is also very supportive of the Streamlined Sales Tax Project. It is a win-win-win situation. Congress will allow Nevada to participate in this on July 1, 2006; however, the requirement of Congress was that by January 1, 2003, there has to be at least ten states with at least 20 percent of the population in order to petition it. That is why it is important for Nevada to be part of it. Those revenues will not come into play until after January 1, 2006.

Also included in the Exhibit G package are the latest e-stats by the United States Department of Commerce. Those figures are staggering. As Mr. Goldwater stated, I am sure they are "marvelous numbers." Also in the package is the study on the amount of loss to the states, with respect to e-commerce. It is of spurious validity. Some of the assumptions made are probably questionable; however, the bottom line is there are significant revenue

losses to all states to date, with respect to Internet sales. There is no question in my mind that Nevada should become a "governing" member [state]. I would like to see the local governments benefit by this proposal. I would also like to see the state benefit by this proposal. With that, I will answer any questions.

Assemblyman Anderson:

Since this bill is in skeleton form, do you have additional amendments you are considering now? Are you looking for that later?

Dino DiCianno:

They are not amendments. The skeleton nature of it is that we have to amend the specific provisions of [NRS] Chapters 372 and 374, as to the definitions that are prescribed in the Agreement. As Assemblyman Goldwater has already indicated, the definitions are almost a match right now. There are some subtleties, but we can get them in there.

I would like to add that it is important to understand that there are those who are opposed to this. There are certain states that will not join, for example, Colorado, a "home-rule state." I need to point out the fallacy in going down that road, as they have in Colorado. As you can see in the exhibit package (Exhibit G), Montana, which does not have a sales and use tax, is seriously considering during its current legislative session, to enact a sales and use tax to become a member of this and to share in the potential of the Streamlined Sales Tax Act.

Assemblyman Goldwater:

Dino, I want to thank you publicly for your work. Of all of the things I have ever been a part of in my ten years in this business, I have never seen states come together, work a project of this magnitude and this much technical minutia, and be able to have a product. To move this far in this short amount of time is positively amazing. You were as much a part of that as anybody else. We should thank you, and the state owes you a debt of gratitude.

Dino DiCianno:

Thank you very much.

Assemblyman Goldwater:

That is in lieu of a raise. [laughter]

Dino DiCianno:

There is one more point I would like to make. Not only will this bill [A.B. 514] put Nevada on the map, it also has other benefits, not just to the local governments, but to the existing retailers within this state. Not only does it

level the playing field, it makes it equal across-the-board, whether you are a brick and mortar company, a click and brick company, or purely a remote seller. Streamlining will benefit the existing retailers in this state.

Ray Bacon, Nevada Manufacturers Association:

There is not much that I can add. I believe, from a long-term tax policy standpoint, that this is probably the most important bill that will come out this session. It is truly in the state's vested long-term interest to be part of this process.

Gaylyn Spriggs, Nevada Taxpayers Association:

We agree with the testimony of Assemblyman Goldwater and want to be on the record in support of this bill [A.B. 514].

Christina Dugan, Las Vegas Chamber of Commerce:

We are also in support of the bill [A.B. 514] for the various reasons set forward earlier. I will not repeat those in the interest of time.

Mary Lau, Executive Director, Retailers Association of Nevada:

I would like to thank Assemblyman Goldwater for bringing this bill forward and the Chairman for having a Committee introduction of this bill [A.B. 514]. Mr. Goldwater has spent years working on this, and it is extremely vital that this bill does pass. Mr. DiCianno gave a lot of our testimony on the bill, and I will not be redundant. I will add that there are currently seven states that have adopted this, as of March 14, 2003. It is imperative that Nevada stay at the table, and that Mr. DiCianno continues to work on keeping Nevada closer to the sales tax simplification.

Section 22 of the bill states the effective date is January 1, 2006, which allows the Taxation Committee to take one more look at everything in 2005 to make sure that we are current and have done everything we need to do to be a full participant in the Streamlined Sales Tax Project. I am sure that Mr. Goldwater will continue watching that we stay on this path.

There is a lot of work that needs to be done. It is also important that we do funding. I did ask Mr. DiCianno about why there was a fiscal note, since we would not be putting this into effect now. I do not know if it is relevant, but we will look into this further. In the tax package that eventually will leave this Taxation Committee and this legislative session, we are requesting that our Taxation Department has the facilities, technology, and ability to do these things. One thing I will say about the Streamlined Sales Tax Project is, what Carole Vilardo often refers to as "passive revenue-generating," that a lot of retailers and Internet service sellers are voluntarily coming forward and

collecting sales tax currently. They do see the handwriting on the wall. They do recognize that it is not a new tax, but it is a tax that funds local and state governments.

Assemblyman Goldwater:

Why is there a two-thirds voting requirement on this bill [A.B. 514]?

Dino DiCianno:

That is not a question I can answer. Ask Legal Counsel.

Assemblyman Goldwater:

We will not worry about it. I was just curious.

Chairman Parks:

You had commented that this [A.B. 514] was still in skeleton form and that you were currently working with Brenda Erdoes [Legislative Counsel] on other revisions. Are those to be brought forward to us at this time?

Dino DiCianno:

I need to talk to Brenda Erdoes first before I can respond. The language that is contained in A.B. 514 is the language that is necessary to make Nevada in partnership with the Agreement.

Michael Pennington, Reno-Sparks Chamber of Commerce:

We add our support to A.B. 514. We thank Mr. Goldwater for all of his work on the bill, and we encourage your support.

Chairman Parks:

We will close the hearing on A.B. 514 and open the hearing on A.J.R. 8.

Assembly Joint Resolution 8: Proposes amendment to Nevada Constitution to authorize reassessment of real property for taxation purposes upon transfer of ownership and, under certain circumstances, upon its conversion to another use. (BDR C-348)

Assemblyman Bernie Anderson, Washoe County, District No. 31:

In front of you is a request that you have seen several times during past sessions (Exhibit I). If A.J.R. 8 passes this Committee, it moves on to the Constitutional Amendments Committee. A.J.R. 8 would give the cities and local government entities the opportunity to reassess the value of real property when its use has changed from one project to another. Currently, cities lose that opportunity and lose the cash revenue when property continues to grow in value. Older communities tend to be severely affected by this because, as the

DISCLAIMER

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

This information is supplied as an informational service only and should not be relied upon as an official record.

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.

Streamlined Sales Tax Project in Nevada

ASSEMBLY COMMITTEE ON TAXATION

DATE: 7/1/03 ROOM: 3148 EXHIBIT E

SUBMITTED BY: BRADLEY GOLDWATER

Streamlined Sales Tax Project

FACT SHEET

This Is....

About simplification - SSTP would streamline the country's more than 7,500 diverse sales tax jurisdictions, each of which has different definitions of what is taxable. States must enact legislation to simplify their sales tax systems as a first step to congressional passage of legislation permitting states to require collection of sales tax by remote sellers.

About fairness – All commercial transactions should be treated the same way – whether the goods are purchased in a store on "Main Street" or remotely – in a catalog or on the Internet.

About need – Financially strapped local and state governments nationwide are losing billions in uncollected sales tax each year due to remote sales. This loss is projected to reach as much as \$54 billion by 2011.

This Is Not....

A new tax – SSTP enables the collection of sales and use taxes already owed to state and local governments through existing tax laws.

A tax on the Internet – SSTP is an agreement about collection of owed taxes on purchases made online and via catalog – not the use of the Internet itself.

A tax prohibited by Congress – The Internet Tax Freedom Act of 1998 prohibits the creation of any *new* or discriminatory taxes on the Internet. SSTP does not create new or discriminatory taxes.

Other Important Facts:

- States are facing their worst fiscal crisis since World War II. According to the National Governors Association (2002), state budget shortfalls will reach \$50 billion in 2003—and climb to \$60-\$70 billion in 2004.
- According to the Institute for State Studies (2001), local and state governments will lose as much as \$54.8 billion by 2011 in uncollected remote sales taxes.
- According to the U.S. Census Bureau (2002), 33 percent of state revenues come from sales taxes.
- According to eMarketer (2000) consumer e-commerce sales in the US will grow from \$19.4 billion in 1999 to \$125.6 billion by 2004, a 47 percent annual growth rate.
- Holiday online orders were up by 36 percent during the 2002 holiday season, according to BizRate.com (2002).

Streamlined Sales Tax Project

MYTHS & FACTS

MYTH: Supporters of remote sales tax collection are pushing legislation to create new taxes on the Internet.

FACT: We oppose creating any new access taxes or discriminatory taxes on the Internet. We support the collection of sales and use taxes already owed to state and local governments through existing tax laws. We support collection in a fair and equitable manner for all transactions, whether consumers shop at a store on "Main Street" or through remote means.

MYTH: State and local governments are attempting to tax the Internet.

FACT: The Streamlined Sales Tax Project (SSTP) does not create a new tax. Currently, consumers are legally required to pay a use tax on online purchases that are not taxed by the seller. Compliance with the use tax payment requirements is very low. Therefore, most remote shoppers are in violation of the law. We advocate taking the burden of paying the use tax off of the consumer and providing all merchants with equal sales tax collection responsibilities.

MYTH: Congress has already prohibited Internet taxes.

FACT: The Internet Tax Freedom Act of 1998 prohibits the creation of any new or discriminatory taxes on the Internet. SSTP does not create new or discriminatory taxes. Congress has not passed laws to prevent states from charging and collecting existing sales and use taxes.

MYTH: SSTP can result in taxation without representation.

FACT: A Congressional mandate for collection of sales taxes on multi-state sellers with no physical presence in a state does not constitute taxation without representation. The sales tax is a tax on consumers and not sellers. These consumers use the services provided by local and state governments, such as roads, schools and public safety, which are funded in part by state and local sales taxes.

MYTHS & FACTS—2

MYTH: State funded programs like education, law enforcement and transportation will not be affected if online transactions remain untaxed.

FACT: According to the U.S. Census Bureau, 33 percent of state revenues come from sales taxes. If online and mail order sellers are not required to collect sales taxes, state and local governments stand to lose as much as \$54.8 billion in revenues by 2011, according to an Institute for State Studies report (2001). Sales tax revenues fund essential government services including education, law enforcement and transportation. If sales and use taxes are not collected on remote transactions, state and local governments will have to find other ways to offset their losses. Alternative financing could include increasing property taxes and sales tax rates.

MYTH: E-commerce needs preferential tax treatment because it is a new industry.

FACT: The Internet has reached 50 million people in four years, compared to its technological counterparts: radio and TV, which took 38 and 13 years respectively, to reach the same number of users, according to Nokia Telecommunications (1999). Growing at a meteoric rate, the Internet's development has been nothing short of phenomenal. According to eMarketer (2000) consumer e-commerce sales in the U.S. will grow from \$19.4 billion in 1999 to \$125.6 billion by 2004, a 47 percent annual growth rate. Requiring online sellers to collect sales taxes will not harm the growth of the Internet economy.

MYTH: Taxing E-commerce will slow the growth of the Internet.

FACT: A level playing field is best for the new economy. A Jupiter Research report released in 2002 states that collection of sales tax on Internet purchases "will not be a significant impediment to the growth of the online retail channel." The bottom line: collection of sales tax on online purchases would have little impact on "virtual" business.

Streamlined Sales Tax Project

QUESTIONS & ANSWERS

Q: What is the Streamlined Sales Tax Project?

A: The Project is a proactive approach by states, with input from local governments and the private sector, to design, test and implement a radically simplified sales and use tax system for the 21st century. The goal of the Project is to substantially reduce or eliminate the costs and burdens of sales tax compliance for businesses through a combination of simplified laws and administrative policies and the implementation of a system that would be paid for by states. Project participants embarked on their mission to create a new, improved and simpler system in February 2000 and have agreed to a plan – the Streamlined Sales Tax Project (SSTP). This reform in sales and use tax policies will provide remote sellers that do business in multiple states an easier way to calculate, collect and remit existing use taxes.

Q: Didn't Congress already prohibit Internet taxes?

A: The Internet Tax Freedom Act (ITFA), passed by Congress in 1998, placed a three-year moratorium on any new and discriminatory taxes on the Internet, such as Internet access fees. The legislation also created the Advisory Commission on Electronic Commerce to consider issues associated with the taxation of sales purchased on the Internet. The Commission completed its work in April of 2000 and issued a report to Congress. Unfortunately, the Commission was not able to reach the two-thirds vote required by Congress to make any official "findings or recommendations" on the subject of the collection of sales and use taxes on sales made over the Internet. On November 28, 2001, this moratorium was extended two more years, giving states time to work toward sales tax simplification. The states have completed the simplification agreement called the Streamlined Sales Tax Project (SSTP).

Q: Doesn't applying the sales tax to online purchases constitute a new tax?

A: No. Requiring online merchants to collect sales tax does not create a new tax. Forty-five states currently impose sales and use taxes on the purchase of products and goods. Main Street retailers are required to collect these taxes on behalf of the states. However, some states are not allowed to mandate sales tax collection from out-of-state remote sellers. In this instance, consumers are required to pay, or remit, a comparable use tax directly to his or her state. These use taxes currently exist in all 45 states that impose sales tax. Most consumers are unaware of or often ignore this use tax requirement, thereby depriving states of much needed revenue.

QUESTIONS & ANSWERS—2

Q: Why is collecting sales taxes on remote purchases such a big issue?

A: The number of sales made over the Internet is growing at a phenomenal rate. According to eMarketer (2000) consumer e-commerce sales in the US will grow from \$19.4 billion in 1999 to \$125.6 billion by 2004, a 47 percent annual growth rate. The success of the New Economy is important, but increasing online sales - on which sales taxes are not uniformly paid - is unfair to Main Street merchants who must collect. Also at a disadvantage are state and local governments who have a significant loss of sales tax revenue. Sales tax revenue funds one-quarter to one-half of these governments' services, ranging from parks and recreation to police and fire, and from education to transportation. Without this essential revenue, governments have choices ranging from cutting services to increasing other taxes, such as property and income taxes.

Q: Just how big an issue is this for state and local government?

A: Several studies have been conducted to examine the revenue lost by state and local governments in uncollected sales tax due to remote sales. The studies show local and state governments are losing billions each year during the past three years in uncollected sales tax. The Institute for State Studies (2001) study estimates the loss could reach as much as \$54.8 billion by 2011.

Q: Do sales and use tax laws really need to be streamlined?

A: Yes. With some 7,500 state and local taxing jurisdictions across the nation, America's sales and use tax system is antiquated, complex and cumbersome to administer. A major problem with so many taxing jurisdictions is the variety of definitions of what is taxable. For example, a marshmallow might be defined as a food in one state - and therefore not taxed - but as a taxable candy in another state. Harmonization of sales tax laws, allowing for some local variations, is necessary to alleviate the collection burden.

Q: How will the new, simplified system work?

A: Participation will be voluntary. To take part, states will be required to conform to the Streamlined Sales Tax Project agreement by enacting certain simplification measures. Under the new system, small and medium sized multi-state retailers would be able to use state-certified, specially designed software (at no expense to them) to calculate, collect and remit use taxes for transactions in states in which they do not have a physical presence. Larger multi-state businesses would ask states to certify their existing tax software. Participating sellers would not be held liable for system errors.

QUESTIONS & ANSWERS—3

Q: Will consumers benefit by a level playing field between remote sellers and brick-and-mortar retailers?

A: Definitely. Consumers will be treated the same, regardless of whether they choose to shop in a store, online or through a catalog. Consumers also benefit when states will not have to supplant the revenues they receive from sales tax to fund essential community services.

Q: How much does revenue generated from sales and use taxes account for a state's overall budget?

A: According to U.S. Census Bureau (2002), 33 percent of states' revenues come from the collection of sales and use taxes.

Q: How are Americans who are part of the "Digital Divide" affected?

A: A "digital divide" in access to the Internet exists between more affluent and lower-income households. According to the U.S. Department of Commerce (2001), personal computers are present in 88 percent of homes in which families make \$75,000 a year or more, but in fewer than 38 percent of families making less than \$15,000. Even where access is available through public facilities, credit is not readily available to all low-income families. Any increases in sales tax to offset the lack of revenue resulting from by uncollected taxes on remote sales will fall disproportionately on those making less than \$15,000 per year.

Q: Will uniformity as proposed by the Streamlined Sales Tax Project reduce autonomy of states and their legislatures?

A: States rights will not be affected. State legislatures still determine what is taxable or exempt and what is the rate of tax in their state. Uniformity in the Streamlined Sales Tax System requires uniform definitions and uniform administrative procedures-not uniform taxes. This is in response to the U.S. Supreme Court decision (*Quill versus North Dakota*, 1992), which said the complicated state and local sales tax systems across this country have created an undue burden on interstate commerce. If states are unwilling to be a participating state and accept harmonization in definitions to reduce or eliminate burdens on sellers, they will not be eligible to collect remote sales taxes.

QUESTIONS & ANSWERS—4

Q: Do the simplifications go far enough to overcome past U.S. Supreme Court decision (*Quill versus North Dakota*, 1992), which said that sales tax systems across the country are complex and an undue burden on interstate commerce and therefore sellers with no physical presence in a state do not have to collect sales taxes?

A: Congress will determine if the simplifications are enough to allow state sales tax collection on remote sales. However, the Streamlined Sales Tax Project Agreement includes dramatic simplifications in exemption processing, uniform definitions, state level administration of local taxes, reducing the number of sales tax rates, determining the appropriate tax rate, and reducing audit burdens for sellers using the state-certified technology. The Agreement provides dramatic simplification in almost every aspect of sales and use tax collection and administration, especially for multi-state sellers.

Q: If Congress mandates collection of sales taxes on multi-state sellers with no physical presence in a state, is this taxation without representation.

A: No. The sales tax is a tax on consumers and not sellers and benefits the consumers home community. Also, Congress will not mandate collection unless and until a state has taken the necessary steps to reduce the sales tax collection burden on sellers.

Q: Will states expand their tax bases through the uniform definitions?

A: No. Business and government representatives jointly developed the uniform definitions to simplify tax collection and administration, not increase taxes. The definitions harmonize current tax bases to the extent possible so that increases or decreases in taxes will be minimized. To achieve the uniform definitions, some states may choose to make changes to their tax base, but the decision to do so lies solely in the hands of state legislatures.

Q: How does SSTP and related legislation help small businesses?

A: The Streamlined Sales Tax System and related legislation provides the following benefits to small businesses:

- Simplifies exemption processing with protection for sellers that accept exemption certificates.
- Provides one uniform tax return for all states with the elimination of local tax returns.
- Allows a small business the option to use state-certified software or a Certified Service Provider to reduce or eliminate sales tax administration burdens.
- Makes it easier for smaller businesses to expand to markets in other states via the Internet or catalog because all states will use the uniform definitions and administrative procedures.
- With Congressional action, levels the playing field between (1) small Main Street businesses who must collect sales taxes and (2) large, multi-state businesses that are not required to collect sales taxes because they have no physical presence in a state.

QUESTIONS & ANSWERS—5

Q: Why don't some of the Streamlined Sales Tax System provisions take effect until January 1, 2006?

A: Current sales tax laws and systems are complex. Simplification requires time for state and local governments to implement the changes and provide adequate notice to sellers. The Streamlined Sales Tax System allows states to simplify immediately but gives them time to absorb provisions that might affect their revenue sources.

Q: Should business activity taxes be addressed at the same time as we are simplifying sales taxes?

A: Some are suggesting that states and Congress clarify business activity tax nexus standards (e.g., corporation income or franchise taxes) at the same time they are enacting sales tax simplifications. Business activity tax issues and sales tax simplification are separate and unrelated issues. Both taxes are complex and need more uniformity. The Streamlined Sales Tax System provides a model methodology that should be used in simplifying other taxes. This cooperative effort between multiple governments and businesses is unprecedented. It would not be wise to hold up state and Congressional action on the Streamlined Sales Tax System to address business activity taxes. Business activity taxes require a deliberate effort similar to what has been done in streamlining sales taxes.

Q: What are the costs to sellers if they use state certified software or a Certified Service Provider for their tax collection functions?

A: The Streamlined Sales Tax System provides new technology options to sellers for sales tax administration. A seller can use a Certified Service Provider (CSP) or acquire state certified software. If a seller uses a CSP, the states agree to work together to pay for the costs of the CSPs that will be selected through a combined contract. The CSPs are responsible for developing software that determines the tax application, rate and jurisdiction. The CSPs will provide the necessary software to integrate with the seller's order processing and accounting systems. The CSPs will file applicable tax returns for the sellers. Most importantly, a seller's tax collection burden is eliminated under this option.

The states will also collectively certify software for use by sellers. This is called a Certified Automated System (CAS). The seller obtains the CAS and will receive a compensation allowance from the states for two years for acquiring the CAS. The amount of the allowance will be based on the cost of the CSPs. The seller remains liable for filing returns and remitting the tax with a CAS.

QUESTIONS & ANSWERS—6

Q: What other technology features are included in the Streamlined Sales Tax System?

A: The Streamlined Sales Tax System includes new technology to make tax collection easier including:

- Uniform returns that can be filed electronically.
- Central registration system to provide one-stop service for voluntary collectors. The system will be eventually expanded to all businesses.
- State-approved data bases matching rates with jurisdictions. Sellers using the databases will not be held responsible for errors in tax collection.
- A state-by-state taxability matrix that will list items and services and the taxability determination for each state. Sellers using the matrix will not be held responsible for errors in tax collection.



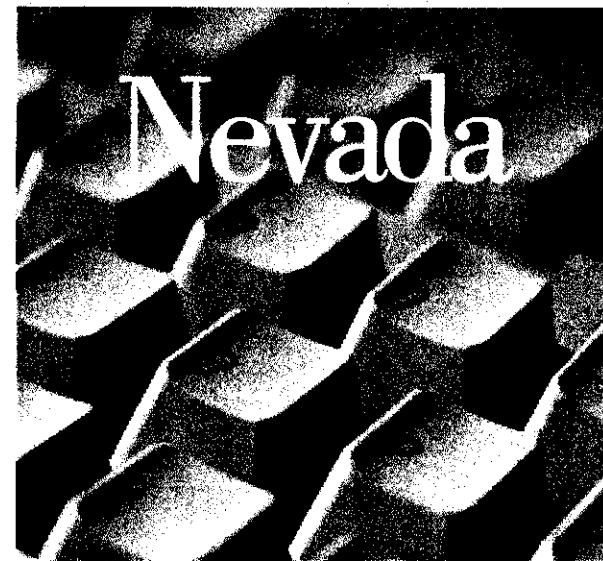
It is projected that
Nevada is losing
millions

in uncollected sales
tax revenues
each year.



Oquirrh Institute
www.oquirrhinstitute.org

Taxing Catalog
and Internet
Sales in



THE ISSUE

The Internet has opened up an exciting channel of commerce. The taxation of the Internet was decided by the Supreme Court's *Quill* decision which resulted in a situation where remote sellers—such as Internet and catalog retailers—often do not collect sales taxes, while traditional “brick-and-mortar stores” must collect sales taxes on every transaction. The loss of sales tax revenue on Internet sales is eroding the tax base of the states and providing Internet retailers with tax advantages that are unfair to traditional brick and mortar retailers. The *Quill* decision made clear that Congress has the authority to take action to cure this inequity.

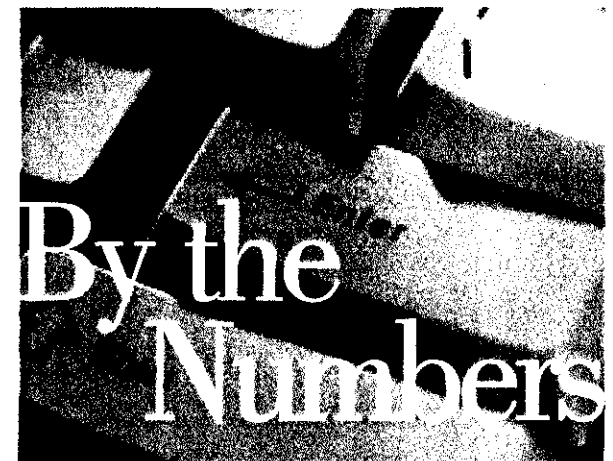
The Streamlined Sales Tax Project (SSTP) is designed to create a “level playing field”—an equal tax collection policy—for all commercial transactions through a simplified, uniform and equal tax system.

THIS IS...

- **About simplification** – SSTP would streamline the country's more than 7,500 diverse sales tax jurisdictions, each of which has different definitions of what's taxable. States must enact legislation to simplify their sales tax systems as a first step to congressional passage of legislation permitting states to require collection of sales tax by remote sellers.
- **About fairness** – All commercial transactions should be treated the same way—whether the goods are purchased in a store on “Main Street” or remotely—in a catalog or on the Internet.
- **About need** – Financially strapped local and state governments nationwide are losing billions in uncollected sales tax due to remote sales. This loss is projected to reach to as much as \$54 billion by 2011.

THIS IS NOT...

- **A new tax** – SSTP enables the collection of sales and use taxes already owed to state and local governments through existing tax laws.
- **A tax on the Internet** – SSTP is an agreement about collection of owed taxes on purchases made online and via catalog—not the use of the Internet itself.
- **A tax prohibited by Congress** – The Internet Tax Freedom Act of 1998 prohibits the creation of any new and discriminatory taxes on the Internet. SSTP does not create new or discriminatory taxes.



Nevada Budget Deficit:

Projected State and Local Revenue Losses from E-Commerce Activity:

2003:

2006:

2011:



NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

AB 514

Angela Z. Monson
State Senator
Oklahoma
President, NCSL

Gary S. Olson
Director, Senate Fiscal Agency
Michigan
Staff Chair, NCSL

William T. Pound
Executive Director

March 21, 2003

The Honorable David R. Parks
State Assemblyman
Legislative Office Building
401 South Carson Street
Carson City, NV 89701-4747

Dear Assemblyman Parks:

We are writing to encourage you and your legislature to consider "The Streamlined Sales and Use Tax Agreement," a proposed interstate agreement intended to simplify state and local sales taxes and to facilitate collection of sales and use taxes on out-of-state sales. As you may know, it is nearly unprecedented for the National Conference of State Legislatures to urge state legislatures to take a particular course of action regarding state laws and policies. However, the leadership of NCSL believes that the objectives of the agreement are so important that all legislatures whose states have the sales tax as part of their revenue systems should give this agreement serious attention.

As you know, 45 states plus the District of Columbia use sales taxes as an integral part of their revenue systems. Changes in the nation's economy and in the way consumers make purchases are eroding sales tax revenues. For example, the Business Research Center at the University of Tennessee estimates that state and local governments lost \$13.3 billion in 2001 because they were not able to collect taxes on Internet sales. The center's estimate of revenue losses rises to \$45.2 billion in 2006 and \$54.9 billion for 2011. Those losses clearly exacerbate the severe budget gaps states are currently facing and affect legislatures' ability to provide essential services such as education, health care, transportation and corrections. These revenue losses also weaken the standing of the states in the federal system and threaten to shift power and decision-making to the national government.

The Streamlined Sales and Use Tax Agreement is a significant attempt to modernize sales and use tax systems and to save them as viable components in state revenue mixes. The Agreement was developed by legislators, tax administrators and representatives from 35 states whose legislatures earlier had passed model legislation authorizing their discussions. Last November, after 12 months of deliberations and negotiations, these delegates finalized the interstate agreement with the hope that legislatures would adopt its recommendations during their sessions in 2003.

ASSEMBLY COMMITTEE ON TAXATION

DATE: 4/1/03 ROOM: 3142 EXHIBIT F

SUBMITTED BY: DAVID PARKS, DAVID CONDUEN

F-1 OF 3

Washington
444 North Capitol Street, NW, Suite 515
Washington, D.C. 20001
Phone 202.624.5400 Fax 202.737.1069

Denver
7700 East First Place
Denver, Colorado 80230
Phone 303.364.7700 Fax 303.364.7800

Website www.ncsl.org

We have enclosed a workbook and other materials that should assist consideration of the agreement. If your legislature has not already done so, you will need to compare the agreement, which is included in the workbook, to your state's current sales and use tax laws and regulations to determine what changes would be necessary to come into compliance with the agreement. Please keep in mind that some of these changes can be accomplished through administrative action and do not require legislation. Also included in the workbook is the original model legislation that served as the basis for the interstate agreement. If your state did not enact the original model legislation in 2001 or 2002, you should consider starting with it.

NCSL's interest in streamlining sales taxes originated with two U.S. Supreme Court decisions—the 1967 *Bellas Hess* case and the 1992 *Quill v. North Dakota* case—which acknowledged that consumers owe the sales tax when they purchase goods through catalogues or over the Internet, but ruled that states cannot force retailers to collect the tax. The *Quill* case, though, offered critical clues about what states could do to overcome the court's objections. Most importantly, the court placed the problem with the complexity of many state sales tax systems and the burden that imposes on a out-of-state retailer in determining the tax owed. We believe the Streamlined Sales and Use Tax Agreement substantially simplifies state and local sales tax systems, removes the burdens to interstate commerce that were of concern to the Supreme Court, and protects state sovereignty. In addition, the agreement “levels the playing field” between local and out-of-state merchants and benefits all retailers by reducing their administrative costs.

Participation in the agreement, of course, is voluntary. However, it is our hope that the agreement will serve as the basis for Congress to grant authority to states to require all sellers, regardless of location, to collect sales and use taxes. Demonstrating momentum in this effort to Congress is, therefore, another reason to encourage you to make room in your session for consideration of the interstate agreement.

For four years, NCSL's work on sales tax simplification has been guided by a special task force composed of legislators and staff from throughout the country. The task force, co-chaired by Illinois Senator Steve Rauschenberger and Texas Senator Leticia Van de Putte, is now arranging a major educational effort, funded in part by private sector supporters of simplification efforts, to assist legislatures in their consideration of the agreement. The leaders and members of the task force, as well as NCSL staff, are eager to help you in anyway they can, including providing briefings or testifying in your capitol.

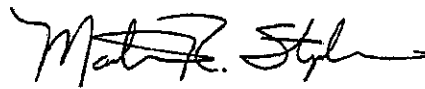
F-2 OF 3

We appreciate your consideration of this critical issue and look forward to making NCSL's resources available to you. Neal Osten and Kevin Holmes in the Washington office and Graham Williams in the Denver office are true experts on this complex issue. Please call them with questions or requests for assistance.

Sincerely,



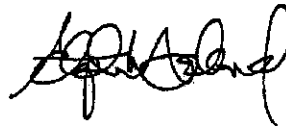
Senator Angela Monson
Oklahoma State Senate
President, NCSL



Speaker Martin Stephens
Utah House Of Representatives
President-elect, NCSL



Delegate John Hurson
Maryland House of Delegates
Vice President, NCSL



Senator Stephen Saland
New York State Senate
Immediate Past President, NCSL

F. 3 OF 3

STREAMLINED SALES TAX LEGISLATION

Implementing States

The following states have enacted legislation authorizing the state to enter into a multistate agreement to streamline its sales and use tax collection and administration in specified ways. This authorizing legislation is generally known as the Uniform (or Simplified) Sales and Use Tax Administration Act and the states that have enacted it are known as the Streamlined Sales Tax Implementing States.

<i>Alabama</i>	<i>Louisiana</i>	<i>Nevada</i>	<i>Tennessee</i>
<i>Arizona</i>	<i>Maine</i>	<i>New Jersey</i>	<i>Texas</i>
<i>Arkansas</i>	<i>Maryland</i>	<i>North Carolina</i>	<i>Utah</i>
<i>District of Columbia</i>	<i>Massachusetts</i>	<i>North Dakota</i>	<i>Vermont</i>
<i>Florida</i>	<i>Michigan</i>	<i>Ohio</i>	<i>Virginia</i>
<i>Illinois</i>	<i>Minnesota</i>	<i>Oklahoma</i>	<i>Washington</i>
<i>Indiana</i>	<i>Mississippi</i>	<i>Rhode Island</i>	<i>West Virginia</i>
<i>Iowa</i>	<i>Missouri</i>	<i>South Carolina</i>	<i>Wisconsin</i>
<i>Kansas</i>	<i>Nebraska</i>	<i>South Dakota</i>	<i>Wyoming</i>
<i>Kentucky</i>			

The Streamlined Act

The Act has been introduced in the legislatures of the following states during 2003. If this legislation is enacted, the state would join the Implementing States.

California S.B. 157, to committee, Feb. 25.

Hawaii S.B. 1397, passed Senate, to House committee, March 10; H.B. 1226, to committee, Feb. 10.

Montana (See below.)

New York S.B. 2850, passed Senate, March 11.

The Streamlined Agreement

On November 12, 2002, the Implementing States approved the Streamlined Sales and Use Tax Agreement and sent it to the states. To come into effect, at least 10 states comprising at least 20% of the total population of all states imposing a state sales tax must be found to be in compliance with its requirements. Legislation to come into compliance has been introduced in the following states during 2003.

Arkansas S.B. 483, introduced Feb. 28.

Florida S.B. 1776, to committees, March 11.

Indiana S.B. 465, passed Senate, to House, Feb. 24; H.B. 1815, passed House, to Senate, Feb. 25.

Kansas S.B. 192, passed Senate, to House committee, March 5; H.B. 2264, to committee, Feb. 12.

Kentucky H.B. 293, to Governor, March 11.

Maine H.P. 552, referred to joint committee, Feb. 14.

Missouri S.B. 631, introduced Feb. 26.

Montana Several bills (S.B. 224, S.B. 466, S.B. 470, and H.B. 749) are pending that would enact a sales and use tax that would include the Streamlined Act and be consistent with the requirements of the Streamlined Agreement.

Nebraska L.B. 282, engrossed, Feb. 24.

North Carolina S.B. 99 and H.B. 44, in committees, Feb. 20.

North Dakota S.B. 2095 and S.B. 2096, passed Senate, to House, Feb. 13.

Oklahoma S.B. 708, passed Senate, to House committee, March 6.

South Dakota S.B. 76, enacted March 5.

Texas S.B. 823, to Senate committee March 10.

Utah S.B. 147, passed both houses, sent for enrollment, March 6.

Washington H.B. 1863, from committee ("do pass"), March 4; S.B. 5783, from committee ("do pass"), Feb. 27.

West Virginia H.B. 3014, to Governor, March 8.

ASSEMBLY COMMITTEE ON TAXATION

DATE: 4/1/03 ROOM: 3142 EXHIBIT 61 of 45

SUBMITTED BY: DINO DI CIANNO

STREAMLINED SALES TAX LEGISLATION

Implementing States

The following states have enacted legislation authorizing the state to enter into a multistate agreement to streamline its sales and use tax collection and administration in specified ways. This authorizing legislation is generally known as the Uniform (or Simplified) Sales and Use Tax Administration Act and the states that have enacted it are known as the Streamlined Sales Tax Implementing States.

<i>Alabama</i>	<i>Kentucky</i>	<i>New Jersey</i>	<i>Texas</i>
<i>Arizona</i>	<i>Louisiana</i>	<i>North Carolina</i>	<i>Utah</i>
<i>Arkansas</i>	<i>Maine</i>	<i>North Dakota</i>	<i>Vermont</i>
<i>District of Columbia</i>	<i>Maryland</i>	<i>Ohio</i>	<i>Virginia</i>
<i>Florida</i>	<i>Michigan*</i>	<i>Oklahoma</i>	<i>Washington</i>
<i>Illinois</i>	<i>Minnesota</i>	<i>Rhode Island</i>	<i>West Virginia</i>
<i>Indiana</i>	<i>Missouri</i>	<i>South Carolina</i>	<i>Wisconsin</i>
<i>Iowa</i>	<i>Nebraska</i>	<i>South Dakota</i>	<i>Wyoming</i>
<i>Kansas</i>	<i>Nevada</i>	<i>Tennessee</i>	

*Michigan's version of the Act was repealed effective Dec. 31, 2002, by its own terms.

The Streamlined Act

The Act has been introduced in the legislatures of the following states during 2003. If this legislation is enacted, the state would join the Implementing States.

California S.B. 157, to committee, Feb. 25.

Hawaii S.B. 1397, passed Senate, to House, March 4; H.B. 1226, to committee, Feb. 10.

Massachusetts S.B. 1949, enacted March 5.

Mississippi S.B. 2089, passed Senate, passed House, March 4.

Montana S.B. 224, introduced Jan. 16; S.B. 466, introduced Feb. 26.*

The Streamlined Agreement

On November 12, 2002, the Implementing States approved the Streamlined Sales and Use Tax Agreement and sent it to the states. To come into effect, at least 10 states comprising at least 20% of the total population of all states imposing a state sales tax must be found to be in compliance with its requirements. Legislation to come into compliance has been introduced in the following states during 2003.

Arkansas S.B. 483, introduced Feb. 28.

Florida S.B. 1776, introduced March 4.

Indiana S.B. 465, passed Senate, to House, Feb. 24; H.B. 1815, passed House, to Senate, Feb. 25.

Kansas S.B. 192, from committee ("recommended"), Feb. 26; H.B. 2264, to committee, Feb. 12.

Kentucky H.B. 293, passed House, to Senate Rules committee, March 5.

Maine H.P. 552, referred to joint committee, Feb. 14.

Missouri S.B. 631, introduced Feb. 26.

Montana S.B. 224, introduced Jan. 16; S.B. 466, introduced Feb. 26.*

Nebraska L.B. 282, engrossed, Feb. 24.

North Carolina S.B. 99 and H.B. 44, in committees, Feb. 20.

North Dakota S.B. 2095 and S.B. 2096, passed Senate, to House, Feb. 13.

Oklahoma S.B. 708, passed Senate, to House, March 4.

South Dakota S.B. 76, enacted March 6.

Texas S.B. 823, introduced March 3.

Utah S.B. 147, passed Senate, from House committee (reported favorably), March 3.

Washington H.B. 1863, from committee ("do pass"), March 4; S.B. 5783, from committee ("do pass"), Feb. 27.

West Virginia H.B. 3014, passed House, passed Senate, March 5.

*Montana does not currently impose a sales and use tax, but S.B. 224 and S.B. 466 would enact one.



Streamlined Sales Tax Project

Executive Summary

February 2003

Steering Committee

Diane Hardt
Co-Chair
Wisconsin

Scott Peterson
Co-Chair
South Dakota

Carol Fischer
Missouri

Harold Fox
New Jersey

Bruce Johnson
Utah

Eleanor Kim
Texas

Tom Kimmitt
Pennsylvania

Charlotte Quarles
Kentucky

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.

Thirty-nine states and the District of Columbia are involved in the Project. Thirty-six states and the District of Columbia are voting participants in the Project because their legislators have enacted enabling legislation or their governors have issued executive orders or similar authorizations. Three states are non-voting participants in the work of the Project because they do not have the formal commitment of the state executive or legislative branches, but are still participating. 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, four work groups, and a number of sub-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.
- **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.
- **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. States will move forward in 2003 and enact the conforming legislation. The Agreement will become effective when at least ten states with twenty percent of the total population of all states imposing a state sales tax have enacted the conforming legislation and are found to be in compliance with the requirements of the Agreement.

It's anticipated that states that enact 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.

The project website is www.streamlinedsalestax.org.



Streamlined Sales Tax System

Questions & Answers

The following Questions and Answers have been developed by the Streamlined Sales Tax Project for legislative sponsors and others involved in state legislation. For additional information, please refer to "A Lawmaker's Guide to the Streamlined Sales Tax Project: 2003, The Year of Decision." Also refer to the Streamlined Sales Tax Project web site at: www.streamlinedsalestax.org.

1. Will uniformity as proposed by the Streamlined Sales Tax Project reduce autonomy of states and their legislatures?

State legislatures still determine what is taxable or exempt and what is the rate of tax in their state. Uniformity in the Streamlined Sales Tax System requires uniform definitions and uniform administrative procedures—not uniform taxes. Some may perceive this uniformity as reduced autonomy. However, the U.S. Supreme Court (*Quill versus North Dakota, 1992*) has said that the complicated state and local sales tax systems across this country have created an undue burden on sellers. If states are unwilling to accept uniformity in definitions and administrative procedures to reduce or eliminate burdens on sellers, it is likely that Congress may impose far more stringent requirements on the states.

2. Do the simplifications go far enough to overcome past U.S. Supreme Court decisions (*Quill versus North Dakota, 1992*) which said that sales tax systems across the country are too complex to require collection from sellers with no physical presence in a state?

Only Congress can determine if the simplifications are enough for a mandate for collection. The Streamlined Sales Tax System includes dramatic simplifications in exemption processing, uniform definitions, state level administration of local taxes, a reduced number of sales tax rates, determining the appropriate tax rate, and reduced audit burdens for sellers using the state-certified technology. The System provides dramatic simplification in almost every aspect of sales and use tax collection and administration, especially for multi-state sellers.

3. Does the Streamlined Sales Tax System impede Internet development?

No. The Streamlined Sales Tax System is about simplifying the collection and administration of sales taxes for all types of sellers so that the burden of compliance is reduced for everyone. The Streamlined Sales Tax System provides an opportunity for all businesses—from Main Street to the Internet—to reduce the complexity associated with tax administration while at the same time providing an avenue for sellers to grow their businesses into new areas absent the concern that their new business structure could run afoul of state sales tax laws.

4. If Congress mandates collection of sales taxes on multi-state sellers with no physical presence in a state, is this taxation without representation.

No. The sales tax is a tax on consumers and not sellers. Also, Congress will not mandate collection unless a state has taken the necessary steps to reduce the sales tax collection burden on sellers.

5. Are states increasing taxes by taxing Internet transactions?

No. Purchases made over the Internet are taxable now—but most consumers don't know this and the current laws are almost impossible to enforce against individual consumers. Consumers must pay a complementary use tax when the seller does not collect a sales tax at the point of sale on a taxable transaction. The Streamlined Sales Tax System was created by government and businesses to enable sales tax collection with reduced compliance burdens on sellers. This is not about new taxes.

6. Will states expand their tax bases through the uniform definitions?

No. Business and government representatives jointly developed the uniform definitions to simplify tax collection and administration, not increase taxes. The definitions were designed to model current tax bases to the extent possible so that increased or decreased taxes would be minimized. To achieve the uniform definitions, some states may choose to make changes to their tax base, but the decision to do so lies solely in the hands of state legislatures.

7. How does the Streamlined Sales Tax System and related legislation help small businesses?

The Streamlined Sales Tax System and related legislation provides the following benefits to small businesses:

- Simplifies exemption processing with protection for sellers that accept exemption certificates.
- Provides one uniform tax return for all states with the elimination of local tax returns.
- Allows a small business the option to use state-certified software or a Certified Service Provider to reduce or eliminate sales tax administration burdens.
- Makes it easier for businesses to expand to markets in other states or via the Internet because all states will use the uniform definitions and administrative procedures.
- With Congressional action, levels the playing field between (1) small Main Street businesses who collect sales taxes and (2) large, multi-state businesses that are not required to collect sales taxes because they have no physical presence in a state.

8. Why don't some of the Streamlined Sales Tax System provisions take effect until January 1, 2006?

Sales tax is a significant revenue source for many states. Sales tax laws and systems are complex. Radical simplification requires time for state and local

governments to implement the changes and provide adequate notice to sellers. The Streamlined Sales Tax System allows states to simplify immediately and work toward the more difficult provisions that might affect their revenue sources.

9. Should business activity taxes be addressed at the same time as we are simplifying sales taxes?

Some are suggesting that states and Congress clarify business activity tax nexus standards (e.g., corporation income or franchise taxes) at the same time they are enacting sales tax simplifications. Business activity tax issues and sales tax simplification are separate and unrelated issues. Both taxes are complex and need more uniformity. The Streamlined Sales Tax System provides a model methodology that should be used in simplifying other taxes. This cooperative effort between multiple governments and businesses is unprecedented. Still, it would not be wise to hold up state and Congressional action on the Streamlined Sales Tax System to address business activity taxes. Business activity taxes require a deliberate effort similar to what has been done in streamlining sales taxes.

10. Should there be a federal judicial review of decisions made by the member states of the Streamlined Sales Tax System?

No. State courts have interpreted tax law for many years. The Streamlined Sales Tax Agreement between states provides adequate mechanisms to resolve disputes. Sales tax administration is a state issue. State sovereignty should be protected.

11. What are the costs to sellers if they use state certified software or a Certified Service Provider for their tax collection functions?

The Streamlined Sales Tax System provides new technology options to sellers for sales tax administration. A seller can use a Certified Service Provider (CSP) or acquire state certified software. If a seller uses a CSP, the states agree to work together to pay for the costs of the CSPs that will be selected through a combined contract. The CSPs are responsible for developing software that determines the tax application, rate and jurisdiction. The CSPs will provide the necessary software to integrate with the seller's order processing and accounting systems. The CSPs will file applicable tax returns for the sellers. A seller's tax collection burden is eliminated under this option.

The states will also collectively certify software for use by sellers. This is called a Certified Automated System (CAS). The seller obtains the CAS and will receive a compensation allowance from the states for two years for acquiring the CAS. The amount of the allowance will be based on the cost of the CSPs. The seller remains liable for filing returns and remitting the tax with a CAS.

12. What other technology features are included in the Streamlined Sales Tax System?

The Streamlined Sales Tax System includes new technology to make tax collection easier including:

- Uniform returns that can be filed electronically.

- Central registration system to provide one-stop service for voluntary collectors. The system will be eventually expanded to all businesses.
- State-approved data bases matching rates with jurisdictions. Sellers using the data bases will not be held responsible for errors in tax collection.
- A state-by-state taxability matrix that will list items and services and the taxability determination for each state. Sellers using the matrix will not be held responsible for errors in tax collection.

Assembly Bill No. 455--Assemblymen Goldwater,
Cegavske and Arberry - 2001

Joint Sponsors: Senators McGinness,
Coffin and Schneider

CHAPTER 364

AN ACT relating to taxation; authorizing the Nevada tax commission to enter into, under certain circumstances, the streamlined sales and use tax agreement, to act jointly with other states to simplify and modernize sales and use tax administration, take other actions reasonably required to implement the agreement and represent this state before the other states that are signatories to the agreement; allocating certain liabilities among certain participants in certain sales or services that involve more than one state; specifying that no provision of the agreement invalidates or amends any provision of Nevada law; requiring out-of-state retailers who contract with the state or a political subdivision to agree to collect sales tax on sales within this state; and providing other matters properly relating thereto.

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

Section 1. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 18, inclusive, of this act.

Sec. 2. *Sections 2 to 18, inclusive, of this act shall be known as the Simplified Sales and Use Tax Administration Act.*

Sec. 3. *The legislature hereby finds and declares that:*

1. A simplified sales and use tax system will reduce, and over time eliminate, the burden and cost for all vendors to collect this state's sales and use tax.

2. This state should enter into an agreement with one or more states to simplify and modernize sales and use tax administration to reduce substantially the burden of tax compliance for all sellers and for all types of commerce.

3. This state should participate in multistate discussions to review and, if necessary, amend the terms of the agreement to simplify and modernize sales and use tax administration to reduce substantially the burden of tax compliance for all sellers and for all types of commerce.

Sec. 4. *As used in sections 2 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 11, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 5. *"Agreement" means the streamlined sales and use tax agreement.*

Sec. 6. *"Certified automated system" means software certified jointly by the states that are signatories 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. 7. *"Certified service provider" means an agent certified jointly by the states that are signatories to the agreement to perform all of a seller's sales tax functions.*

Sec. 8. "Sales tax" means the tax levied by section 19 of chapter 397, Statutes of Nevada 1955, at page 766, and any similar tax authorized by specific statute.

Sec. 9. "Seller" means any person making sales, leases or rentals of personal property or services.

Sec. 10. "State" means any state of the United States and the District of Columbia.

Sec. 11. "Use tax" means the tax levied by section 34 of chapter 397, Statutes of Nevada 1955, at page 769, as amended by section 3 of chapter 513, Statutes of Nevada 1985, at page 1562, and any similar tax authorized by specific statute.

Sec. 12. The Nevada tax commission shall:

1. Except as otherwise provided in section 13 of this act, 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.

3. Take all other actions reasonably required to implement the provisions of sections 2 to 18, inclusive, of this act, including, without limitation:

- (a) Adoption of regulations to carry out the provisions of sections 2 to 18, inclusive, of this act; and
- (b) Procurement, jointly with other member states, of goods and services.

4. Represent, or have its designee represent, the state 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 for the purposes of reviewing or amending the agreement.

Sec. 13. 1. The Nevada tax commission shall not enter into the agreement unless the agreement:

- (a) Sets restrictions to limit over time the number of state rates.
- (b) Establishes uniform standards for:
 - (1) The sourcing of transactions to taxing jurisdictions;
 - (2) The administration of exempt sales; and
 - (3) Sales and use tax returns and remittances.
- (c) Provides a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.
- (d) Provides that registration with the central, electronic registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax.

(e) Provides for reduction of the burdens of complying with local sales and use taxes through the following:

- (1) Restricting variances between the state and local tax bases;
- (2) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting

the taxes will not have to register or file returns with, remit funds to or be subject to independent audits from local taxing jurisdictions;

(3) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(4) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(f) Outlines any monetary allowances that are to be provided by the states to sellers or certified service providers and allows for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity to be completed by July 1, 2002.

(g) Requires each state to certify compliance with the terms of the agreement before joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.

(h) Requires each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(i) Provides for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

2. The agreement must require each member state to abide by the requirements set forth in subsection 1.

Sec. 14. 1. A certified service provider is:

(a) The agent of each seller with whom the certified service provider has contracted for the collection and remittance of sales and use taxes; and

(b) Liable for sales and use taxes due each member state on all sales transactions it processes for a seller unless the seller misrepresents the type of items it sells or commits fraud.

2. A seller that contracts with a certified service provider is:

(a) Liable to this state for sales or use taxes due on transactions processed by the certified service provider if the seller misrepresents the type of items it sells or commits fraud;

(b) Subject to audit on the transactions processed by the certified service provider if there is probable cause to believe that the seller has committed fraud or made a material misrepresentation; and

(c) Subject to audit for transactions not processed by the certified service provider.

3. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

Sec. 15. 1. A person that provides a certified automated system is:

(a) Responsible for the proper functioning of that system; and

(b) Liable to this state for underpayments of tax attributable to errors in the functioning of the certified automated system.

2. A seller that uses a certified automated system remains responsible and is liable to this state for reporting and remitting tax.

3. A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

Sec. 16. 1. The agreement authorized by sections 2 to 18, inclusive, of this act binds and inures only to the benefit of this state and the other member states. No person, other than a member state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of this state and the other member states and not by the terms of the agreement.

2. No person has any cause of action or defense under the agreement or by virtue of this state's approval of the agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency or other instrumentality of this state, or any political subdivision of this state, on the ground that the action or inaction is inconsistent with the agreement.

3. No law of this state, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

Sec. 17. The agreement authorized by sections 2 to 18, inclusive, of this act is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the laws of each member state.

Sec. 18. No provision of the agreement authorized by sections 2 to 18, inclusive, of this act invalidates, in whole or part, or amends any provision of the law of this state. Adoption of the agreement by this state does not amend or modify any law of this state. Implementation of any condition of the agreement in this state, whether adopted before, at or after membership of this state in the agreement, must be by the action of this state.

Sec. 19. Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the state or a political subdivision of the state enters into a contract pursuant to chapter 332 or 333 of NRS on or after the effective date of this section with a person who:

- (a) Sells tangible personal property in this state; and
- (b) Has not obtained a permit pursuant to NRS 372.125 because he does not maintain a place of business within this state, the contract must include a provision requiring the person to obtain a permit pursuant to NRS 372.125 and to agree to collect and pay the taxes imposed pursuant to this chapter on the sale of tangible personal property in this state. For the purposes of the permit obtained pursuant to NRS 372.125, the person shall be deemed to have a single place of business in this state.

2. *The department may require a state agency or local government to submit such documentation as is necessary to ensure compliance with this section.*

Sec. 20. NRS 372.728 is hereby amended to read as follows:

372.728 In administering the provisions of this chapter, the department shall construe the term "retailer maintaining a place of business in this state" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in this state.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in this state.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or other means of broadcasting to persons located in this state ~~+-~~ *or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this state.*

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in this state, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in this state and only secondarily to bordering jurisdictions.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in this state related to banking, financing, the collection of debts, telecommunication or marketing, or benefits from the location in this state of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same person who owns or controls a retailer who maintains a place of business in the same or a similar line of business in this state.

8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 372.195.

9. A retailer who, pursuant to a contract with the operator of a system of cable television located in this state, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a system of cable television in this state.

Sec. 21. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If the state or a political subdivision of the state enters into a contract pursuant to chapter 332 or 333 of NRS on or after the effective date of this section with a person who:*

(a) *Sells tangible personal property in this state; and*

(b) Has not obtained a permit pursuant to NRS 374.130 because he does not maintain a place of business within this state, the contract must include a provision requiring the person to obtain a permit pursuant to NRS 374.130 and to agree to collect and pay the taxes imposed pursuant to this chapter on the sale of tangible personal property in any county in this state. For the purposes of the permit obtained pursuant to NRS 374.130, the person shall be deemed to have a place of business in each county in this state, but shall pay the fee for a single permit.

2. *The department may require a state agency or local government to submit such documentation as is necessary to ensure compliance with this section.*

Sec. 22. NRS 374.728 is hereby amended to read as follows:

374.728 In administering the provisions of this chapter, the department shall construe the term "retailer maintaining a place of business in a county" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in the county.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in the county under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in the county.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or other means of broadcasting to persons located in the county ~~or~~ *or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this state.*

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in the state, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in the state and only secondarily to bordering jurisdictions, and which is disseminated to persons located in the county.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in the county related to banking, financing, the collection of debts, telecommunication or marketing, or benefits from the location in the county of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same persons who own or control a retailer who maintains a place of business in the same or a similar line of business in the county.

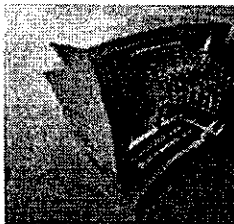
8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 374.200.

9. A retailer who, pursuant to a contract with the operator of a system of cable television located in the state, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a system of cable television in the county.

Sec. 23. The legislature hereby urges the department of taxation, to the extent practicable, to seek compliance with the sales and use tax laws of this state by persons and businesses that sell tangible personal property through a website on the Internet or other electronic means of communication to provide solicitations to persons in this state.

Sec. 24. 1. This section, sections 1 to 13, inclusive, and 17 to 23, inclusive, of this act become effective upon passage and approval.

2. Sections 14, 15 and 16 of this act become effective on the date this state becomes a member of the streamlined sales and use tax agreement.



UNITED STATES DEPARTMENT OF COMMERCE

E-Stats

www.census.gov/estats

March 19, 2003

E-commerce 2001 Highlights

- E-commerce outperformed total economic activity in three of four major economic sectors measured between 2000 and 2001.
- Business-to-Business (B-to B) activity, which depends critically on Electronic Data Interchange (EDI), dominates e-commerce.
- All industry groups in each sector participate in e-commerce.
- Most e-commerce occurs in a handful of industry groups within each sector.

This latest edition of *E-Stats* provides a snapshot of e-commerce activity for key sectors of the U.S. economy for 2001 and revises previously released data for 2000. The data are collected from over 125,000 manufacturing, wholesale, services, and retail businesses.

Note to readers

E-commerce data are collected in four separate Census Bureau surveys. These surveys use different measures of economic activity such as value of shipments for manufacturing, sales for wholesale and retail trade, and revenues for service industries. Consequently, measures of total economic and e-commerce activity differ in concept and definition among these sectors, and the total should be interpreted with caution. The Census Bureau's e-commerce measures include the value of goods and services sold online whether over open networks such as the Internet, or over proprietary networks running systems such as Electronic Data Interchange (EDI).

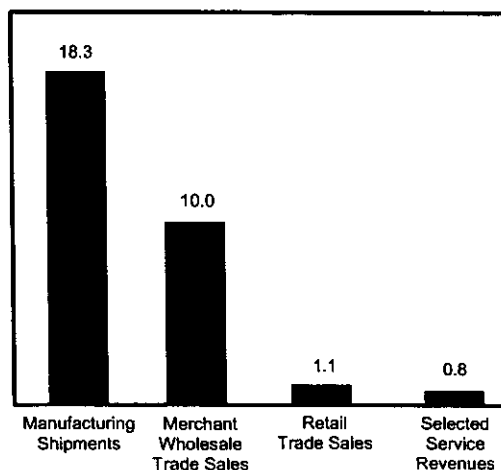
This report covers North American Industry Classification System (NAICS) industries that accounted for approximately 70 percent of the U.S. economic activity measured in the prior Economic Census. The report does not cover agriculture, mining, utilities, construction, nonmerchant wholesalers, and approximately one-third of service-related industries. See **Explanatory Notes** for more information on report coverage, methods, and data reliability. Measures of sampling variability for Tables 1-6 are presented in Tables 1A-6A following the Explanatory Notes.

This edition of *E-Stats* revises 2000 data released in March 2002. See **Explanatory Notes** for additional information on the revisions. All reported changes between 2000 and 2001 reflect revised data for 2000.

E-commerce—both its dollar value and share of economic activity—varies markedly among key economic sectors.

- Manufacturing leads all industry sectors with e-commerce shipments that account for 18.3 percent (\$725 billion) of the total value of manufacturing shipments.
- Merchant Wholesalers rank second with e-commerce sales that represent 10.0 percent (\$270 billion) of their total sales.
- Retail Trade, the focus of much e-commerce attention, has e-commerce sales in 2001 that account for 1.1 percent (\$34 billion) of total retail sales.
- E-commerce revenues for the special grouping of service industries created for the *E-Stats* reports, Selected Service Industries, account for 0.8 percent (\$37 billion) of total revenues for these industries.

E-commerce as Percent of Total Value: 2001



B-to-B and B-to-C E-commerce

In 2001, 93 percent of e-commerce is B-to-B. While the surveys do not collect separate data on business-to-business (B-to-B) and business-to-consumer (B-to-C) e-commerce, the following table shows that

U.S. CENSUS BUREAU

Helping You Make Informed Decisions

Economics and Statistics Administration
U.S. Census Bureau

U.S. Shipments, Sales, Revenues and E-Commerce: 2001 and 2000

[Shipments, sales and revenues are in billions of dollars.]

Description	Value of Shipments, Sales, or Revenue				Y/Y Percent Change		Percent Distribution of E-commerce	
	2001		2000					
	Total	E-commerce	Total	E-commerce	Total	E-commerce	2001	2000
Total *	14,572	1,066	14,657	1,062	-0.6	0.4	100.0	100.0
B-to-B*	6,676	995	6,950	997	-3.9	-0.2	93.3	93.9
Manufacturing	3,971	725	4,209	756	-5.7	-4.1	68.0	71.2
Merchant Wholesale	2,705	270	2,741	241	-1.3	12.0	25.3	22.7
B-to-C*	7,896	71	7,707	65	2.5	9.2	6.7	6.1
Retail	3,141	34	3,059	28	2.7	22.1	3.2	2.6
Selected Services	4,755	37	4,648	37	2.3	-1.4	3.5	3.5

* We estimate B-to-B and B-to-C e-commerce by making several simplifying assumptions: manufacturing and wholesale e-commerce is entirely B-to-B, and retail and service e-commerce is entirely B-to-C. We also ignore definitional differences among shipments, sales, and revenues. The resulting B-to-B and B-to-C estimates, while not directly measured, show that almost all the dollar volume of e-commerce activity involves transactions between businesses. See the "Note to readers" for cautions relating to the interpretation of the "Total" shown here.

e-commerce represents a much larger share of total economic activity in sectors that sell primarily to other businesses.

Manufacturing

The value of U.S. manufacturing e-commerce shipments (e-shipsments) is \$725 billion in 2001, a decrease of 4 percent from revised 2000 e-shipsments of \$756 billion. E-shipsments, as shown in Table 1, account for 18.3 percent of the value of all shipments from U.S. manufacturing plants in 2001, about the same as in 2000. This information was collected in the 2001 Annual Survey of Manufactures (ASM), a survey of more than 50,000 manufacturing plants.

E-shipsments are concentrated. Sixty-eight percent of all e-shipsments in 2001 occur in five industry groups, almost identical to 2000. Transportation Equipment is the largest industry group, accounting for 37 percent (\$264 billion) of total manufacturing e-shipsments. The large e-shipsments share for Transportation Equipment is



consistent with the substantial role that group plays in Manufacturing, where it accounts for 15 percent of all shipments. It also is consistent with the long history of EDI use in this group.

E-shipsments are pervasive in manufacturing, accounting for at least 10 percent of shipments in 15 of 21 industry groups. The e-shipsments share of total shipments is largest in Transportation Equipment (44 percent), followed by Beverage and Tobacco (38 percent) and Electrical Equipment, Appliances, and Components (25 percent).

E-shipsments in manufacturing fared somewhat better than total shipments between 2000 and 2001, although both declined. E-shipsments declined 4 percent, while total shipments declined 6 percent. The industry group that contributed most to this difference was Computer and Electronic Products. In this industry, e-shipsments were \$5 billion less (a decline of 6 percent) compared to an \$81 billion decline for total shipments (a decline of 16 percent).

Merchant Wholesale Trade

U.S. merchant wholesale e-commerce sales (e-sales) reached \$270 billion in 2001, an increase of 12 percent over revised 2000 e-sales of \$241 billion. E-sales, as shown in

Table 2, represent 10.0 percent of total merchant wholesale sales in 2001, up from 8.8 percent in 2000.

This information was collected in the 2001 Annual Trade Survey, a survey of more than 6,900 merchant wholesalers. Merchant wholesalers take title to the goods they sell. Table 2 therefore excludes nonmerchant wholesalers such as manufacturers' sales branches and offices, agents, brokers, commission agents, and electronic marketplaces and exchanges. In the prior Economic Census, nonmerchant wholesalers accounted for approximately 43 percent of total wholesale trade sales.

E-sales are concentrated, with 64 percent of total e-sales by merchant wholesalers occurring in three industry groups. Drugs and Druggists' Sundries wholesalers account for 36 percent (\$97 billion); Motor Vehicles, Parts and Supplies wholesalers, 16 percent (\$44 billion); and Professional and Commercial Equipment and Supplies wholesalers, 11 percent (\$31 billion). These same industry groups accounted for about 62 percent of e-sales by merchant wholesalers in 2000.

While all merchant wholesale industry groups have some e-sales, opportunities for expanded e-sales remain. Only six industries or industry groups sell 10 percent or more of their merchandise over online networks. Drugs and Druggists' Sundries wholesalers' e-sales are 48 percent of their total sales, Motor Vehicles, Parts and Supplies wholesalers' e-sales represent 22 percent of their total sales, Apparel Piece Goods and Notions wholesalers' e-sales are 14 percent of total sales, Computer Equipment and Supplies wholesalers' e-sales account for 13 percent of total sales, and Hardware, Plumbing and Heating Equipment wholesalers' e-sales are 10 percent of their total sales.

E-sales by Merchant Wholesalers grew strongly from 2000 to 2001 while total sales

declined. E-sales were up by 12 percent, compared to a 1 percent decline in total sales. E-sales increased while total sales declined in most merchant wholesale industry groups. More than half of the growth in e-sales came from Drugs and Druggists' Sundries, where e-sales grew \$19 billion and sales grew \$33 billion.

Merchant Wholesalers achieve e-sales, as Table 3 shows, primarily through EDI networks. All merchant wholesale industry groups use EDI networks, and almost all of the 18 industry groups generate more than two-thirds of their e-sales through EDI networks. In 2001, EDI sales for merchant wholesalers total \$233 billion and account for 86 percent of their e-commerce sales.

Selected Service Industries

U.S. e-commerce revenues (e-revenues) for selected service industries are \$37 billion in 2001, virtually the same level as 2000 e-revenues. As shown in Table 4, e-revenues account for 0.8 percent of total revenues in these sectors in both years.

Four groups account for 49 percent of total Selected Service e-revenues. Travel Arrangement and Reservation Services account for 17 percent of total Selected Service e-revenues, and Publishing, including newspaper, periodical, book, and software publishers, accounts for an additional 13 percent. Securities and Commodity Contracts Intermediation and Brokerage and Computer Systems Design and Related Services are each 10 percent of total e-revenues.

The e-revenues share of total revenue is largest in Travel Arrangement and Reservation Services, accounting for 24 percent of the total revenue for this industry group. Online Information Services and Couriers and Messengers are the only other selected service industry groups where e-revenues represent more than 4 percent of total revenues.

Total revenues grew between 2000 and 2001 in the Selected Services Industries but e-revenues were virtually unchanged. Total revenues increased by 2 percent. Within Selected Services Industries, declines in



e-revenues were partially offset by strong growth in the Information industry. Information industry e-revenues grew 12 percent (\$1 billion), and its revenues grew 3 percent (\$25 billion).

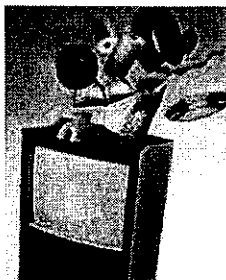
The Selected Services Industries total provided in Table 4 is not an official NAICS grouping, but rather the sum of the bolded groups shown in the table. Some of these groups are not complete. Incomplete industry coverage within a group is denoted by the absence of a NAICS Code for a Table 4 bolded row and the use of "Selected" in the group description. Table 4 covers about two-thirds of the NAICS service-related industries included in the prior Economic Census and 55 percent of their total revenues. This information was collected in the 2001 Services Annual Survey, a survey of more than 51,000 firms.

Retail Trade

U.S. retail e-commerce sales (e-sales) reached \$34 billion in 2001, an increase of 22 percent over revised 2000 e-sales of \$28 billion. Retail e-sales, as shown in Table 5, account for 1.1 percent of total retail sales in 2001, up from 0.9 percent in 2000. This information is collected in the 2001 Annual Retail Trade Survey, a survey of more than 19,000 retailers.

E-sales are concentrated in two groups that account for over 90 percent of retail e-sales: Nonstore Retailers, and Motor Vehicle and Parts Dealers. Nonstore Retailers account for 75 percent (\$26 billion) of retail e-sales. Motor Vehicles and Parts Dealers are the next largest with 16 percent (\$5 billion) of total retail e-sales.

The Electronic Shopping and Mail-Order Houses industry accounts for almost all of Nonstore Retailers e-sales. This industry includes catalog and mail-order operations, many of which sell through multiple channels, and "pure plays," retail businesses selling solely over the Internet. In addition, this



industry includes e-commerce business units of "brick and click" retailers, if the e-commerce group operates as a separate unit and is not engaged in the online selling of motor vehicles. The decision rules used to determine what to include in the Electronic Shopping and Mail-Order industry result in almost all the sales and e-sales of "brick and click" retailers being included in this industry which, in turn, reduces the e-sales shown in other retail groups. The exception to this rule is the online sales of motor vehicles. The online sales of "brick and click" vehicle dealers are shown in the Motor Vehicles and Automotive Equipment group. This exception reflects the continued importance of the dealership in actually closing the online deal and delivering the vehicle.

Retail e-sales growth of 22 percent between 2000 and 2001 strongly outpaced total retail sales growth of 3 percent. Within Retail, e-sales of Nonstore Retailers grew 21 percent between 2000 and 2001, in contrast to the 2 percent decline in this group's total sales. Both total sales and e-sales grew for Motor Vehicle and Parts Dealers. While total sales for this group grew 3 percent, its e-sales rose at a robust 25 percent.

Table 6 provides detailed information on the kinds of merchandise sold by businesses classified in the Electronic Shopping and Mail-Order Houses industry. The leading merchandise category within this industry is Computer Hardware with e-sales of \$6 billion, followed by Clothing and Clothing Accessories (including footwear) with \$3 billion in e-sales.

For the Electronic Shopping and Mail-Order Houses industry, e-sales accounted for 24 percent of all sales in 2001, compared to 19 percent in 2000. Merchandise categories with the highest percent of online sales include Books and Magazines with 45 percent of total sales online, and Electronics and Appliances with 39 percent of sales online. In fact online sales are significant in almost all merchandise lines.

More recent data on e-sales for retail trade are available as part of the ongoing quarterly retail e-commerce series. Data for 4th quarter 2002 and the preliminary estimate

for the year 2002 were released on February 24, 2003.

U.S. retail e-sales were \$14 billion in the fourth quarter of 2002 and accounted for 1.6 percent of total retail sales (\$870 billion) in that quarter. The preliminary estimate of total e-sales for 2002 is \$46 billion, accounting for 1.4 percent of total retail sales for 2002. The most recent data are available at <http://www.census.gov/estats>.

Explanatory Notes

General

The e-commerce estimates in this release are based on data collected from four surveys conducted by the U.S. Census Bureau: the 2001 Annual Survey of Manufactures (ASM), the 2001 Annual Trade Survey (ATS), the 2001 Service Annual Survey (SAS), and the 2001 Annual Retail Trade Survey (ARTS). These surveys were conducted independently. Measures of total economic activity and e-commerce are presented in this report to provide a broad perspective of e-commerce activity across the four sectors. Brief descriptions of the survey methods are given below. Industry classifications used in this report are based on the North American Industry Classification System (NAICS). Information about NAICS and additional detail about coverage, sample design and estimation methodology for the annual surveys may be found online at www.census.gov/estats.

Definitions of Economic Activity

The four surveys use different measures of economic activity.

ASM. "Value of Shipments" is the measure used in the ASM. It is the market value of all commodities shipped from a plant. Value of shipments includes shipments to outside customers as well as to affiliated plants.

ATS and ARTS. "Sales" is the measure used in the ATS and the ARTS. Sales are the dollar value of transactions between the reporting firm and its customers. Sales include transactions to foreign affiliates, but exclude transactions among domestic affiliates.

SAS. "Revenue" is the measure used in the SAS. Revenues are the dollar value of transactions and contracts between the reporting firm and its customers. These values include services performed for foreign affiliates, but exclude transactions among domestic affiliates. Revenue includes the total value of service contracts, the market value of compensation received in lieu of cash, amounts received for work subcontracted to others and other industry-specific items.

Importance of EDI Networks. The dominant position of B-to-B e-commerce reflects the long-standing use of EDI in manufacturing and wholesale trade. EDI is the exchange of computer processable data in a standard format between organizational entities. There are two EDI standards. The Accredited Standards Committee X12 is the standard in North America, while UN/EDIFACT is the standard for Europe and most of Asia. The format and the data associated with any particular EDI transaction are defined in the X12 or EDIFACT EDI standards. While EDI transactions often are conducted over Value Added Networks, they also can be transmitted over open networks. EDI sales were separately identified for the first time in the 2000 Annual Trade Survey.

Survey Methods

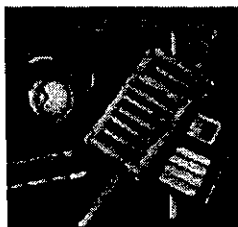
Annual Survey of Manufactures

The ASM is designed to produce estimates for the manufacturing sector of the economy. The manufacturing universe is comprised of approximately 355,000 plants. Data are collected annually from a probability sample of more than 50,000 manufacturing plants with five or more employees. Data for plants with less than five employees are estimated using information obtained from administrative sources.

The ASM is a survey of manufacturing plants and represents activities at individual plants rather than the entire company. For the 2001 survey year, questions about e-commerce were included on the ASM questionnaire along with questions about such things as employment, payroll, value of

shipments, cost of materials consumed, and capital expenditures. For years prior to 2001 (2000 and 1999) the e-commerce data while collected from the same panel, were collected on a separate questionnaire. In all years, information for nonresponding plants was imputed using information from responding plants with similar characteristics.

Estimates for the NAICS subsectors were calculated by summing both the reported and the imputed plant data. For each plant the online data were weighted by the reciprocal of the probability of the plant's inclusion in the ASM sample. These estimates were then linked to the prior Economic Census results to reduce sampling and non-sampling errors. The estimates for 2000 included in this report are revised from those originally published in the March 2002 edition of E-Stats. These revisions were small.



Annual Trade Survey, Service Annual Survey, Annual Retail Trade Survey

The ATS measures the economic activity of merchant wholesale firms with paid employees. Merchant wholesale firms are those that take title to the goods they sell. Data are collected annually from more than 6,900 firms that represent the universe of approximately 300,000 merchant wholesale firms with paid employees.

The SAS measures activity of employer firms classified in ten service-related sectors: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing; Professional, Scientific, and Technical Services; Administrative and Support and Waste Management and Remediation Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; and Other Services. Data are collected annually from more than 51,000 firms representing the universe of approximately 3 million establishments with

paid employees.

The ARTS measures the economic activity of all retailers with and without paid employees. The ARTS collects data annually from more than 19,000 firms with paid employees. Sales for firms without paid employees are estimated using administrative records. The Retail Trade universe contains over 2.5 million firms.

For these three surveys, stratified random samples of firms were drawn from a sampling frame constructed using information from the prior Economic Census and updated with information from the Census Bureau's Business Register. The samples were subsequently updated to represent employer firms in business during 2001.

All wholesale, service, and retail firms mailed in the surveys were asked to report total and e-sales/e-revenue for 2001. Wholesalers were asked to report e-sales made through EDI networks. Retailers in the Electronic Shopping and Mail-Order Houses industry were also asked to report total sales and e-sales for 2001 for specific merchandise lines. E-commerce data for nonresponding employer firms and all retail nonemployers were imputed from responding firms within the same kind of business and sales size category.

Estimates of total sales/revenues and e-sales/e-revenues were calculated by summing data (both reported and imputed) weighted by the reciprocal of the probability of the firm's inclusion in the appropriate sample. The estimates in this report have been linked to the prior Economic Census to reduce sampling error and to allow comparability with the census results.

The data for 2000 included in this report are revised from those originally published in the March 2002 edition of E-Stats. For retail, the revisions were modest and were primarily the result of respondents correcting data for 2000.

For merchant wholesalers, the original 2000 e-sales estimate was revised up by \$28 billion. During our review of the 2001 EDI

sales, we found a number of respondents reporting large amounts of EDI in 2001 but no EDI in 2000. We contacted these respondents to determine if there should have been EDI sales in 2000. In most cases, there should have been EDI sales, and we were able to obtain new data. We made these corrections to 2000 EDI sales, which also resulted in an upward revision in the 2000 e-commerce sales estimate.

Reliability of Estimates

The estimates in this release are based on sample surveys and are subject to sampling and nonsampling errors. Sampling error occurs because only a subset of the entire population is measured. Nonsampling error encompasses all other factors that contribute to the total error of a sample survey estimate and may also occur in censuses. Changes in data collection methods, report forms, and imputation methods all can affect the nonsampling error.

Tables 1A through 6A show standard errors for estimates of percentages and coefficients of variation for estimates of total dollar value. The standard error measures the extent to which estimates derived from all possible samples drawn using the same design differs from the average of these estimates. The coefficient of variation (expressed as a percentage) is the standard error of the estimate in units divided by the estimate. Note that standard errors and coefficients of variation are estimates derived from the sample and are also subject to sampling error.

The coefficients of variation presented in the tables may be used to compute confidence intervals about the sample estimates. The particular sample used for each survey included in this report is one of a large number of samples of the same size that could have been selected using the same design. In about 9 out of 10 (90 percent) of these possible samples, the estimates would differ from the results of a complete enumeration by less than 1.645 times the percentage shown.

To compute a 90-percent confidence interval for an estimate of level, multiply the estimate

by its coefficient of variation and then by 1.645. This amount is then added to and subtracted from the estimate to give the upper and lower bounds of the interval. As an example, suppose the estimated total value of shipments is \$51,770 million and the estimated coefficient of variation for this estimate is 1.3 percent (0.013). Multiplying \$51,770 million by 0.013 and then by 1.645 gives \$1,107 million. Subtracting \$1,107 from and adding \$1,107 to \$51,770 million gives a 90-percent confidence interval of \$50,663 million to \$52,877 million. Confidence statements for estimated percentages are computed in a similar manner.

One source of nonsampling error is the inability to obtain information about all cases in the samples. Response rates for each survey are given in the following table.

**Percentage of E-commerce Sales
Estimated from Reported Data**

Survey	Total Sales	E-commerce Sales
ASM	90	78
ATS	90	94
ARTS	92	87
SAS	88	81

Other sources of nonsampling error include response errors, unclear definitions, differences in the interpretation of questions, mistakes in recording or coding the data obtained, and other errors of collection, response, coverage, and estimation of missing data. Although no direct measures of these sources of nonsampling error have been obtained, precautionary steps were taken in all phases of the collection, processing, and tabulation of the data in an effort to minimize their influence.

E-Stats Reports

All E-Stats reports are available at
www.census.gov/estats.

Future Reports

- Quarterly retail e-commerce data will be released in May, August, and November 2003.
- E-Stats 2002 will be released in Spring 2004.

Prior Reports and Research Papers

All prior reports, and current and past research papers, are available at
www.census.gov/estats.

Contacts

For additional information regarding surveys included in this report contact:

ASM - Judy M. Dodds
judy.m.dodds@census.gov
(301) 763-4587

ATS - John R. Trimble
john.r.trimble@census.gov
(301) 763-7223

ARTS - Nancy A. Piesto
nancy.a.piesto@census.gov
(301) 763- 7138

SAS - Jeffrey L. Barnett
jeffrey.l.barnett@census.gov
(301) 763-2787

For general information about the Census Bureau's e-business measurement program contact:

Thomas L. Mesenbourg
tmesenbo@census.gov
(301) 763-2932

or visit: www.census.gov/estats.



The Census Bureau is committed to providing the business community and policymakers with more relevant and useful economic statistics. We thank all the businesses that participated in these surveys. Their cooperation and continued participation is vital to the future success of the economic statistics programs.

State and Local Sales Tax Revenue Losses from E-Commerce: Updated Estimates

by

Donald Bruce, Assistant Professor
dbruce@utk.edu

and

William F. Fox, Professor
billfox@utk.edu

Center for Business and Economic Research
100 Glocker Building
The University of Tennessee
Knoxville, Tennessee 37996-4170
(865) 974-5441 (tel)
(865) 974-3100 (fax)

September 2001

*We are grateful to the Institute for State Studies for acquiring
the Forrester Research, Inc. e-commerce forecast used in this study.*

Executive Summary

The sales tax base for state and local government is shrinking because of the expanded use of services which are not subject to sales tax and continued legislatively- granted exemptions. The erosion is also due to growth of remote sales including those made through e-commerce (Internet), the telephone and catalogs.

The extent to which e-commerce reduces state and local sales tax collections continues to be an important issue. As in our earlier work in this area, we focus on the e-commerce losses, recognizing them as furthering the trend erosion. In this brief, we present an update of our earlier revenue loss forecasts (Bruce and Fox, 2000). Sales tax losses by state are given for 2001, 2006, and 2011. The estimates reported here are based on the most recent forecasts of e-commerce sales for 2001 through 2011, provided by Forrester Research, Inc. Our previous report went through 2003.

For 2001, the dollars lost are 41% more than our previous report had indicated due to higher business-to-business (B2B) transactions forecast by Forrester. In 2001, e-commerce is likely to cause a *total* state and local government revenue loss of \$13.3 billion. By 2006, the loss will more than triple to \$45.2 billion and in 2011, the loss will be \$54.8 billion. The *total* e-commerce loss is the sales tax loss on all sales over the Internet. Part of the loss would have occurred anyway even without e-commerce on sales, for example, which might have otherwise been made by purchasers using the telephone and catalogs.

The *new* e-commerce loss is from sales made through the Internet both on goods that would have otherwise been purchased from the over-the-counter method and projected new goods that will be purchased over the Internet. In 2001, the new e-commerce loss is \$7 billion, in 2006 it grows to \$24.2 billion, and in 2011 it is \$29.2 billion.

Measuring the states' e-commerce revenue losses against their total state tax revenues also shows significant impact. In 2011, states will lose anywhere from 2.6 percent to 9.92 percent of their total state tax collections to total e-commerce losses.

A final measurement of the impact of e-commerce losses is the needed increase in the sales tax rate to replace the lost revenue. In 2011, rates will have to rise by between 0.83 and 1.72 percentage points to replace the total e-commerce losses.

The revenue impacts are significant.

Introduction

A central theme in the debate over the tax treatment of remote sales is the extent to which the inability to tax them has eroded state and local sales tax collections. Revenue losses from e-commerce generally arise because e-commerce enables a significant increase in remote sales, thereby causing a shift from collecting sales taxes at the point of sale to collecting use taxes for goods used, consumed, or stored in the state. Compliance rates are much higher for sales taxes than for use taxes, and also use tax compliance is expected to fall further as a result of e-commerce. Revenue losses are generally the result of tax evasion, not tax avoidance, since the use tax is due even if the sales tax cannot be collected.¹

This brief extends our earlier report by using updated e-commerce forecasts from Forrester Research, Inc. and newer data about state and local tax structures. We have not changed our forecast

*E-commerce is only one of the factors
reducing sales tax bases.*

methodology, preferring instead to develop new estimates that are comparable to our earlier forecast.² This is especially appropriate since there is little new empirical guidance for many of the underlying assumptions in our earlier estimates. We continue to contribute to the quantitative estimates of sales tax revenue losses in a variety of ways. First, we place the effects of e-commerce in the context of general sales tax base trends, since e-commerce is only one of the factors reducing sales tax bases. Second, we take a forward looking view, estimating both the losses today and the expected losses through 2011. Third, we estimate the increases in sales tax rates that will become necessary to offset the base declines. With all of our results, a key contribution is that estimates are prepared for every state with a sales tax.

¹ Tax avoidance is the act of changing one's behavior to escape a tax, while tax evasion is the act of not paying a tax that is legally owed.

² State and local revenue losses from e-commerce sales are measured here by estimating the reductions in the sales tax base and then multiplying the lost tax base by the state-specific effective state and local sales tax rate. Key inputs to estimating the tax base loss for e-commerce transactions are forecasts of e-commerce sales, identification of the sales-taxable components of these sales, assumptions about what share of taxable sales could be collected in the absence of e-commerce, and estimates of the share of taxes due that can be collected. We refer readers to Bruce and Fox (2000) for more details on our forecast methodology.

Sales Tax Trends

Despite varied year-to-year fluctuations in state sales tax bases, the long-term trend has been a decline relative to state personal income for many years. For the average sales-taxing state, the tax base equaled 51.4 percent of the state's personal income in 1979, but had fallen to 42.0 percent in 2000.

The narrowing of sales tax bases is attributable to three major factors. The first is remote sales, including e-commerce, catalog and telephone sales, and cross-state shopping, all of which have been expanding rapidly in recent years. The second factor is the shift in consumption patterns towards greater consumption of services and less consumption of goods. Services are much less broadly taxed than goods, meaning the base shrinks relative to the economy as services become more prominent. Third, continued legislated exemptions have narrowed the base in essentially every state. To be sure, some of the recently legislated exemptions, such as for industrial equipment, are consistent with good tax policy, but they still have the effect of lowering the taxable base.

States have responded to the narrowing tax bases by raising tax rates, though the extent of a direct relationship has not been carefully studied. The median state sales tax rate increased from 3.25 percent in 1970 to 4.0 percent in 1980 and to 5.0 percent in 1990. Fifteen states now have rates at or above 6.0 percent. The rate increases have allowed states to slightly increase revenues as a percent of GDP since 1986. Local governments in 32 states are also permitted to impose sales taxes, and a pattern of rate increases appears to have occurred at the local level as well.³

Estimates of Revenue Losses

To estimate sales tax losses from e-commerce in the context of the broader decrease in sales tax bases, we first estimate the trend reduction in sales tax bases that is occurring independent of e-commerce, and then estimate the loss from e-commerce. National totals are provided for 2001 through 2011, but the focus in this paper is on state-by-state estimates of revenue losses for 2001, 2006 and 2011. The Forrester data do not permit revenue loss forecasts beyond 2011.

In Table 1, the tax base as a share of personal income is given for each state for 1996 and an estimate is provided for 2011 in the absence of e-commerce effects. This provides a baseline for the

³ Alaska has no state sales tax and is excluded from the calculations here. Nonetheless, Alaska allows local sales tax rates, and the resulting estimates of local revenue losses are understated because of the exclusion.

sales tax base without the diminishing effects of e-commerce.

All states are forecast to experience a reduction in the tax base (relative to personal income) during this time period.

State and local revenue losses from e-commerce sales are measured here by estimating the reductions in the sales tax base that are attributable only to e-commerce and then multiplying the lost tax base by the state-specific effective state and local sales tax rate. State sales tax rates for 2001 and weighted average local sales tax rates for 1998 are employed in the analysis.⁴ Other inputs to estimating tax base losses from e-commerce transactions are forecasts of e-commerce sales, identification of the sales-taxable components of these sales and assumptions about what share of taxable sales could be collected in the absence of e-commerce. All of our assumptions regarding taxability, compliance, and replacement of other remote sales are unchanged in this update.

The total revenue loss from e-commerce equals total taxes due on internet sales minus use taxes collected. However, a *new* (or incremental) loss from e-commerce occurs only to the extent that taxes on the transactions would have been collected without e-commerce. In other words, an e-commerce sale that would otherwise have taken place over the phone is part of the total loss, but not the new loss. An e-commerce sale that would have been transacted (and taxed) locally in the absence of e-commerce represents a new

Table 1: Sales Tax Base as a Percentage of Personal Income

State	1996	2011
AL	39.9	35.8
AR	64.9	58.5
AZ	47.8	42.7
CA	39.6	35.4
CO	45.1	40.7
CT	36.7	32.8
DC	44.0	39.5
FL	55.4	49.3
GA	56.7	50.6
HI	109.2	96.7
IA	46.4	42.4
ID	51.3	46.2
IL	32.2	29.1
IN	44.3	39.9
KS	48.7	44.0
KY	46.5	41.9
LA	64.7	58.9
MA	29.0	26.0
MD	35.8	31.9
ME	42.3	37.7
MI	47.8	43.1
MN	46.6	41.9
MO	48.1	43.3
MS	55.5	50.1
NC	45.8	40.9
ND	51.9	47.6
NE	43.1	39.0
NJ	29.1	26.0
NM	86.2	77.4
NV	58.4	52.0
NY	34.4	30.8
OH	38.8	35.0
OK	67.2	61.4
PA	32.2	29.0
RI	27.6	24.7
SC	52.6	47.0
SD	65.9	59.5
TN	51.0	45.6
TX	48.7	43.9
UT	61.8	55.6
VA	42.8	38.1
VT	41.6	37.1
WA	49.9	44.6
WI	45.5	41.0
WV	48.0	43.7
WY	71.5	65.9

Source: Authors' calculations.

⁴ Our first report used a weighted average state and local rate for 1996. However, to get the most accurate estimates of revenue losses for this update, we used the latest tax rates available.

revenue loss. These two factors must be combined to obtain the final loss estimate.

Forecasts of the national state and local revenue losses from e-commerce sales are shown in Table 2 for 2001 through 2011. There are expected to be \$208.5 billion in e-commerce sales on which sales taxes due cannot be collected (out of total sales of \$754.6 billion), that will likely cause a total state and local revenue loss in 2001 of \$13.3 billion. Of this, \$7.0 billion represents a new revenue loss; the other \$6.3 billion would have been lost even in the absence of e-commerce activity. Looking forward to 2006, the total and new revenue loss estimates are \$45.2 billion and \$24.2 billion, respectively. By 2011, these figures are expected to grow to \$54.8 billion and \$29.2 billion.

Looking forward to 2011, the total and new revenue loss estimates are \$54.8 billion and \$29.2 billion, respectively.

Figure 1 provides a visual means for understanding the various sources of the revenue loss. First, note that the trend losses are composed of three parts: the loss due to the shift from consumption of goods to consumption of services, the loss due to legislated exemptions, and the loss from remote sales. E-commerce causes two types of losses. The first stems from the substitution of remote sales on which tax would not have been collected, even in the absence of e-commerce, and is not a new revenue loss at all. The second is the result of the substitution of local (or otherwise taxed)

sales or the creation of new sales. This is what we refer to as the new revenue loss.

Our new revenue loss estimates are somewhat larger than the original forecast (provided through 2003), primarily because Forrester has significantly increased its business-to-business (B2B) e-commerce forecast. The dominant role that B2B is expected to play in e-commerce sales means that the ability to collect revenues on B2B transactions is very important to the revenue loss for state and local

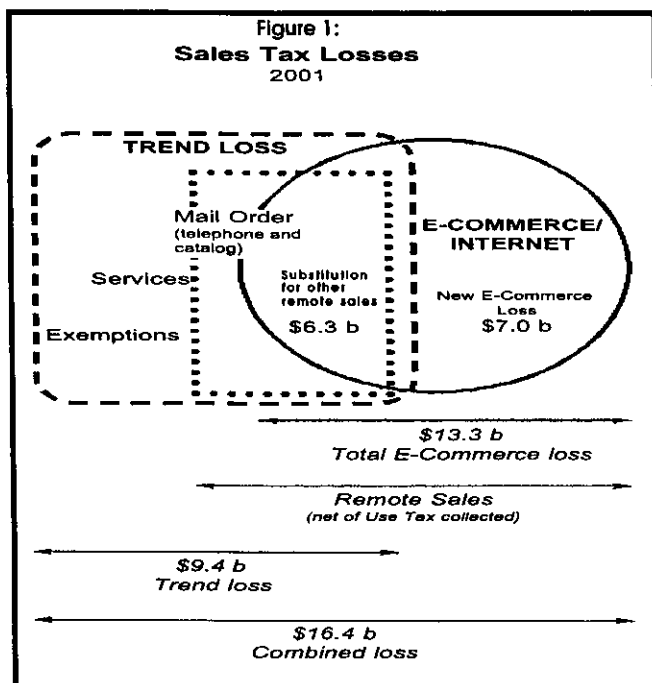


Table 2: Estimated Total State and Local Sales Tax Revenue Losses from E-Commerce

(Billions)	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Total Business-to-Business (B2B) E-Commerce*	698.8	1,137.9	1,778.2	2,628.6	3,284.6	3,916.2	4,459.3	4,897.3	5,247.1	5,536.4	5,790.5
Total Business-to-Consumer (B2C) E-Commerce*	55.8	87.5	127.4	173.9	230.6	257.5	276.6	289.0	296.6	301.1	303.7
Total E-Commerce	754.6	1,225.5	1,905.6	2,802.6	3,515.2	4,173.7	4,735.9	5,186.3	5,543.7	5,837.5	6,094.2
Less Exempt B2B	-276.2	-483.9	-828.1	-1,350.0	-1,820.4	-2,301.1	-2,721.6	-3,055.2	-3,309.9	-3,507.3	-3,668.4
Less B2B on which sales/use tax collected	-255.2	-419.8	-626.9	-839.9	-967.0	-1,068.5	-1,152.8	-1,227.8	-1,299.1	-1,370.4	-1,443.9
Less Exempt B2C	-5.0	-8.5	-14.1	-21.2	-31.9	-38.4	-43.6	-47.3	-49.6	-51.0	-51.8
Less B2C on which sales/use tax collected	-9.7	-16.1	-25.0	-36.2	-48.6	-56.6	-62.1	-65.7	-67.7	-68.9	-69.5
Total Adjustments	-546.1	-928.3	-1,494.2	-2,247.4	-2,867.9	-3,464.5	-3,980.2	-4,396.0	-4,726.3	-4,997.5	-5,233.6
E-Commerce Resulting in Revenue Loss	208.5	297.2	411.4	555.2	647.3	709.2	755.7	790.3	817.3	840.0	860.5
Average State and Local Tax Rate	0.064	0.064	0.064	0.064	0.064	0.064	0.064	0.064	0.064	0.064	0.064
Estimated Total Sales Tax Revenue Loss	13.3	18.9	26.2	35.4	41.3	45.2	48.2	50.4	52.1	53.5	54.8
Less Substitution for Other Remote Sales	-6.3	-8.9	-12.3	-16.6	-19.2	-21.0	-22.4	-23.5	-24.3	-25.0	-25.7
Estimated New Sales Tax Revenue Loss	7.0	10.1	14.0	18.8	22.1	24.2	25.7	26.9	27.8	28.5	29.2

Source: Authors' calculations based on E-Commerce forecast provided by Forrester Research, Inc.

Note: Apparent mathematical inconsistencies are the result of rounding.

*Sales-taxing states only.

governments. Indeed, B2B transactions represent 92.6 percent of all e-commerce activity in 2001 according to the Forrester forecast, a share that will expand to 95.0 percent by 2011.⁵ As a result of this and our assumptions regarding taxability and compliance, B2B is responsible for roughly three-fourths of the expected new revenue losses. Consequently, failing to account for the manner in which taxes on business purchases are collected can lead to a dramatic understatement of the revenue losses from e-commerce.

B2B is responsible for roughly three-fourths of the expected new revenue losses.


State-specific revenue loss estimates were prepared based on the national calculations in Table 2. The state and local government revenue losses from trend narrowing of the tax base, total e-commerce losses, new e-commerce losses, and the combined total revenue losses are given in Table 3. The new e-commerce losses in the third column should not be interpreted as the taxes that states would collect if Congress enacted legislation establishing nexus for firms with economic rather than physical presence. Rather, it is the incremental effect of e-commerce beyond any losses already occurring from inability to collect sales and use taxes. The total e-commerce revenue loss, shown in the second column, is the estimate of the total revenues from collecting all taxes due on e-commerce transactions.⁶

To illustrate Table 3, consider the findings for Alabama in the first row. The state of Alabama stands to lose \$127.2 million in 2001 from trend erosion of the sales tax base (i.e., from non-e-commerce remote sales, the shift toward consumption of services, and continued granting of exemptions). E-commerce sales themselves will result in a total revenue loss of \$177.4 million for Alabama in 2001. However, much of this revenue would not have been collected even without e-commerce, as consumers and businesses would have made some of these purchases through other remote means. Only \$94.0 million of this loss is new, and the remainder of the e-commerce loss (\$177.4 million less \$94.0 million) is captured in the trend loss in column (a) of Table 3. Consequently, to get the total state and local revenue loss that results from all factors, we simply add the trend loss (column a) to the new e-commerce loss (column c). This combined loss in 2001 for Alabama is \$221.1 million (column d).

⁵ B2B is a larger share of total e-commerce than in our earlier paper partly because leisure travel, which represented a significant component of the previous business-to-consumer (B2C) estimates, has been excluded from the new Forrester forecast. This exclusion has only minor implications for our revenue loss estimates.

⁶ Of course, this estimate is based on full compliance with all sales and use taxes.

Table 3: Combined State and Local Revenue Losses in 2001
(Millions)

 State	(a) Trend Loss	(b) Total E-Commerce Loss	(c) New E-Commerce Loss	(d=a+c) Combined Loss
AL	127.2	177.4	94.0	221.1
AR	91.9	143.8	76.1	168.1
AZ	154.8	231.1	122.4	277.2
CA	1,380.4	1,750.0	926.8	2,307.2
CO	119.2	200.7	106.3	225.5
CT	147.2	190.5	100.9	248.1
DC	29.2	36.7	19.4	48.7
FL	731.1	932.2	493.7	1,224.8
GA	315.3	439.0	232.5	547.8
HI	96.4	105.1	55.7	152.1
IA	59.5	111.8	59.2	118.8
ID	27.7	44.4	23.5	51.2
IL	339.2	532.9	282.2	621.4
IN	145.6	215.5	114.1	259.7
KS	86.0	134.4	71.2	157.2
KY	104.7	158.7	84.0	188.8
LA	170.1	302.6	160.2	330.4
MA	149.7	200.6	106.2	256.0
MD	158.8	194.4	103.0	261.8
ME	35.0	43.1	22.8	57.8
MI	330.2	502.9	266.3	596.6
MN	180.4	270.6	143.3	323.7
MO	174.3	261.6	138.5	312.9
MS	84.4	136.5	72.3	156.7
NC	212.0	293.4	155.4	367.4
ND	12.2	26.4	14.0	26.2
NE	42.2	70.9	37.5	79.8
NJ	263.4	337.8	178.9	442.3
NM	86.5	129.1	68.4	154.9
NV	84.7	126.3	66.9	151.6
NY	790.1	1,052.9	557.6	1,347.8
OH	298.4	446.7	236.6	534.9
OK	113.5	202.8	107.4	220.9
PA	316.8	446.4	236.4	553.2
RI	29.4	36.8	19.5	48.9
SC	114.7	153.4	81.2	195.9
SD	24.4	39.4	20.8	45.3
TN	258.8	362.3	191.9	450.7
TX	737.5	1,162.1	615.5	1,353.0
UT	62.4	104.5	55.3	117.8
VA	189.5	238.5	126.3	315.8
VT	16.3	21.0	11.1	27.5
WA	296.4	416.5	220.6	517.0
WI	139.0	213.5	113.1	252.1
WV	42.6	70.1	37.1	79.7
WY	12.4	26.1	13.8	26.3
US	9,382.0	13,293.1	7,040.0	16,422.0

Source: Authors' calculations.


The national total for the combined revenue losses is \$16.4 billion in 2001. An estimated 42.9 percent of this total arises from new e-commerce losses. This is a surprisingly large share, given that the trend sales tax base losses over the past several decades appear to have been driven more by shifts to consumption of services and continued legislated exemptions than by increases in remote sales.

The new losses from e-commerce in 2001 are estimated to range from \$11.1 million in Vermont to \$926.8 million in California. These two states also have the lowest and highest estimates in 2006 and 2011, as shown in Tables 4 and 5. In 2006, the new state and local losses from e-commerce range from

The new losses from e-commerce in 2001 are estimated to range from \$11.1 million in Vermont to \$926.8 million in California.


\$38.3 million to \$3,180.7 million, and in 2011 from \$46.4 million to \$3,842.2 million. The loss amounts are highly correlated with state population (0.98) and the state and local tax rate (0.48). Thus, states with larger populations and higher tax rates tend to experience the largest losses.

Table 4: Combined State and Local Revenue Losses in 2006
(Millions)

	(a)	(b) Total	(c) New	(d=a+c)
	Trend	E-Commerce	E-Commerce	Combined
State	Loss	Loss	Loss	Loss
AL	277.8	604.3	322.9	600.7
AR	208.7	488.0	260.8	469.5
AZ	367.0	799.2	427.1	794.1
CA	2,882.9	5,952.0	3,180.7	6,063.7
CO	287.8	686.4	366.8	654.6
CT	312.0	648.9	346.8	658.8
DC	58.2	123.1	65.8	124.0
FL	1,602.4	3,214.0	1,717.5	3,320.0
GA	724.8	1,517.8	811.1	1,535.9
HI	193.9	359.2	191.9	385.8
IA	137.0	372.3	199.0	335.9
ID	65.3	151.5	81.0	146.3
IL	750.2	1,795.3	959.4	1,709.6
IN	319.0	728.5	389.3	708.3
KS	188.0	451.5	241.3	429.3
KY	229.9	535.5	286.2	516.1
LA	381.2	1,008.1	538.7	919.9
MA	322.2	683.0	365.0	687.2
MD	333.2	664.3	355.0	688.2
ME	72.3	146.4	78.2	150.6
MI	725.3	1,696.2	906.5	1,631.8
MN	405.3	920.6	492.0	897.3
MO	383.1	884.1	472.4	855.6
MS	193.2	462.8	247.3	440.5
NC	481.2	1,010.9	540.2	1,021.4
ND	29.6	87.6	46.8	76.4
NE	96.3	238.7	127.6	223.9
NJ	555.5	1,150.0	614.5	1,170.0
NM	195.7	440.2	235.3	431.0
NV	208.4	441.7	236.1	444.5
NY	1,663.6	3,569.2	1,907.4	3,571.0
OH	643.7	1,502.2	802.8	1,446.5
OK	248.1	670.6	358.4	606.5
PA	669.4	1,503.4	803.4	1,472.8
RI	60.0	124.5	66.5	126.5
SC	251.0	525.0	280.5	531.6
SD	55.9	133.4	71.3	127.2
TN	578.5	1,242.8	664.1	1,242.6
TX	1,695.1	3,957.0	2,114.6	3,809.7
UT	153.0	359.0	191.8	344.8
VA	406.3	817.0	436.6	842.9
VT	34.8	71.7	38.3	73.2
WA	661.3	1,427.3	762.8	1,424.0
WI	308.9	721.5	385.6	694.5
WV	90.7	232.4	124.2	214.9
WY	27.7	85.2	45.5	73.2
US	20,535.6	45,204.3	24,157.2	44,692.8

Source: Authors' calculations.

Table 5: Combined State and Local Revenue Losses in 2011
(Millions)



	(a)	(b) Total	(c) New	(d=a+c)
	Trend	E-Commerce	E-Commerce	Combined
State	Loss	Loss	Loss	Loss
AL	500.9	734.4	390.6	891.4
AR	381.0	590.9	314.2	695.3
AZ	682.3	982.5	522.5	1,204.7
CA	5,100.6	7,225.0	3,842.2	8,942.8
CO	538.0	836.2	444.7	982.7
CT	555.0	788.2	419.2	974.2
DC	100.8	147.7	78.6	179.3
FL	2,895.9	3,944.4	2,097.6	4,993.5
GA	1,332.6	1,865.6	992.1	2,324.7
HI	338.8	438.3	233.1	571.8
IA	251.0	443.7	235.9	486.9
ID	121.3	184.6	98.2	219.5
IL	1,357.0	2,161.7	1,149.6	2,506.6
IN	575.2	879.8	467.9	1,043.1
KS	338.2	542.2	288.3	626.5
KY	415.0	645.8	343.5	758.5
LA	692.0	1,202.5	639.5	1,331.5
MA	575.2	828.6	440.7	1,015.9
MID	590.7	809.2	430.3	1,021.0
ME	127.2	177.5	94.4	221.6
MI	1,306.7	2,043.6	1,086.8	2,393.5
MN	737.8	1,117.2	594.2	1,331.9
MO	690.3	1,066.7	567.3	1,257.6
MS	354.5	560.0	297.8	652.3
NC	880.6	1,239.4	659.1	1,539.7
ND	54.9	103.9	55.2	110.2
NE	176.1	287.3	152.8	328.9
NJ	985.3	1,396.1	742.5	1,727.8
NM	357.4	535.4	284.7	642.1
NV	395.4	549.0	292.0	687.4
NY	2,948.8	4,318.4	2,296.5	5,245.3
OH	1,152.0	1,805.9	960.4	2,112.4
OK	445.1	794.5	422.5	867.6
PA	1,190.6	1,811.0	963.1	2,153.7
RI	104.9	150.4	80.0	184.8
SC	453.1	640.5	340.6	793.7
SD	102.5	161.3	85.8	188.3
TN	1,052.6	1,518.7	807.7	1,860.3
TX	3,113.5	4,805.6	2,555.6	5,669.1
UT	288.0	439.2	233.6	521.6
VA	726.5	997.2	530.3	1,256.8
VT	62.2	87.2	46.4	108.6
WA	1,207.0	1,745.3	928.1	2,135.2
WI	560.0	871.0	463.2	1,023.3
WV	161.6	276.2	146.9	308.4
WY	50.3	100.0	53.2	103.5
US	37,026.4	54,849.5	29,168.9	66,195.3

Source: Authors' calculations.

State Losses as Percentages of State Taxes

The share of total state tax revenues that each state stands to lose is a useful way to measure the importance of the loss to specific states. For purposes of this calculation, each state's total tax revenue is assumed to be the same percentage of personal income in forecast years as it was in 2000. The losses to state governments for 2001, 2006, and 2011 are given in Tables 6, 7, and 8.⁷ Note first that in 2001 the state-level share of the national *new* e-commerce loss will amount to 1.09 percent of total state taxes (in sales-taxing states only), while the state-level share of the national *total* e-commerce loss will be 2.06 percent and the *combined* loss will be 2.55 percent. While magnitude is in the eye of the beholder, these strike us as quantitatively large shares.

These national estimates mask wide variation across the states. For those states with sales and use taxes, the new loss from e-commerce in 2001 ranges from a low (setting aside D.C.) of 0.66 percent of state tax revenues in Massachusetts to a high of 2.01 percent in Texas. The total e-commerce loss ranges from 1.25 percent of total state taxes in Massachusetts to 3.80 percent in Texas, and the combined loss ranges from 1.60 percent in Massachusetts to 4.59 percent in Florida.

Similar figures are shown in Table 7 for 2006 and Table 8 for 2011. In 2006, the combined revenue loss represents 5.53 percent of total state taxes, a share that increases to 6.51 percent by 2011. In 2006, states stand to lose anywhere from 1.82 percent to


In 2011, states stand to lose anywhere from 2.6 percent to 9.92 percent of their total state tax collections to e-commerce losses alone.

5.51 percent of their total state tax collections to new e-commerce losses alone. The estimated new revenue losses as a share of tax revenues are positively correlated with the importance of the sales tax to states' pre-e-commerce tax structures (0.89), the breadth of states' sales tax bases (0.52) and state and local sales tax rates (0.33). Thus, the losses tend to be greater in states that rely heavily on the sales tax, have broad sales tax bases, and have high sales tax rates.

The dramatic growth of e-commerce is not predicted to last forever. As shown in our data, the growth rate of e-commerce will wane as this distribution channel matures, and the share of state taxes that are lost to e-commerce will stabilize in the general range of the 2006 figures. However, the trend


⁷ Local government losses as shares of total local taxes appear in Appendix Tables 1, 2, and 3. Total local government tax revenues are assumed to be the same percent of personal income in 2001, 2006, and 2011 as local taxes were in 1998.

Table 6: State Revenue Losses as Percentages of Total State Taxes in 2001

	(a)	(b) Total	(c) New	(d=a+c)
Trend	E-Commerce	E-Commerce	E-Commerce	Combined
State	Loss	Loss	Loss	Loss
AL	1.08	1.51	0.80	1.88
AR	1.52	2.38	1.26	2.78
AZ	1.52	2.27	1.20	2.72
CA	1.36	1.73	0.92	2.28
CO	0.91	1.54	0.81	1.73
CT	1.34	1.74	0.92	2.26
DC	0.79	0.99	0.52	1.31
FL	2.74	3.50	1.85	4.59
GA	1.60	2.23	1.18	2.79
HI	2.34	2.55	1.35	3.69
IA	1.09	2.05	1.09	2.18
ID	1.23	1.97	1.04	2.27
IL	1.32	2.08	1.10	2.42
IN	1.41	2.09	1.11	2.52
KS	1.37	2.15	1.14	2.51
KY	1.37	2.08	1.10	2.47
LA	1.38	2.45	1.30	2.68
MA	0.93	1.25	0.66	1.60
MD	1.46	1.79	0.95	2.40
ME	1.21	1.50	0.79	2.01
MI	1.42	2.17	1.15	2.57
MN	1.40	2.10	1.11	2.51
MO	1.42	2.12	1.12	2.54
MS	1.79	2.90	1.53	3.32
NC	1.10	1.53	0.81	1.91
ND	0.97	2.10	1.11	2.08
NE	1.20	2.02	1.07	2.27
NJ	1.35	1.74	0.92	2.27
NM	1.82	2.72	1.44	3.26
NV	2.45	3.65	1.93	4.38
NY	0.95	1.26	0.67	1.62
OH	1.24	1.85	0.98	2.22
OK	1.38	2.47	1.31	2.69
PA	1.29	1.82	0.96	2.25
RI	1.37	1.72	0.91	2.28
SC	1.74	2.33	1.23	2.97
SD	2.03	3.27	1.73	3.76
TN	2.48	3.47	1.84	4.31
TX	2.41	3.80	2.01	4.42
UT	1.38	2.31	1.22	2.60
VA	1.19	1.50	0.79	1.99
VT	1.04	1.34	0.71	1.75
WA	2.00	2.82	1.49	3.49
WI	1.03	1.59	0.84	1.87
WV	1.21	2.00	1.06	2.27
WY	1.12	2.34	1.24	2.36
US	1.46	2.06	1.09	2.55

Source: Authors' calculations.

Table 7: State Revenue Losses as Percentages of Total State Taxes in 2006

	(a)	(b) Total	(c) New	(d=a+c)
Trend	E-Commerce	E-Commerce	E-Commerce	Combined
State	Loss	Loss	Loss	Loss
AL	1.88	4.10	2.19	4.08
AR	2.76	6.46	3.45	6.21
AZ	2.82	6.14	3.28	6.10
CA	2.27	4.69	2.51	4.78
CO	1.75	4.17	2.23	3.97
CT	2.27	4.72	2.52	4.79
DC	1.27	2.70	1.44	2.71
FL	4.72	9.46	5.06	9.78
GA	2.89	6.05	3.23	6.12
HI	3.74	6.92	3.70	7.43
IA	2.06	5.59	2.99	5.04
ID	2.30	5.33	2.85	5.15
IL	2.36	5.65	3.02	5.38
IN	2.49	5.68	3.03	5.52
KS	2.43	5.84	3.12	5.55
KY	2.43	5.65	3.02	5.44
LA	2.52	6.67	3.57	6.09
MA	1.60	3.40	1.82	3.42
MD	2.43	4.84	2.59	5.02
ME	2.00	4.06	2.17	4.17
MI	2.52	5.89	3.15	5.66
MN	2.51	5.69	3.04	5.55
MO	2.50	5.77	3.08	5.59
MS	3.28	7.86	4.20	7.49
NC	1.97	4.14	2.21	4.18
ND	1.93	5.73	3.06	4.99
NE	2.21	5.48	2.93	5.14
NJ	2.28	4.71	2.52	4.79
NM	3.28	7.37	3.94	7.21
NV	4.65	9.86	5.27	9.92
NY	1.60	3.43	1.83	3.43
OH	2.16	5.04	2.69	4.86
OK	2.49	6.73	3.60	6.09
PA	2.20	4.94	2.64	4.84
RI	2.25	4.67	2.50	4.75
SC	3.02	6.31	3.37	6.39
SD	3.72	8.88	4.74	8.47
TN	4.37	9.39	5.02	9.39
TX	4.41	10.30	5.51	9.92
UT	2.66	6.25	3.34	6.00
VA	2.02	4.07	2.17	4.20
VT	1.76	3.63	1.94	3.70
WA	3.54	7.63	4.08	7.61
WI	1.85	4.31	2.30	4.15
WV	2.13	5.45	2.91	5.04
WY	2.08	6.41	3.42	5.51
US	2.55	5.59	2.99	5.53

Source: Authors' calculations.

Table 8: State Revenue Losses as Percentages of Total State Taxes in 2011

State	(a) Trend	(b) Total E-Commerce	(c) New E-Commerce	(d=a+c) Combined
	Loss	Loss	Loss	Loss
AL	2.69	3.95	2.10	4.79
AR	4.01	6.22	3.31	7.32
AZ	4.10	5.90	3.14	7.23
CA	3.19	4.52	2.40	5.59
CO	2.58	4.01	2.13	4.71
CT	3.20	4.54	2.41	5.61
DC	1.77	2.60	1.38	3.16
FL	6.68	9.10	4.84	11.52
GA	4.15	5.81	3.09	7.24
HI	5.15	6.66	3.54	8.69
IA	3.06	5.40	2.87	5.93
ID	3.37	5.13	2.73	6.10
IL	3.42	5.45	2.90	6.32
IN	3.58	5.47	2.91	6.49
KS	3.51	5.63	3.00	6.51
KY	3.50	5.45	2.90	6.40
LA	3.71	6.45	3.43	7.14
MA	2.27	3.27	1.74	4.01
MD	3.40	4.66	2.48	5.88
ME	2.80	3.91	2.08	4.88
MI	3.63	5.68	3.02	6.65
MN	3.62	5.48	2.92	6.54
MO	3.60	5.56	2.96	6.56
MS	4.80	7.58	4.03	8.83
NC	2.83	3.98	2.11	4.94
ND	2.93	5.54	2.94	5.87
NE	3.24	5.29	2.81	6.06
NJ	3.20	4.54	2.41	5.61
NM	4.74	7.09	3.77	8.51
NV	6.81	9.46	5.03	11.84
NY	2.26	3.31	1.76	4.02
OH	3.10	4.87	2.59	5.69
OK	3.65	6.51	3.46	7.11
PA	3.13	4.76	2.53	5.67
RI	3.14	4.50	2.39	5.53
SC	4.29	6.07	3.23	7.52
SD	5.44	8.56	4.55	9.99
TN	6.26	9.04	4.81	11.07
TX	6.43	9.92	5.28	11.71
UT	3.94	6.01	3.20	7.14
VA	2.85	3.92	2.08	4.93
VT	2.49	3.49	1.86	4.34
WA	5.08	7.34	3.90	8.98
WI	2.67	4.15	2.21	4.88
WV	3.08	5.27	2.80	5.88
WY	3.13	6.21	3.30	6.43
US	3.65	5.39	2.87	6.51

Source: Authors' calculations.

losses are projected to continue, leading to

combined revenue losses in 2011 between 4.01

and 11.84 percent. Florida, Nevada, Tennessee,

and Texas could see combined losses in excess of

ten percent of total state taxes.

Necessary Sales Tax Rate Increases

States have demonstrated a propensity to

raise tax rates to offset previous base reductions,

and it is reasonable to expect state and local

governments to respond to further base narrowing

with additional rate hikes. As sales tax rates are

increased, the sales tax base will be narrowed

further as purchasers substitute non-taxable items

and use remote purchasing to evade the tax. State

and local sales tax rate increases necessary to

replace the lost revenues in a particular year were

calculated for each state and are given in Table 9

for 2006 and Table 10 for 2011.

To replace only the new e-commerce losses

in 2006, rates will have to rise by between 0.44

and 0.91 percentage points. Overall, Tennessee

(1.58 percentage points) will need the largest rate

increase and Hawaii (0.82 percentage points) will

need the smallest increase to offset the total base


decline (column 4 of Table 9). The necessary rate

increases to offset new e-commerce losses in

2011, as shown in Table 10, range between 0.46


and 0.94 percentage points. Adding in the trend

Table 9: Sales Tax Rate Changes Necessary to Replace Lost Revenue in 2006 (Percentage Point Changes)

 State	(a) Trend Loss	(b) Total E-Commerce Loss	(c) New E-Commerce Loss	(d=a+c) Combined Loss
AL	0.56	1.46	0.77	1.33
AR	0.48	1.35	0.70	1.18
AZ	0.56	1.47	0.77	1.33
CA	0.61	1.51	0.80	1.41
CO	0.46	1.32	0.69	1.15
CT	0.51	1.28	0.68	1.19
DC	0.48	1.22	0.64	1.12
FL	0.55	1.34	0.71	1.26
GA	0.51	1.28	0.68	1.19
HI	0.37	0.83	0.44	0.82
IA	0.35	1.13	0.59	0.93
ID	0.38	1.05	0.55	0.93
IL	0.52	1.51	0.79	1.31
IN	0.38	1.05	0.55	0.94
KS	0.47	1.35	0.70	1.17
KY	0.46	1.28	0.67	1.13
LA	0.51	1.63	0.84	1.35
MA	0.41	1.05	0.56	0.97
MD	0.44	1.05	0.56	1.00
ME	0.43	1.05	0.56	0.99
MI	0.45	1.28	0.67	1.12
MN	0.51	1.41	0.74	1.25
MO	0.46	1.27	0.67	1.12
MS	0.52	1.51	0.79	1.31
NC	0.43	1.10	0.58	1.01
ND	0.33	1.19	0.61	0.94
NE	0.42	1.27	0.66	1.08
NJ	0.51	1.28	0.68	1.19
NM	0.49	1.33	0.70	1.19
NV	0.58	1.49	0.78	1.36
NY	0.62	1.62	0.85	1.47
OH	0.45	1.27	0.66	1.11
OK	0.43	1.39	0.72	1.15
PA	0.48	1.31	0.69	1.17
RI	0.60	1.51	0.80	1.40
SC	0.43	1.09	0.57	1.01
SD	0.40	1.14	0.59	0.99
TN	0.67	1.73	0.91	1.58
TX	0.58	1.62	0.85	1.42
UT	0.45	1.26	0.66	1.11
VA	0.37	0.90	0.48	0.85
VT	0.43	1.05	0.56	0.98
WA	0.66	1.71	0.90	1.56
WI	0.40	1.12	0.59	0.98
WV	0.41	1.28	0.67	1.08
WY	0.29	1.06	0.55	0.83

Source: Authors' calculations.

Table 10: Sales Tax Rate Changes Necessary to Replace Lost Revenue in 2011 (Percentage Point Changes)

 State	(a) Trend Loss	(b) Total E-Commerce Loss	(c) New E-Commerce Loss	(d=a+c) Combined Loss
AL	0.82	1.46	0.79	1.61
AR	0.72	1.34	0.72	1.44
AZ	0.84	1.47	0.80	1.64
CA	0.88	1.51	0.82	1.70
CO	0.70	1.32	0.71	1.41
CT	0.75	1.27	0.69	1.44
DC	0.69	1.22	0.66	1.35
FL	0.81	1.33	0.73	1.54
GA	0.76	1.28	0.70	1.45
HI	0.53	0.83	0.46	0.99
IA	0.53	1.13	0.60	1.13
ID	0.57	1.05	0.57	1.14
IL	0.78	1.51	0.81	1.59
IN	0.57	1.05	0.57	1.14
KS	0.69	1.34	0.72	1.41
KY	0.68	1.28	0.69	1.37
LA	0.77	1.62	0.86	1.64
MA	0.61	1.05	0.57	1.18
MD	0.64	1.05	0.57	1.21
ME	0.62	1.05	0.57	1.20
MI	0.68	1.27	0.69	1.36
MN	0.77	1.40	0.76	1.52
MO	0.68	1.26	0.68	1.36
MS	0.79	1.51	0.81	1.60
NC	0.65	1.10	0.60	1.24
ND	0.52	1.18	0.63	1.14
NE	0.64	1.26	0.68	1.32
NJ	0.75	1.27	0.69	1.44
NM	0.74	1.33	0.72	1.45
NV	0.88	1.48	0.81	1.69
NY	0.91	1.61	0.87	1.78
OH	0.67	1.26	0.68	1.35
OK	0.65	1.39	0.74	1.38
PA	0.71	1.31	0.71	1.42
RI	0.87	1.51	0.82	1.69
SC	0.64	1.08	0.59	1.23
SD	0.60	1.13	0.61	1.21
TN	0.99	1.72	0.94	1.93
TX	0.87	1.61	0.87	1.74
UT	0.68	1.26	0.68	1.36
VA	0.54	0.90	0.49	1.03
VT	0.62	1.05	0.57	1.19
WA	0.98	1.70	0.92	1.90
WI	0.60	1.11	0.60	1.20
WV	0.62	1.27	0.68	1.30
WY	0.44	1.06	0.56	1.00

Source: Authors' calculations.

losses, the rate increases in 2011 need to be between 0.99 and 1.93 percentage points. Note that the 2011 rate increases are not additive; they assume that no increases have taken place in earlier years and are calculated only to cover the 2011 losses.

Permanent rate increases enacted in earlier years would continue to generate revenues and would reduce or eliminate necessary rate increases in later years.⁸

To replace only the new e-commerce losses in 2011, sales tax rates will have to rise by between 0.46 and 0.94 percentage points.

The estimated tax rate increases are correlated with existing state and local tax rates (0.97), population (0.37), and the importance of the sales tax to states' pre-e-commerce tax structure (0.34). Thus, the necessary rate increase tends to be greater in states that already have higher rates and population and in states that rely heavily on the sales tax.

Caveats

Three critical issues have potentially important consequences for state and local revenues, but have not been explored in this study. The first concerns the propensity for tangible goods to be converted into digitized goods. In some states, sales of certain tangible personal property are taxable but sales of a digital counterpart are not. For example, all states tax pre-packaged software, but 16 states do not tax software if it is downloaded (State Taxation Institute, 2000). No explicit adjustment is made to account for changes in form that alter taxability of transactions, except as assumptions are made about the extent to which certain types of sales are taxable. In all but the earliest years of our forecast, at most one-tenth of e-commerce sales appear to reasonably fit into the category where they might become non-taxable in some states because they are sold in digitized form (for example, software, music, books, etc.). Our revenue loss estimates are overstated (assuming that states do not alter the tax base to reflect this trend) to the extent that this shift reduces the tax base, but most states could be expected to react quickly to such base erosion and redefine the base to include many digitized sales. The one-tenth greatly exaggerates the potential effect because not all of these items will be digitized (for example, not all books will be digitized) and because many of the transactions are already taxable.

⁸ The estimated tax rate increases can be smaller in 2011 than in 2006, due primarily to slower expected growth in total e-commerce. Additionally, state and local taxes (assumed here to be a constant share of personal income beyond 2000 for state and 1998 for local) are expected to grow with personal income growth.

A second issue regards the dramatic expansion of commerce taking place via online auctions (such as through e-Bay). The Forrester data used in this study do not include such sales, but auctions could conceivably contribute to revenue losses. This is especially true if businesses are set up to funnel a significant amount of commerce through online auction houses without paying sales or use taxes. Most sales between individual consumers would be exempt as occasional sales, but the possibility for tax evasion exists for business-to-consumer (B2C) sales. In any case, failing to account for taxes due on online auctions likely leads to understated revenue loss estimates in this study.

Yet another issue involves the extent to which e-commerce sales replace other remote sales. Our forecast methodology is based on the assumption that 35 percent of the B2C revenue loss and 50 percent of B2B revenue loss would have occurred even in the absence of e-commerce. For consistency, these ratios are held constant throughout the forecast horizon, but they imply that the dollar value of non-e-commerce remote sales would increase at a compound annual 15.1 percent growth rate (CAGR), the same as the growth in the revenue losses. We believe that the implied growth rate is too high and a larger and larger share of the total e-commerce loss will represent a new revenue loss over time, as e-commerce sales grow more rapidly than other remote sales. Reducing the 15.1 percent CAGR to what appears to us to be a more reasonable 10 percent would not change the total e-commerce loss estimates over time, but it would reclassify a steadily larger share of the total e-commerce loss as new e-commerce loss. In this scenario, the new loss from e-commerce would be \$38.6 billion in 2011 instead of our baseline estimate of \$29.2 billion. Our results are clearly sensitive to this parameter but further empirical guidance is necessary before more definitive estimates can be calculated.

Policy Implications and Conclusions

Sales tax base erosion has been underway for many years. The revenue loss estimates provided here, totaling more than \$16 billion in 2001 and nearly \$45 billion in 2006, suggest that the combination of the trend decline and e-commerce will significantly alter state tax structures during the next several years.

State and local governments will be confronted with several choices in the face of these revenue losses: they must either cut expenditures, increase existing sales tax rates, or shift to another tax source, such as the property or income tax. Each choice has important implications. The effects of the first option, shrinking government, depend on the choices that are made. For example, reducing education and infrastructure spending could lower the economy's growth potential.

If the size of government is not cut, the issue comes down to the way in which state and local governments are to finance themselves. With these decisions goes the full range of implications regarding taxation, including equity, administration and compliance, and behavioral incentives. From a public policy perspective the issue is whether state and local governments are better financed with the triad of sales, property, and income taxes, or whether the sales tax base should be allowed to continue shrinking and the focus increasingly shifted toward other broad-based taxes. These are significant structural changes, and the shifts could be much larger over the next decade.

REFERENCES

Bruce, Donald, and William F. Fox. "E-Commerce in the Context of Declining State Sales Tax Bases." *National Tax Journal*. Vol. 53, No. 4 (December 2000, Part 3), pp. 1373-1388.

State Taxation Institute. "Taxability of Electronic Downloads Varies among States." *E-Commerce Tax Alert* Volume 1, Number 1, 2000, pp. 2-4.

Appendix Table 1: Local Revenue Losses as Percentages of Total Local Taxes in 2001

	(a)	(b) Total	(c) New	(d=a+c)
	Trend	E-Commerce	E-Commerce	Combined
State	Loss	Loss	Loss	Loss
AL	1.72	2.40	1.27	2.99
AR	1.10	1.73	0.91	2.02
AZ	0.94	1.40	0.74	1.68
CA	0.68	0.87	0.46	1.14
CO	1.21	2.03	1.08	2.28
CT	0.00	0.00	0.00	0.00
DC	0.00	0.00	0.00	0.00
FL	0.16	0.20	0.11	0.26
GA	1.20	1.68	0.89	2.09
HI	0.00	0.00	0.00	0.00
IA	0.14	0.26	0.14	0.27
ID	0.00	0.00	0.00	0.00
IL	0.21	0.33	0.17	0.38
IN	0.00	0.00	0.00	0.00
KS	0.63	0.99	0.52	1.15
KY	0.00	0.00	0.00	0.01
LA	1.84	3.27	1.73	3.57
MA	0.00	0.00	0.00	0.00
MD	0.00	0.00	0.00	0.00
ME	0.00	0.00	0.00	0.00
MI	0.00	0.00	0.00	0.00
MN	0.03	0.04	0.02	0.05
MO	0.88	1.32	0.70	1.58
MS	0.00	0.00	0.00	0.00
NC	0.82	1.13	0.60	1.42
ND	0.22	0.48	0.25	0.47
NE	0.31	0.53	0.28	0.59
NJ	0.00	0.00	0.00	0.00
NM	1.52	2.26	1.20	2.71
NV	0.28	0.42	0.22	0.50
NY	0.72	0.96	0.51	1.23
OH	0.32	0.47	0.25	0.57
OK	1.49	2.67	1.41	2.90
PA	0.05	0.07	0.04	0.08
RI	0.00	0.00	0.00	0.00
SC	0.11	0.15	0.08	0.20
SD	0.75	1.20	0.64	1.38
TN	1.28	1.80	0.95	2.24
TX	0.52	0.82	0.43	0.95
UT	0.71	1.19	0.63	1.34
VA	0.40	0.50	0.27	0.66
VT	0.00	0.00	0.00	0.00
WA	0.83	1.16	0.62	1.44
WI	0.12	0.19	0.10	0.23
WV	0.00	0.00	0.00	0.00
WY	0.46	0.97	0.51	0.97
US	0.47	0.67	0.36	0.83

Source: Authors' calculations.

Appendix Table 2: Local Revenue Losses as Percentages of Total Local Taxes in 2006

	(a)	(b) Total	(c) New	(d=a+c)
	Trend	E-Commerce	E-Commerce	Combined
State	Loss	Loss	Loss	Loss
AL	2.99	6.51	3.48	6.48
AR	2.01	4.69	2.51	4.51
AZ	1.74	3.79	2.02	3.76
CA	1.14	2.35	1.26	2.39
CO	2.31	5.51	2.94	5.25
CT	0.00	0.00	0.00	0.00
DC	0.00	0.00	0.00	0.00
FL	0.27	0.54	0.29	0.56
GA	2.17	4.54	2.43	4.59
HI	0.00	0.00	0.00	0.00
IA	0.26	0.70	0.38	0.64
ID	0.00	0.00	0.00	0.00
IL	0.37	0.89	0.47	0.84
IN	0.00	0.00	0.00	0.00
KS	1.12	2.68	1.43	2.55
KY	0.01	0.01	0.01	0.01
LA	3.37	8.91	4.76	8.13
MA	0.00	0.00	0.00	0.00
MD	0.00	0.00	0.00	0.00
ME	0.00	0.00	0.00	0.00
MI	0.00	0.00	0.00	0.00
MN	0.05	0.10	0.06	0.10
MO	1.55	3.58	1.91	3.47
MS	0.00	0.00	0.00	0.00
NC	1.46	3.07	1.64	3.10
ND	0.44	1.30	0.69	1.13
NE	0.58	1.43	0.76	1.34
NJ	0.00	0.00	0.00	0.00
NM	2.73	6.13	3.28	6.00
NV	0.53	1.13	0.60	1.13
NY	1.21	2.60	1.39	2.60
OH	0.55	1.29	0.69	1.24
OK	2.69	7.27	3.88	6.57
PA	0.08	0.18	0.10	0.18
RI	0.00	0.00	0.00	0.00
SC	0.20	0.42	0.22	0.42
SD	1.37	3.26	1.74	3.11
TN	2.27	4.87	2.60	4.87
TX	0.95	2.21	1.18	2.13
UT	1.37	3.21	1.72	3.08
VA	0.68	1.36	0.73	1.40
VT	0.00	0.00	0.00	0.00
WA	1.46	3.15	1.69	3.15
WI	0.22	0.52	0.28	0.50
WV	0.00	0.00	0.00	0.00
WY	0.86	2.64	1.41	2.27
US	0.82	1.83	0.98	1.80

Source: Authors' calculations.

Appendix Table 3: Local Revenue Losses as Percentages of Total Local Taxes in 2011

	(a)	(b) Total	(c) New	(d=a+c)
	Trend	E-Commerce	E-Commerce	Combined
State	Loss	Loss	Loss	Loss
AL	4.28	6.27	3.34	7.61
AR	2.91	4.52	2.40	5.32
AZ	2.53	3.64	1.94	4.47
CA	1.60	2.26	1.20	2.80
CO	3.41	5.30	2.82	6.23
CT	0.00	0.00	0.00	0.00
DC	0.00	0.00	0.00	0.00
FL	0.38	0.52	0.28	0.66
GA	3.12	4.36	2.32	5.43
HI	0.00	0.00	0.00	0.00
IA	0.39	0.68	0.36	0.75
ID	0.00	0.00	0.00	0.00
IL	0.54	0.85	0.45	0.99
IN	0.00	0.00	0.00	0.00
KS	1.62	2.59	1.38	2.99
KY	0.01	0.01	0.01	0.01
LA	4.95	8.61	4.58	9.53
MA	0.00	0.00	0.00	0.00
MD	0.00	0.00	0.00	0.00
ME	0.00	0.00	0.00	0.00
MI	0.00	0.00	0.00	0.00
MN	0.07	0.10	0.05	0.12
MO	2.24	3.45	1.84	4.07
MS	0.00	0.00	0.00	0.00
NC	2.09	2.95	1.57	3.66
ND	0.66	1.26	0.67	1.33
NE	0.85	1.38	0.73	1.58
NJ	0.00	0.00	0.00	0.00
NM	3.94	5.90	3.14	7.08
NV	0.78	1.08	0.57	1.35
NY	1.71	2.51	1.33	3.05
OH	0.79	1.24	0.66	1.45
OK	3.94	7.03	3.74	7.68
PA	0.11	0.17	0.09	0.21
RI	0.00	0.00	0.00	0.00
SC	0.28	0.40	0.21	0.50
SD	2.00	3.15	1.67	3.67
TN	3.25	4.69	2.49	5.74
TX	1.38	2.13	1.13	2.52
UT	2.03	3.09	1.64	3.67
VA	0.95	1.31	0.70	1.65
VT	0.00	0.00	0.00	0.00
WA	2.10	3.03	1.61	3.71
WI	0.32	0.50	0.27	0.59
WV	0.00	0.00	0.00	0.00
WY	1.29	2.56	1.36	2.65
US	1.18	1.76	0.94	2.12

Source: Authors' calculations.

Bill Explanation

ASSEMBLY BILL 514 Assembly Committee on Taxation Hearing: April 1, 2003

Summary: Provides for enactment of certain provisions that are necessary to carry out **Streamlined Sales and Use Tax Agreement**. Pursuant to **section 22**, if the act is approved, **all sections, except sections 6 and 16**, are effective on January 1, 2006, only if the state becomes a member of the Streamlined Sales and Use Tax Agreement on or before that date. **Sections 6 and 16** are effective on the effective date of the first act of Congress that allows a state to impose and collect sales taxes on transactions through the Internet or similar technology.

Section 1: Amends the Simplified Sales and Use Tax Administration Act to require the Department of Taxation to post the following on its Internet site:

- The rates of sales and use taxes imposed by the state and each local government;
- Any change in those rates;
- Any amendments to statutory and regulatory provisions governing the registration of sellers and the collection of sales taxes; and
- Any changes in the boundaries of local government that impose sales taxes.

The following sections enact parallel provisions for state and local sales and use taxes:

Sections 2 and 12: Add sections 3 to 8 and 13 to 18, respectively, to chapters 372 and 374 of the NRS.

Sections 3 and 13: Require the department to establish an electronic system that allows a seller to register to collect and remit sales taxes in this state and other states that are members of the Streamlined Sales and Use Tax Agreement; provide that a seller who registers agrees to collect sales taxes; and provide that registration is not a factor for the determination of a seller's nexus for purposes of any other state tax.

Sections 4 and 14: Establish the location of a retail sale as:

- The place of business of the seller if the purchaser receives the property at that location;
- The location where the purchaser receives the property if it is not received at the seller's business;
- The address of the purchaser on the seller's record if the two locations above do not apply;
- The address of the purchaser obtained at the consummation of the sales if the three locations above do not apply; or
- The address from which the property was shipped or, if delivered electronically, from the location it was first available for transmission if no other location above applies.

H-1 OF 2

ASSEMBLY COMMITTEE ON TAXATION
DATE: 4/1/03 ROOM: 3142 EXHIBIT H
SUBMITTED BY: TED ZUEND

- Sections 5 to 15:** Require a purchaser of property that will be available for use electronically in another jurisdiction in or outside the state to notify the seller of that fact at the time of purchase. Provide that upon receipt of such notice, the seller is relieved of the responsibility to collect taxes on the purchase, and the purchaser assumes that liability.
- Sections 6 and 16:** Require a purchaser who makes a purchase by direct mail to provide the seller a statement of the jurisdictions in or outside the state to which the property will be delivered for use. Require a seller, upon receipt of such notice, to collect sales in accordance with that information and relieve the seller of any further liability related to those taxes.
- Define "direct mail" as printed material delivered by the Postal Service or another mail service to a mass audience or to addresses provided by or at the direction of the purchaser when the cost of the items purchased is not billed to the recipients.
- Sections 7 and 17:** Provide that the department shall calculate the sales tax to the nearest cent.
- Sections 8 and 18:** As required by the department, provide that a seller is to obtain information from a purchaser who claims an exemption and maintain a record of the exempt transactions. Require the department, where feasible, to establish an electronic system to request an exemption and provide that the department may issue an identification number to an exempt purchaser that can be presented to a seller.
- Sections 9 and 19:** Make technical adjustments to NRS 372.125 and 374.130, respectively, to include the registration provisions for a seller's permit in sections 3 and 13, respectively, to the existing provisions relating to an application for a seller's permit. Require written evidence of a signer's authority if the application for a seller's permit is from a corporation.
- Sections 10 and 20:** Require that state and local sales tax returns must be combined.
- Sections 11 and 21:** Require the department to provide for the acceptance of credit or debit cards or electronic money transfers for the remittance of sales and use taxes in the manner described in NRS 353.1465.

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

**Seventy-Second Session
April 10, 2003**

The Committee on Taxation was called to order at 1:55 p.m., on Thursday, April 10, 2003. Chairman David Parks presided in Room 4100 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4406 of the Grant Sawyer State Office Building, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Guest List. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. David Parks, Chairman
Mr. David Goldwater, Vice Chairman
Mr. Bernie Anderson
Mr. Morse Arberry Jr.
Mrs. Dawn Gibbons
Mr. Tom Grady
Mr. Josh Griffin
Mr. Lynn Hettrick
Mr. John Marvel
Ms. Kathy McClain
Mr. Harry Mortenson
Ms. Peggy Pierce

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman John Ocegura, District No. 16
Assemblywoman Chris Giunchigliani, District No. 9
Assemblyman Pete Goicoechea, District No. 35

seeing your letter for the file.

Assemblyman Goldwater:

Thank you, Mr. Chairman.

ASSEMBLYMAN GOLDWATER MOVED TO REQUEST A WAIVER
OF DEADLINE ON A.B. 387.

ASSEMBLYMAN GRIFFIN SECONDED THE MOTION.

THE MOTION FAILED. ASSEMBLYMEN HETTRICK AND GIBBONS
VOTED NO. (Mr. Anderson, Mr. Grady, Ms. McClain, and
Ms. Pierce were not present for the vote.)

Chairman Parks:

I am sorry. Okay, the motion for the waiver fails because we have insufficient
numbers. Let us go ahead and consider A.B. 364, the authorization to impose
additional tax on motor vehicle fuel by cities and counties.

**Assembly Bill 364: Authorizes imposition of additional tax on motor vehicle fuel
by cities and counties. (BDR 32-1119)**

It was the intent of the 557 Committee to continue to study this distribution in
the next interim period, and what has been suggested is a letter of intent from
this Committee directed to the 557 Committee that it consider the content of
A.B. 364.

ASSEMBLYMAN MARVEL MOVED TO SEND A LETTER OF INTENT
TO THE 557 COMMITTEE CONCERNING A.B. 364.

ASSEMBLYMAN GOLDWATER SECONDED THE MOTION.

THE MOTION CARRIED. ASSEMBLYWOMAN GIBBONS VOTED
NO. (Mr. Anderson, Mr. Grady, Ms. McClain, and Ms. Pierce were
not present for the vote.)

Let us go ahead and move to A.B. 514, the streamlined sales and use tax
agreement (Exhibit Q).

**Assembly Bill 514: Provides for enactment of certain provisions that are
necessary to carry out Streamlined Sales and Use Tax Agreement.
(BDR 32-1292)**

A handout has been provided to you (Exhibit Y). It is about a half-inch thick, and it says "Explanation of Proposed Amendment to Assembly Bill No. 514" across the top, prepared by Legal Division.

ASSEMBLYMAN GOLDWATER MOVED TO AMEND AND DO PASS
ON A.B. 514.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairman Parks:

That now leaves us with A.B. 516. We heard testimony on that earlier today.

Assemblyman Goldwater:

This applies to all counties, correct? [Chairman Parks answered in the affirmative.] Clark County voters did not address indexing specifically, correct? [Mr. Zuend verified that.] Is it possible to put some sort of ceiling on what they are allowed to index up to, and perhaps put a sunset on at least the indexing part of the bill? I am not comfortable with putting one over on the voters, because they could have considered indexing when they passed it. They removed it, and now we are putting it back in.

Chairman Parks:

Right. The proponents of Question 10 had initially placed it on as a component of Question 10, and it was removed from the final approved question that was submitted to the voters. Ms. Vilardo, would you like to expound on that at all?

Carole Vilardo:

I think I sat on both of the RTC Committees, and the indexing was considered because the Legislature has not wanted to give blanket authority to the local governments to raise fuel taxes as needed to make up for lost revenue. Because it is a flat-based tax, and you have more fuel-efficient cars, even though you have more people driving, you are not making any headway with generating revenue. So, the indexing came up. In both cases, we recommended that there be a cap of 4.5 percent. Now, there are some other ways of treating that. It is a very real problem, and I understand the need for it. It is not my favorite, which is why we recommended the cap, but I can also attest that I know we need the money.

[Ms. Vilardo, continued] Be that as it may, in Clark County, very honestly, there was a poll taken prior to the ballot question being finalized, and it was found that would have caused a defeat on the question, which is why the sales

DISCLAIMER

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

This information is supplied as an informational service only and should not be relied upon as an official record.

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.

Work Session Document
Assembly Taxation Committee
April 10, 2003

AB 348—Establishes procedures for the Nevada Tax Commission to follow before adopting factors that are applied annually to the taxable value of improvements for property that has not been reappraised. The prime sponsor of the bill noted that the factors for improvements that are provided to assessors by the tax commission sometimes cause property to be overvalued. There was some disagreement among the assessors regarding the need for the bill, although no one directly recommended that the bill be killed. Every assessor agreed, however, that the bill should be amended to eliminate the ability of a board of county commissioners to object to the factors in an attempt to have them changed. **The amendment would simply delete all references to "board(s) of county commissioners" in section 1.** The Nevada Taxpayers Association also supported the bill and the proposed amendment.

AB 351—Proposes to the voters an amendment to the Sales and Use Tax Act to exempt medicines and medical devices ordered for senior citizens 62 and over by licensed health care providers. If approved by the voters, the act triggers an identical exemption from all local sales taxes. The prime sponsor of the bill noted that seniors need many medical products for their well-being that are available over the counter, but that the sales taxes on such products make them less affordable. She noted that a senior would have to provide a document from the medical provider to the seller to obtain the exemption. Concerns were raised over the size of the potential fiscal effect of the exemption and how the exemption would be administered. The sponsor indicated she would review the bill and **possibly propose amendments** that may alleviate those concerns.

AB 366—Provides a \$2,000 exemption from the determined value of a vehicle for purposes of the governments services tax for a resident of Nevada who is on active duty in the Armed Forces but is required to live in another state because of that military service. The section also provides for indexing of the \$2,000 for inflation as measured by changes in the Consumer Price Index beginning in FY 2005-06. The prime sponsor of the bill and various supporters of the measure noted that granting an exemption is a fair and right thing to do to show of appreciation to those who serve their country in the military. One supporter of the bill also noted that Federal law exempts non-resident service members from being compelled to pay the taxes of the state where they are stationed. There was no opposition to the AB 366. The Department of Motor Vehicles submitted a fiscal note that estimated a revenue loss of between \$400,000 and \$1.6 million depending upon the number of residents on active duty who apply for the exemption.

An amendment, which is attached, was proposed to exempt any resident from the government services tax who is on active duty in the United State military. The amendment also proposes to expand the veterans' exemption (\$1,750 for next year) to cover all veterans regardless of the dates they served in the military if they were on active duty for at least 90 consecutive days and were honorably discharged.

AB 387—Reduces the rate of the Government Services Tax (GST) from four percent to two percent and increases certain other taxes and eliminates certain tax exemptions to replace the forgone revenues. The prime sponsor noted that the GST is one of the most disliked taxes in the state, and the tax on vehicles in Nevada is one of the highest in the nation. It would also provide a tax break to Nevada residents at a time other taxes are likely to be increased. There was only limited testimony on the bill due to time constraints. Representatives from the real estate industry voiced opposition to the 50 cent per \$500 of value (\$200 on a \$200,000 home) increase in the Real Property Transfer Tax contained in the bill. They argued that the tax would make it more difficult for first-time homebuyers to qualify for a loan and that it would hurt real estate sales in general. **A report from a subcommittee is expected.**

AB 514—Provides for enactment of certain provisions that are necessary to carry out the Streamlined Sales and Use Tax Agreement. The prime sponsor of the bill noted that it was important for Nevada to become a party to the agreement for several reasons. The most important being that it would likely result

in the state being likely to collect taxes on Internet and catalog sales to residents. He provided data that indicated nearly \$200 million per year of state and local revenue is currently being lost because of such sales. Other supporters of the legislation included representatives of the retail industry, the Nevada Taxpayers Association and the Department of Taxation.

Following the meeting, at the request of the chairman, staff discussed with Legislative Counsel whether the bill, which is, according to the title, in skeleton form, needed to be further amended. Legislative Counsel indicated that further amendments were needed for Nevada to conform to the requirements of the agreement and that **her office would provide a proposed amendment for the committee to consider.** The amendment will be made available as soon as possible.

AB 515—Makes various revisions to the property tax assistance program for Senior Citizens including, among other things, revising the method for calculating the refunds and the qualifications for obtaining such refunds. Proponents from the division of aging services noted that the bill was intended to simplify the existing schedule to provide a more equitable distribution to eligible claimants, to limit eligibility by prohibiting benefits for persons with at least \$400,000 in liquid assets, with \$30,000 or more in real property in Nevada or another state and with a home in Nevada with an assessed value of \$75,000. The proponents also noted that the bill provides a 100 percent refund up to the \$500 maximum amount to claimants with income below the poverty level and would hold their benefits if there were insufficient funds available to pay all claims. There was no testimony in opposition to the bill and no amendments were proposed. Some members of the committee expressed concern over changing the program in a way that could have anticipated budgetary consequences when the state is experiencing revenue shortfalls. The biggest issue for the committee seems to be whether or not to re-refer the bill to Ways and Means if it is approved.

AB 533—Amends various statutes of concern to county assessors as proposed by the Assessor's Association. Among other things, the bill would revise various assessment standards and practices, exemptions and the relationship between the assessor and other state and local government agencies. Spokesmen for the assessors explained the bill in detail and responded to many questions from the committee members. They also proposed several amendments to the bill and agreed to others as questions were raised.

After the assessors' testimony concluded, there was little opposition to most of the bill, although a representative from Clark County submitted an amendment to remove two sections of the bill that gave exclusive authority to the Department of Taxation to conduct performance audits of assessors, and a spokesman representing cities opposed a provision that increased the percentage commission on personal property taxes retained by a county. The assessors oppose these changes. A veterans' organization and a county recorder proposed other amendments that did not raise any objections. A Nevada Taxpayers Association representative opposed the increases and expansion of the exemptions contained in the bill.

A compilation of the proposed amendments is attached.

ATTACHMENT

EXPLANATION OF PROPOSED AMENDMENT TO ASSEMBLY BILL NO. 514
(Prepared by the Legal Division)

OVERVIEW: The purpose of this amendment is to set forth the provisions necessary to carry out the Streamlined Sales and Use Tax Agreement (the "Agreement").

Section 1 provides for the addition of the provisions of sections 2 to 17, inclusive, of this amendment to chapter 360B of NRS ("Sales and Use Tax Administration").

Sections 2, 3 and 4 define certain terms used in sections 5 to 17, inclusive, of this amendment.

Section 5 provides for the establishment of a uniform electronic registration system for sellers and sets forth certain rights and duties of a seller who registers with that system regarding the collection and remission of sales and use taxes, the method of remittance, the submission of returns and liability for the taxes imposed by this state.

Section 6 requires the Department of Taxation to post on its Internet website certain information regarding the sales and use taxes imposed in this state, and relieves sellers who are registered pursuant to section 5 of this amendment and rely on the information posted pursuant to this section from liability for any failure to collect and remit taxes as a result of that reliance.

Section 7 requires the Department of Taxation to maintain a list that sets forth the tax rates applicable to the zip codes in this state, and sets forth certain provisions regarding the use of the list. (Note that this list will be included in the information posted pursuant to section 6 of this amendment).

Sections 8 to 13, inclusive, set forth uniform rules for the "sourcing" of various sales transactions for the purpose of determining the jurisdictions to which a seller is liable for taxes on retail sales.

Section 14 establishes procedures for the allocation of liability, as between a purchaser and seller, to any applicable taxing jurisdictions for sales and use taxes imposed upon the purchase of "direct mail" (as defined in subsection 4 of that section).

Section 15 provides for the delayed payment of a sales or use tax which is due on a weekend or legal holiday.

Section 16 provides for the issuance and use of a permit that authorizes a person to purchase products without paying any sales or use tax to the seller. The holder of such a permit is required to determine the applicable taxes and pay the appropriate taxing jurisdictions directly.

Section 17 establishes a procedure for a purchaser who knows that certain purchased property will be used in other jurisdictions to assume liability, and relieve the

seller from liability, for the apportionment and payment to the appropriate jurisdictions of any taxes due.

Section 18 amends NRS 360B.030 to provide for the inclusion of the provisions of sections 2 to 17, inclusive, of this amendment in NRS 360B.010 to 360B.170, (relating to the Streamlined Sales and Use Tax Agreement).

Section 19 amends NRS 360B.110 to provide the Nevada Tax Commission with the regulatory authority to carry out the Agreement and the statutory provisions relating to the Agreement.

Section 20 provides for the addition of the provisions of sections 21, 22 and 23 of this amendment to chapter 372 of NRS ("Sales and Use Taxes").

Section 21 establishes a uniform rounding rule for the calculation of tax liability under chapter 372 of NRS.

Section 22 sets forth requirements for the administration of exemptions from the taxes imposed pursuant to chapter 372 of NRS.

Section 23 sets forth uniform rules for the deduction of bad debts from the amount of taxable sales for which a seller is liable pursuant to chapter 372 of NRS, and provides for the allocation of bad debts among states that are members of the Agreement. (Note that subsections 10 and 11 are similar to provisions contained in NRS 372.365, which formerly provided for the treatment of bad debts under chapter 372 of NRS).

Section 24 amends NRS 372.125 to allow the registration of a seller pursuant to section 5 of this amendment in lieu of obtaining a seller's permit from the Department of Taxation.

Section 25 amends NRS 372.125 to assist in establishing the uniform state and local tax base required by the Agreement by adding a provision relating to the taxation of vehicles. Pursuant to section 87 of this amendment, this addition will become effective only if the voters approve, in accordance with sections 77 to 81, inclusive, of this amendment, the addition of certain related provisions to chapter 372 of NRS.

Section 26 amends NRS 372.360 to allow the Department of Taxation to prescribe any reporting periods for tax returns required by the Agreement, and to limit the number of tax returns that must be filed with the State for any reporting period.

Section 27 amends NRS 372.365 in conformity with the provisions of section 23 of this amendment.

Section 28 amends NRS 372.370 to authorize the Department of Taxation to provide certain monetary allowances required by the Agreement for the collection of sales and use taxes from sellers who register pursuant to section 5 of this amendment and

make one of the elections set forth in paragraphs (a), (b) and (c) of subsection 3 of that section.

Section 29 amends NRS 372.375 to provide for the payment of taxes by credit card, debit card or electronic transfer of money.

Section 30 amends NRS 372.635 in conformity with the provisions of section 23 of this amendment.

Section 31 provides for the addition of the provisions of sections 32 and 33 of this amendment to chapter 374 of NRS ("Local School Support Tax").

Section 32 sets forth uniform rules for the deduction of bad debts from the amount of taxable sales for which a seller is liable pursuant to chapter 374 of NRS, and provides for the allocation of bad debts among states that are members of the Agreement. (Note that subsections 10 and 11 are similar to provisions contained in NRS 374.370, which formerly provided for the treatment of bad debts under chapter 374 of NRS).

Section 33 establishes a uniform rounding rule for the calculation of tax liability under chapter 374 of NRS.

Sections 34 and 35 respectively amend NRS 374.030 and 374.040 to assist in establishing the uniform state and local tax base required by the Agreement by deleting from chapter 374 of NRS certain provisions relating to the taxation of vehicles. Pursuant to section 87 of this amendment, these deletions will occur only if the voters do not, in accordance with sections 77 to 81, inclusive, of this amendment, approve the addition of similar provisions to chapter 372 of NRS.

Section 36 amends NRS 374.055 to assist in establishing the uniform state and local tax base required by the Agreement by deleting from chapter 374 of NRS certain provisions relating to the taxation of certain works of fine art for public display. Pursuant to section 87 of this amendment, this deletion will occur only if the voters do not, in accordance with sections 72 to 76, inclusive, of this amendment, approve the addition of similar provisions to chapter 372 of NRS.

Section 37 amends NRS 374.060 to assist in establishing the uniform state and local tax base required by the Agreement by adding to chapter 374 of NRS a provision relating to the taxation of certain ophthalmic or ocular devices or appliances. Pursuant to section 87 of this amendment, this addition will occur only if the voters do not, in accordance with sections 57 to 61, inclusive, of this amendment, approve the deletion of a similar provision from chapter 372 of NRS.

Sections 38 and 39 respectively amend NRS 374.060 and 374.070 to assist in establishing the uniform state and local tax base required by the Agreement by deleting from chapter 374 of NRS certain provisions relating to the taxation of vehicles. Pursuant to section 87 of this amendment, these deletions will occur only if the voters do not, in

accordance with sections 77 to 81, inclusive, of this amendment, approve the addition of similar provisions to chapter 372 of NRS.

Section 40 amends NRS 374.085 to assist in establishing the uniform state and local tax base required by the Agreement by deleting from chapter 374 of NRS a provision relating to the taxation of certain works of fine art for public display. Pursuant to section 87 of this amendment, this deletion will occur only if the voters do not, in accordance with sections 72 to 76, inclusive, of this amendment, approve the addition of a similar provision to chapter 372 of NRS.

Section 41 amends NRS 374.130 to assist in establishing the uniform state and local tax base required by the Agreement by deleting from chapter 374 of NRS a provision relating to the taxation of vehicles. Pursuant to section 87 of this amendment, this deletion will occur only if the voters do not, in accordance with sections 77 to 81, inclusive, of this amendment, approve the addition of certain related provisions to chapter 372 of NRS. (Compare to section 25 of this amendment).

Section 42 amends NRS 374.130 to allow the registration of a seller pursuant to section 5 of this amendment in lieu of obtaining a seller's permit from the Department of Taxation.

Section 43 amends NRS 374.287 to assist in establishing the uniform state and local tax base required by the Agreement by deleting from chapter 374 of NRS a provision relating to the taxation of certain ophthalmic or ocular devices or appliances. Pursuant to section 87 of this amendment, this deletion will occur only if the voters do not, in accordance with sections 57 to 61, inclusive, of this amendment, approve the addition of a similar provision to chapter 372 of NRS.

Section 44 amends NRS 374.365 to allow the Department of Taxation to prescribe any reporting periods for tax returns required by the Agreement, and to limit the number of tax returns that must be filed with the State for any reporting period.

Section 45 amends NRS 374.370 in conformity with section 32 of this amendment.

Section 46 amends NRS 374.375 to authorize the Department of Taxation to provide certain monetary allowances required by the Agreement for the collection of sales and use taxes from sellers who register pursuant to section 5 of this amendment and make one of the elections set forth in paragraphs (a), (b) and (c) of subsection 3 of that section.

Section 47 amends NRS 374.380 to provide for the payment of taxes by credit card, debit card or electronic transfer of money.

Section 48 amends NRS 374.640 in conformity with section 32 of this amendment.

Section 49 amends NRS 374.785 to assist in establishing the uniform state and local tax base required by the Agreement by deleting from chapter 374 of NRS a provision relating to the taxation of vehicles. Pursuant to section 87 of this amendment, this deletion will occur only if the voters do not, in accordance with sections 77 to 81, inclusive, of this amendment, approve the addition of certain related provisions to chapter 372 of NRS.

Section 50 amends NRS 377.055 to assist in establishing the uniform state and local tax base required by the Agreement by deleting from chapter 377 of NRS a provision relating to the taxation of vehicles. Pursuant to section 87 of this amendment, this deletion will occur only if the voters do not, in accordance with sections 77 to 81, inclusive, of this amendment, approve the addition of certain related provisions to chapter 372 of NRS.

Section 51 amends NRS 482.225 to assist in establishing the uniform state and local tax base required by the Agreement by deleting from that section a provision relating to the taxation of vehicles. Pursuant to section 87 of this amendment, this deletion will occur only if the voters do not, in accordance with sections 77 to 81, inclusive, of this amendment, approve the addition of certain related provisions to chapter 372 of NRS.

Sections 52 to 56, inclusive, assist in establishing the uniform state and local tax base required by the Agreement by submitting to the voters the question of whether to add to chapter 372 of NRS a tax exemption for certain farm machinery and equipment which is currently provided in chapter 374 of NRS.

Sections 57 to 61, inclusive, assist in establishing the uniform state and local tax base required by the Agreement by submitting to the voters the question of whether to add to chapter 372 of NRS a tax exemption for certain ophthalmic or ocular devices or appliances which is currently provided in chapter 374 of NRS.

Sections 62 to 66, inclusive, assist in establishing the uniform state and local tax base required by the Agreement by submitting to the voters the question of whether to add to chapter 372 of NRS the criteria used to determine a tax exemption for aircraft and parts of aircraft, and an additional tax exemption for certain machinery and equipment used on aircraft, which are currently provided in chapter 374 of NRS.

Sections 67 to 71, inclusive, assist in establishing the uniform state and local tax base required by the Agreement by submitting to the voters the question of whether to add to chapter 372 of NRS a tax exemption for certain engines and chassis of professional racing vehicles which is currently provided in chapter 374 of NRS.

Sections 72 to 76, inclusive, assist in establishing the uniform state and local tax base required by the Agreement by submitting to the voters the question of whether to

add to chapter 372 of NRS a tax exemption for certain works of fine art for public display which is currently provided in chapter 374 of NRS.

Sections 77 to 81, inclusive, assist in establishing the uniform state and local tax base required by the Agreement by submitting to the voters the question of whether to add to chapter 372 of NRS a tax exemption for a used vehicle taken in trade on the purchase of another vehicle and to remove from chapter 372 an exemption for certain occasional sales of vehicles, such as are currently provided in chapter 374 of NRS.

Section 82 provides that any of the amendments to chapter 372 of NRS which are approved by the voters pursuant to sections 52 to 81, inclusive, of this amendment become effective on January 1, 2006.

Section 83 provides for the applicability of the general election laws of this state.

Section 84 provides that certain informalities, omissions and defects in required publications, proclamations and notices will not invalidate the adoption by the voters of any of the amendments to chapter 372 of NRS approved pursuant to sections 52 to 81, inclusive, of this amendment if that approval is reasonably certain.

Section 85 provides amnesty from certain sales and use taxes for a seller who registers pursuant to section 5 of this amendment and meets certain conditions.

Section 86 assists in establishing the uniform state and local tax base required by the Agreement by repealing from chapter 374 of NRS certain provisions regarding exemptions from taxation if the voters do not authorize the addition of certain related provisions to chapter 372 of NRS.

Section 87 provides that:

1. The provisions of this amendment:
 - (a) Which provide for the submission of questions to the voters become effective on July 1, 2003; and
 - (b) Which are dependent on the questions submitted to the voters may become effective on January 1, 2006, depending upon voter approval; and
2. The remaining provisions of this amendment become effective on January 1, 2006.

The title of A.B. 514 is amended to incorporate the changes included in this amendment.

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-second Session
May 8, 2003**

The Senate Committee on Taxation was called to order by Chairman Mike McGinness, at 2:13 p.m., on Thursday, May 8, 2003, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 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 at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mike McGinness, Chairman
Senator Dean A. Rhoads, Vice Chairman
Senator Randolph J. Townsend
Senator Ann O'Connell
Senator Sandra J. Tiffany
Senator Joseph Neal
Senator Bob Coffin

GUEST LEGISLATORS PRESENT:

Assemblyman David E. Goldwater, Assembly District No. 10

STAFF MEMBERS PRESENT:

Rick Combs, Fiscal Analyst
Ardyss Johns, Committee Secretary

OTHERS PRESENT:

Dino DiCianno, Deputy Executive Director, Department of Taxation
Gaylyn J. Spriggs, Lobbyist, Nevada Taxpayers Association
Mary Lau, Lobbyist, Retail Association of Nevada
Christina Dugan, Lobbyist, Las Vegas Chamber of Commerce
Harvey Whittemore, Lobbyist, Nevada Beer Wholesalers Association
c/o Bonanza Beverage, and Southern Wine and Spirits
Gary E. Milliken, Lobbyist, Distilled Spirits Council of the United States

Senate Committee on Taxation
May 8, 2003
Page 2

CHAIRMAN MCGINNESS:

We will open the hearing on Assembly Bill (A.B). 514. The legislative staff has put together an exhibit for us to follow along on A.B. 514 (Exhibit C. Original is on file in the Research Library.).

ASSEMBLY BILL 514 (1st Reprint): Provides for enactment of certain provisions that are necessary to carry out Streamlined Sales and Use Tax Agreement. (BDR 32-1292)

ASSEMBLYMAN DAVID E. GOLDWATER, ASSEMBLY DISTRICT NO. 10:

I am pleased to present to you today A.B. 514. I know you get a lot of people testifying on one-page bills they say are very easy yet they are amazingly complex. This is a multi-page bill seeming complex, but it is really fairly easy. This is a continuing effort of work I have done on a national level regarding remote and Internet sales and the erosion of our sales tax base on that transaction tax which is not collected. The Streamlined Sales Tax Project (SSTP) has been worked on with Dino DiCianno, Deputy Executive Director, Department of Taxation.

I started with this issue back in 1999 and identified it as a problem. It was estimated Nevada would be behind about \$125 million by the year 2006 in uncollected sales tax because of remote sales. For this reason, the National Conference of State Legislatures formed an executive task force, of which I was a member. The task force created the SSTP, which gives states the ability to enter into interstate agreements making the collection of sales tax easier and allowing a transaction tax to be applied to remote sales.

My handout, "Streamlined Sales Tax Project in Nevada" (Exhibit D), dispels some of the myths. It is not a new tax, it is not a tax on the Internet, and Congress does not prohibit it. If you recall, last session we passed the enabling bill to allow Nevada to become a state participating in the SSTP. This bill is also what is required by the SSTP to allow Nevada to continue to be a participatory State and a voting member. It includes some uniform definition rules and it enables the Department of Taxation to engage in these negotiations. Mr. DiCianno, being our representative, can better explain the bill and what we are trying to do here. I would be remiss if I did not mention to you Assembly Committee on Taxation Chairman David Parks also wanted to be here and wanted me to convey how important this legislation is to him as well.

Senate Committee on Taxation
May 8, 2003
Page 3

CHAIRMAN MCGINNESS:

Are those states included in this SSTP going to be guaranteed part of the revenue? How important is it for us to get in on the ground floor?

ASSEMBLYMAN GOLDWATER:

It is very important to be a voting member. Every state has its unique challenges. Nevada has some advantages and disadvantages when it comes to sales tax. For example, the state of Illinois has hundreds of taxing districts with a number of different rates. Nevada has very few taxing districts. There are definitional problems in some areas. Nevada has a disproportionate reliance on the sales tax relative to other states. Therefore, however the SSTP is crafted, it is essential for us to have a say.

DINO DICIANNO, DEPUTY EXECUTIVE DIRECTOR, DEPARTMENT OF TAXATION:

I am the voting member in the SSTP for the State of Nevada, which has been participating in this project since the year 2000. What you have in front of you is a culmination of the original 35 participatory states within the project (Exhibit E. Original is on file in the Research Library.). What occurred in November 2002 was the final embodiment of the agreement, which is significant because Congress has charged the states with unifying all the tax language and providing retailers the ability to pay by such methods as credit cards and electronic funds transfers. That is what is contained in this particular bill. It is important for Nevada to become a governing State, which is what this legislation will do. It will provide Nevada the power to vote with respect to its own destiny and with respect to the collection and reporting of those taxes by remote sellers.

I think just as importantly, it levels the playing field. What I mean is if someone were to purchase something, no matter where they purchase it, a tax will be collected. All of the states will benefit from any kind of sales tax transaction nationwide.

What Nevada has to agree to is what is referred to as a centralized service provider. The centralized service provider will capture the information, reporting, and payment of the revenue of purchases over the Internet. They are developing what is called a matrix, which means each state would have to provide to the service provider an identifier to each particular taxing jurisdiction within this State. It will be done by what is referred to by the Post Office, as "ZIP + 4." It is important for Nevada to become a governing state, and will enable us to be

a participant in those discussions and negotiations with respect to hiring that service provider.

I do not believe Nevada wants California, New York, or somewhere else dictating to this State how the agreement should be established. Initially, California and New York were not original participating states. They basically hung on to the sidelines to see whether or not 35 states could get their acts together. Well, I can tell you, they did. California and New York are now in the process of instituting legislation to become a participating state.

Each state has one vote, which is why it is very important for Nevada to be a part of this. We will be treated on an equal basis along with all other states within the process. As you know, there are only five states not having a sales tax. Oregon's and Montana's legislatures are now looking at enacting a sales tax, which in and of itself will level the playing field with respect to purchases.

SENATOR RHOADS:

What about the Tax Freedom Act of 1998? Is it still binding?

ASSEMBLYMAN GOLDWATER:

There is a good explanation of that myth in the packet I passed out (Exhibit D). The Tax Freedom Act of 1998 prohibits the creation of any new or discriminatory tax on the Internet. Sales tax is an existing tax. It is under the State's jurisdiction. It does not touch the sales tax. Also, we will not start collecting remote sales tax right away. We will move a step closer towards enacting the provisions we need to begin collecting the tax we should be collecting.

SENATOR RHOADS:

How can you do that? If I buy something on the Internet at 8 p.m., is somebody going to be watching me?

ASSEMBLYMAN GOLDWATER:

States will have about three different options of exactly how it will work, but it will be something like this: When a transaction occurs, depending on where you take delivery and what credit card you use, it will probably be run through an independent provider. Depending on a number of different things the SSTP will figure out for us, the tax will be collected and remitted to the appropriate taxing

Senate Committee on Taxation
May 8, 2003
Page 5

authority instantaneously. The taxes are paid and the State gets what it deserves.

If you want to get away from transactional taxes, then this is not important. That is one option this State has. We can get away from the sales tax and we all know the problem of replacing the revenue it would take away. However, if you want to stick with the transactional tax, then we have to do some things to bring it up to date. Our current sales tax structure is the same as it has been since the 1930s. It is time to bring it up to date to where technology and all the other provisions can take us.

CHAIRMAN MCGINNESS:

I see this is the first reprint. How did the Assembly change the bill, and are we looking for uniform language throughout all the states?

ASSEMBLYMAN GOLDWATER:

It was introduced late and was originally in skeleton form. The first reprint took the skeleton form and put in all the necessary details.

SENATOR NEAL:

If we enacted this, how soon after would we receive the benefit?

MR. DICIANNO:

Certain triggers have to occur. First, this body would have to approve this enabling legislation. Congress will then have to allow the states to collect the tax over the Internet. After this occurs, the agreement does not go into effect until January 1, 2006.

SENATOR NEAL:

Why would Congress have to approve going into this?

ASSEMBLYMAN GOLDWATER:

Congress would be approving an interstate agreement, which is something not entirely unique, but it is very rare.

SENATOR NEAL:

If I am ordering something out of Arizona and they are part of the agreement, does Arizona see to it the taxes are paid?

Senate Committee on Taxation
May 8, 2003
Page 6

CHAIRMAN MCGINNESS:

For anyone out there on the Internet, we are not proposing taxing the Internet. We are talking about taxing sales on the Internet.

ASSEMBLYMAN GOLDWATER:

We are simplifying the sales tax code.

CHAIRMAN MCGINNESS:

What are some of the major changes we have to make here?

MR. DICIANNO:

There are some major changes and I think Rick Combs, Fiscal Analyst, did an excellent job of putting together a package for you with respect to all the different sections (Exhibit C).

CHAIRMAN MCGINNESS:

We have also been given an informative booklet entitled, "The Lawmaker's Guide to the Streamlined Sales Tax Project 2003, The Year of Decision" put out by the University of Wisconsin (Exhibit F. Original is on file in the Research Library.).

The second tab in your binder (Exhibit C) says "Summary of Major Provisions."

MR. DICIANNO:

In a nutshell, it provides uniform definitions with respect to what a tax applies to and what it does not. It provides for uniform definitions with respect to exemptions and how they are granted.

CHAIRMAN MCGINNESS:

We are going to be required to put some questions on the ballot. Can you tell us the reason?

MR. DICIANNO:

It is one of the unique things as well as one of the hurdles for the State of Nevada. If Nevada becomes a governing state it can no longer initiate or refer to split-rate exemptions. In other words, you could not exempt the local portion without exempting the State portion. It has to be uniform.

Senate Committee on Taxation
May 8, 2003
Page 7

CHAIRMAN MCGINNESS:

So for example, if you look at the next tab, it says, "Description of Ballot Questions." Ballot Question No. 1 refers to farm machinery and equipment. Last session this Legislature forgave the State portion, but the 2 percent question went to the voters and they denied it, so the 2 percent is still there and we can no longer have that disparity. Am I correct?

MR. DiCIANNO:

That is correct.

ASSEMBLYMAN GOLDWATER:

As you know, the 2 percent is the State portion. That is one of Nevada's peculiar challenges.

CHAIRMAN MCGINNESS:

Are the six questions outlined here the only disparities we have?

MR. DiCIANNO:

That is correct.

CHAIRMAN MCGINNESS:

How would you propose we put these on the ballot so people would understand? I mean are they going to look at six tax questions and just vote no? Do you think there is a mechanism we can try to explain? What happens if we pass half of them and the other half do not pass? Will we then not be able to be in the compact?

MR. DiCIANNO:

The way the bill is structured, if in fact the voters do approve all of the six, then we do not have a problem. They would be exempt from the 2 percent portion and the local portion. If three pass and three do not, on the ones that do not, the bill provides for the repealer of that exemption.

CHAIRMAN MCGINNESS:

So, no matter what, all of these would go away under this bill.

MR. DiCIANNO:

Potentially, that is correct but the focus is to bring the State into agreement with the SSTP.

Senate Committee on Taxation
May 8, 2003
Page 8

RICK COMBS, FISCAL ANALYST:

The way the bill is structured, if the voters approve the question, then one of two things will happen. Either the exemption included in the Local School Support Tax (LSST) and the other local taxes will be deleted, and therefore the sales and use tax acts will be in conformity. If they vote the other way, then the exemption will be added to the 2 percent portion, and again we will be in conformity. It is structured so no matter how the voters vote on each question, the two portions of the tax are going to be in alignment and conform to each other and therefore comply with the terms of the agreement.

SENATOR NEAL:

Let me make sure I understand. Do these proposals deal with the 2 percent?

MR. DiCIANNO:

That is correct.

SENATOR NEAL:

So the ballot question would be to grant the 2 percent exemption.

MR. DiCIANNO:

That is correct. It would give the voters the opportunity to vote it in.

SENATOR NEAL:

So if they said no, the exemption will go away and the repealer of the other portion in statute would also go away.

MR. DiCIANNO:

That is correct.

SENATOR NEAL:

That sounds good to me, given what the voters might do on this particular issue.

MR. COMBS:

I thought it might be helpful to go through the first ballot question for you just to walk through how the mechanics of it work. The other five are exactly the same way. Ballot question 1 is set forth in sections 103 through 107 of the bill. It is basically going to ask the voters whether or not the sales and use tax act should be amended to exempt farm machinery and equipment. It was the same

question posed to them last time and they voted it down. If the question is not approved, in other words if they do not want it to be exempt from the sales and use tax act, then sections 51 and 81 of the bill are going to become effective on January 1, 2006. Then *Nevada Revised Statutes* (NRS) 374.286, which is the section adding that exemption to the LSST provisions last session, is going to be repealed, which would mean the exemption for the farm machinery and equipment would be deleted from the LSST. It would not be in the sales and use tax act so therefore, the two would be in conformance.

If the question were approved, the changes to the sales and use tax act set forth in section 105 of the bill would go into effect January 1, 2006. That would put the exemption for the farm machinery and equipment into the sales and use tax act the same way it currently appears in the LSST. Again, the two portions would be in conformance with each other. The other five ballot questions work the same exact way except for obviously the differences between the two taxes.

SENATOR RHOADS:

So if this passes and I buy a tractor in Idaho and tractors are not exempt, do they automatically hold out sales tax in Idaho on the \$100,000 tractor and send it to Nevada or do I have to voluntarily submit it?

MR. DiCIANNO:

You would have to pay it.

SENATOR RHOADS:

I thought Idaho had a relationship with Nevada.

MR. DiCIANNO:

We have reciprocal agreements with some states wherein if they realize there could be a potential loss in revenue, they would notify us to that effect.

SENATOR RHOADS:

But if this law were to pass, then would there be any automatic reporting procedure an out-of-state entity would commit to Nevada?

MR. DiCIANNO:

No, that is not what this agreement does.

Senate Committee on Taxation
May 8, 2003
Page 10

SENATOR RHOADS:

What would happen if you bought a fur coat in San Francisco, for instance?

MR. DiCIANNO:

If you bought it over the Internet, it would be taxed.

ASSEMBLYMAN GOLDWATER:

It is not to say the adoption of some SSTP will not allow us to have exemptions. We will have exemptions all over the sales tax. We will not have split-rate exemptions, which is something Mr. DiCianno said this State cannot do. The exemptions we have will be uniform.

SENATOR NEAL:

In large part, would the compact Congress would engage in determine how all of this would work?

ASSEMBLYMAN GOLDWATER:

Right now, the SSTP, which is an assemblage of tax directors and people like Mr. DiCianno, is deciding how it is going to work. Passage of this bill allows Mr. DiCianno to be a voting member and once they have come up with something workable, then Congress says okay.

SENATOR NEAL:

Are you saying Congress would not be able to change the agreement you come up with in any way?

MR. DiCIANNO:

Not if it is allowed, the states would have the ability to do what they need to do.

SENATOR COFFIN:

Some of you know I sell and occasionally buy over the Internet. On my returns, you will notice business-to-business sales as well as regular consumer sales. Ninety-nine percent of my sales are over the Internet. We have about 3000 items on the Internet for sale in an organized fashion. In our terms of sales, if you are a Nevada resident you have to submit 7.25 percent sales tax and we collect it. However, we do not collect it from those who do not live in Nevada. We pretty well know who is a dealer and we do not collect tax on those sales no matter whether they are from Nevada or not. Sometimes we

Senate Committee on Taxation
May 8, 2003
Page 11

make an Internet sale inside Nevada and we collect sales tax on it unless the purchaser is a dealer. So there is a business-to-business sale and there is a business-to-person sale.

The question is, under this proposal, how do you differentiate between occasional sales, business-to-business sales, and ordinary customer transactions?

MR. DICIANNO:

It would be no different than what currently exists. If it is an occasional sale between two parties or if it is a business-to-business sale, they would already be exempt. There would be no sales tax charged. What would happen is if an Internet provider, such as eBay, sells a piece of tangible personal property to you in this State, they would be required under this agreement to collect the tax and report it to the central service provider who would remit it back to the State of Nevada.

SENATOR COFFIN:

Have you discussed eBay in some of your meetings?

MR. DICIANNO:

I think you have touched on something very interesting. The remote sellers are in favor of this and are supporting it wholeheartedly. The trend is there.

SENATOR COFFIN:

The thing is, an awful lot of people have closed up their brick and mortar stores and gone to the Internet because they could not compete with "click and mortar" or very large dot com companies. I might have dozens of pseudonyms I could use as a bidder, because I do not want people to know I am bidding on something. People follow bidder's actions and if they know David Goldwater is using AUH20 as his bid name and they know his propensity to spend a lot of money on something, they may not go up against him because they know he will outbid them. But if you are a weak bidder and you have an interest in something, they may plug in your name and look at the auctions you are working. If you have an interest in something they are very interested in as well, they will outbid you. So how would eBay be responsible? How could they possibly intervene in this transaction?

ASSEMBLYMAN GOLDWATER:

The problem with the different sales tax jurisdictions in the current rules is they are not sure whether or not they should be collecting it. Because they are not sure, there is potentially huge liability for them. One of the things the SSTP purports to do is to say if you register with us, here are the rules, now go enforce these rules. Once eBay registers and once they know the rules, they will be anxious to follow them. I have not run into too many people who are specifically tax avoiders, but I have run into a lot of people who say, "Help us understand the rules and help us know what those rules are."

SENATOR COFFIN:

I am going to support this. I want to make sure these questions are brought forward because a lot of business-to-business transactions occur on eBay. I am always on the lookout for certain items for my inventory and if I can steal them out there, I will buy them. The person I buy them from might or might not know I am a business and do not pay sales tax. I do not want to all of a sudden pay 5 percent sales tax. My purchase is for resale.

ASSEMBLYMAN GOLDWATER:

I cannot emphasize this enough. There is no new tax in the SSTP formula. If it is taxable, eBay is only a conduit. Some of these retailers are only delivery methods. I mean it is just a different way in which a transaction occurs. If it is not currently taxable, it will not be taxable under the SSTP. If it is, and we are not collecting what should be taxable, it is going to start getting collected.

SENATOR COFFIN:

I just want to make sure in hearings over the next few months and years, those who do a \$1000 business-to-business transaction do not somehow end up with another \$50 or \$60 charge on the transaction because they were business-to-business.

MR. DiCIANNO:

You have what is referred to as a resale certificate. You are purchasing goods as a business inventory and those goods are not taxable. They are for resale. The same principle would apply under the SSTP.

SENATOR COFFIN:

I want to make sure you understand neither one of us knows we are a business necessarily. This is how the auction business works. If I identify myself as

a business, there are people who will outbid me because they know I cannot pay above a certain amount because I would not be able to make a profit. They can then go another dollar above what I am going to pay. That is why I have a lot of names. Just remember all of the hundreds of equations that can occur in these kinds of transactions.

CHAIRMAN MCGINNESS:

Senator Coffin brings up a good segue to a question I have. After the session is over, I undoubtedly will hear from a constituent who calls up and says, "I can't believe you voted for this." Once this takes effect, a constituent buying something over the Internet will be paying sales tax. Is there going to be any effect on the average constituent?

MR. DiCIANNO:

I believe not. What they would be doing is paying what is due now, nothing more and nothing less.

ASSEMBLYMAN GOLDWATER:

Tax directors all over are discovering where there is nexus and there is delivery and they are going to go out and enforce the rules. Some of the e-retailers are starting to collect tax. Amazon, for a long time, did not and now they are.

SENATOR TIFFANY:

Assemblyman Goldwater has been working on this program for 4 years now for which I applaud him and I think it is a good idea. I am concerned about getting locked into a process right now, because there are a lot of approaches you can take to capture sales taxes over the Internet. Yours happens to be one of the proposals. Congress has not approved it yet for us to move forward so why get locked into a technique, a process, or a concept? The whole approach could be radically changed within 2 or 3 years because of the sophistication of the Internet providers and the sophistication of the auction houses and the catalog sales. It is getting more and more prolific, more sophisticated, and more techniques are being developed.

MR. DiCIANNO:

The governing states will not go away. The beauty of being a governing state is if those technologies change and those business practices change, I can assure you the states will address those. It is all part of this process.

Senate Committee on Taxation
May 8, 2003
Page 14

SENATOR TIFFANY:

You are talking about a consortium of states having an agreement to work together to share this information. What you are saying to me is when Congress says yes, the consortium will decide at that time what is the best technique and approach. Is that right?

MR. DiCIANNO:

That is correct, but it is a work in progress.

SENATOR TIFFANY:

It will continue to be. I know Assemblyman Goldwater has talked about a third party being the filter for this. A third party being the collector may or may not be the way to do this. That is one of the concepts being proposed. I do not want to get stuck in one idea, or one approach to do this.

MR. DiCIANNO:

That is why it is important to have a member of this state involved in the negotiation. This state will be represented as to whether or not a particular service provider would be chosen and what the associated cost would be. You would want Nevada to have a say in it.

CHAIRMAN MCGINNESS:

We have uniform codes of doing banking, stocks, and other things. This would be similar. I mean every couple of years, or every 4 years, you may come back with changes to this. Am I envisioning this right?

MR. DiCIANNO:

As business practices change and as states change and evolve with respect to different issues, yes. Absolutely. There is no question it is a work in progress.

ASSEMBLYMAN GOLDWATER:

I would be remiss if I did not mention Nevada's numerous advantages in its sales tax code and some of the disadvantages. One of our major disadvantages is the current state of our information systems in the Department of Taxation. I sit on the Ways and Means Committee and we failed with the Automated Collection Enforcement System. Anyone would classify it as a failure. Whatever we do, we need to provide the Department of Taxation with adequate information systems.

Senate Committee on Taxation
May 8, 2003
Page 15

SENATOR RHOADS:

Could you explain the fiscal note? Is it \$147 million?

MR. DiCIANNO:

That is a best-guess estimate and I truly believe it would require the department to conduct a study on how much Internet commerce is occurring in Nevada. The information would empower the representative of the State of Nevada when it goes into those negotiations. We would have a better knowledge as to what the amount of revenue would be to this State.

SENATOR RHOADS:

So the \$147 million is the amount of revenue we would get per year?

MR. DiCIANNO:

That is correct. I need to caution though, it is an estimate and it was based upon a study I believe is somewhat flawed. But it is a best-guess estimate and it is the only estimate we have right now.

ASSEMBLYMAN GOLDWATER:

It is an estimate the Governor identified in his State of the State speech as a major challenge to this State in having set our budgets and the growth rate for the sales tax for our State budgets. Year after year, even with conservative estimates in booming economic times, we have come in a little bit below more conservative estimates. There is no identifying reason other than remote sales and Internet sales.

GAYLYN J. SPRIGGS, LOBBYIST, NEVADA TAXPAYERS ASSOCIATION:

The Nevada taxpayers are in favor of this bill. I do not think I can add anything else to what has already been said.

MARY LAU, LOBBYIST, RETAIL ASSOCIATION OF NEVADA:

We are in full support of A.B. 514 and want to thank Assemblyman Goldwater for continuing to carry this process forward. As has been stated, this is a work in progress. There will continue to be meetings of the SSTP. It is a multistate jurisdictional effort. It is very imperative Nevada not lose its seat at the table to define how this process will go forward. I believe Congress dictated there should be 20 states participating and I think there are 32 to 36. Nevada, in order to protect its interests, has to be part of the process.

Senate Committee on Taxation
May 8, 2003
Page 16

I wholeheartedly agree with and underscore Assemblyman Goldwater's testimony about funding information technology for our tax department.

CHRISTINA DUGAN, LOBBYIST, LAS VEGAS CHAMBER OF COMMERCE:

We, too, agree with Assemblyman Goldwater's bill and appreciate him bringing it forward. We think moving forward with streamlining the sales tax is important.

CHAIRMAN MCGINNESS:

We will close the hearing on A.B. 514. We have a couple of bills to consider in our work session. First, we will look at A.B. 348.

ASSEMBLY BILL 348 (1st Reprint): Revises provisions governing development of certain factors used in determination of taxable value of improvements to real property for assessment of property taxes. (BDR 32-1121)

CHAIRMAN MCGINNESS:

We were working on some amendments for this bill. If you will turn to page 3 of your work session document (Exhibit G), it talks about NRS chapter 361 and you will note some of the changes. In section 1, subsection 1 the date in which the department shall provide the proposed factors to the counties is moved up to February 1. In subsection 2, the date the county assessors have to notify the tax commission that they either approve or object to the factors is changed to May 15.

We removed subsection 3 entirely. The changes in subsection 4 will make sure there is not a separate hearing. It will just be done at a regular commission meeting. If you recall there was a discussion regarding the publishers in which they were required to attend the hearing. This change requires the tax commission to provide to those attending a copy of the published references and a description of the local indicators used by the department to establish those factors.

Mr. DiCianno, were there further amendments?

MR. DICIANNO:

Yes, we have been in consultation with the taxpayers association and with Mr. Combs with respect to revisions. They are different than what is shown in your work session document.

DISCLAIMER

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

This information is supplied as an informational service only and should not be relied upon as an official record.

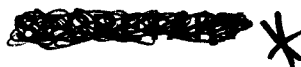
Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

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

AB 514
STREAMLINE
SALES TAX
AGREEMENT

Senate Committee
on
Taxation

2003 Session



THIS EXHIBIT IS 185 PAGES LONG.
CONTACT THE RESEARCH LIBRARY FOR
A COPY OF THE COMPLETE EXHIBIT

EXHIBIT C Committee on Taxation

Date: 05/08/03 Page 1 of 5

1380

ASSEMBLY BILL 514

SUMMARY OF MAJOR PROVISIONS

Assembly Bill 514 sets forth the provisions necessary to carry out the Streamlined Sales and Use Tax Agreement. Through the enactment of AB 455, the 2001 Legislature authorized the Nevada Tax Commission to enter into the Agreement under certain circumstances, to act jointly with state governments to simplify and modernize sales and use tax administration and to take other actions necessary to implement the agreement and represent Nevada in meetings with other states that are signatories to the agreement. AB 514 makes the adjustments to Nevada's tax laws to ensure that Nevada's laws comply with the provisions of the agreement.

Chapter 360 of NRS is amended to:

- Authorize the Department of Taxation to compute and determine the amount of sales and use taxes due and to enforce its demand for the transfer of certain assets to secure the payment of sales and use taxes in accordance with the Agreement; and
- Set forth the general rules for determining the amount of sales and use taxes due on each sale or purchase in accordance with the Agreement.

The following new provisions are added to chapter 360A of NRS (Sales and Use Tax Administration):

- Provisions to establish a uniform electronic registration system for sellers;
- Provisions requiring the Department of Taxation to post on its Internet website certain information regarding the sales and use taxes imposed in this state, to make a reasonable effort to provide sellers with advance notice of any changes in that information, and to maintain a list that sets forth the tax rates applicable to the zip codes in this state;
- Provisions setting forth uniform rules for the "sourcing" of various sales transactions for the purpose of determining the jurisdictions to which a seller is liable for taxes;
- Provisions providing for the issuance of a permit that authorizes a person to purchase products without paying any sales or use tax to the seller if the purchaser will pay the taxes directly to the taxing jurisdiction;
- Provisions establishing a procedure for a purchaser who knows that certain purchased property will be used in other jurisdictions to assume liability for any taxes due;
- Provisions establishing procedures for the allocation of liability for sales and use taxes imposed upon the purchase of "direct mail;" and
- Provisions affording the minimum period of notice required by the Agreement before a change in sales or use tax rates can become effective and authorizing a delayed payment if the tax is due on a holiday or weekend.

2

Chapter 372 of NRS (Sales and Use Taxes), chapter 374 of NRS (Local School Support Tax), and in some cases provisions related to certain local sales and use tax levies are amended to:

- Establish a uniform rounding rule for the calculation of sales and use tax liability;
- Set forth requirements for the administration of exemptions to those taxes;
- Establish uniform rules for the deduction and allocation of bad debts;
- Require state and local government purchasing contracts to include a provision requiring sellers to register in the electronic registration system if they do not obtain a seller's permit;
- Authorize a seller to register in the electronic registration system rather than obtaining a seller's permit; and
- Provide for the payment of sales and use taxes by credit card, debit card or electronic transfer of money.

NRS 377A.030 and NRS 377B.110 are amended to assist in establishing the uniform state and local tax base required by the Agreement by deleting a non-uniform exemption from certain sales and use taxes and providing for a refund of those taxes in lieu of that exemption.

Ballot Questions

The bill places six ballot questions on the 2004 General Election ballot to assist in establishing the uniform state and local tax base required by the Agreement by conforming exemptions to the Sales and Use Tax (Chapter 372) with exemptions to the Local School Support Tax (Chapter 374).

The six ballot questions are described in the next section of this binder.

ASSEMBLY BILL 514

DESCRIPTION OF BALLOT QUESTIONS

Ballot Question #1 Farm Machinery and Equipment

The question set forth in sections 103-107 would ask the voters whether the Sales and Use Tax Act of 1955 should be amended to exempt the gross receipts from the sale and the storage, use or other consumption of farm machinery and equipment employed for the agricultural use of real property.

If the question is not approved, sections 51 and 81 of the bill become effective on January 1, 2006 and NRS 374.286 is repealed. The exemption for farm machinery and equipment would be deleted from the Local School Support Tax provisions (Chapter 74).

If the question is approved, the changes to the Sales and Use Tax Act set forth in section 105 of the bill would become effective on January 1, 2006. The exemption for farm machinery and equipment would be added to the Sales and Use Tax Act provisions (Chapter 372).

Ballot Question #2 Ophthalmic or Ocular Devices or Appliances

The question set forth in sections 108-112 would ask the voters whether the Sales and Use Tax Act of 1955 should be amended to exempt the gross receipts from the sale and the storage, use or other consumption of ophthalmic or ocular devices or appliances prescribed by a physician or optometrist.

If the question is not approved, sections 62 and 73 of the bill become effective on January 1, 2006. The exemption for ophthalmic or ocular devices or appliances would be deleted from the Local School Support Tax provisions (Chapter 374).

If the question is approved, the changes to the Sales and Use Tax Act set forth in section 110 of the bill would become effective on January 1, 2006. The exemption for ophthalmic and ocular devices or appliances would be added to the Sales and Use Tax Act provisions (Chapter 372).

Ballot Question #3 Criteria for Determining Exemption for Aircraft

The question set forth in sections 113-117 would ask the voters whether the Sales and Use Tax Act of 1955 should be amended to clarify the criteria used to determine which aircraft and parts of aircraft are exempt from the taxes imposed by the Act. The question would include whether the requirement that an air carrier must be based in Nevada to be eligible for the exemption should be removed and whether an exemption should be provided for certain machinery and equipment used on eligible aircraft and parts of aircraft.

If the question is not approved, NRS 374.322 would be repealed effective January 1, 2006. The provisions would be deleted from the Local School Support Tax (Chapter 374).

If the question is approved, the changes to the Sales and Use Tax Act set forth in section 115 of the bill would become effective on January 1, 2006. The clarifying provisions would be added to the Sales and Use Tax Act provisions (Chapter 372).

Ballot Question #4 Professional Racing Vehicles

The question set forth in sections 118-122 would ask the voters whether the Sales and Use Tax Act of 1955 should be amended to exempt the gross receipts from the sale and the storage, use or other consumption of engines and chassis, including replacement parts and components for engines and chassis, of professional racing vehicles that are owned, leased or operated by professional racing teams.

If the question is not approved, NRS 374.323 would be repealed effective on January 1, 2006. The exemption for professional racing vehicles would be deleted from the Local School Support Tax provisions (Chapter 374).

If the question is approved, the changes to the Sales and Use Tax Act set forth in section 120 of the bill would become effective on January 1, 2006. The exemption for professional racing vehicles would be added to the Sales and Use Tax Act provisions (Chapter 372).

Ballot Question #5 Works of Fine Art for Public Display

The question set forth in sections 123-127 would ask the voters whether the Sales and Use Tax Act of 1955 should be amended to exempt the gross receipts from the sale and the storage, use or other consumption of works of fine art for public display.

If the question is not approved, Sections 31, 61 and 65 of the bill become effective on January 1, 2006 and NRS 374.291 and 374.2911 are repealed. The exemption for works of fine art for public display would be deleted from the Local School Support Tax provisions (Chapter 374).

If the question is approved, section 30 of the bill and the changes to the Sales and Use Tax Act set forth in section 125 of the bill would become effective on January 1, 2006. The exemption for works of fine art for public display would be added to the Sales and Use Tax Act provisions (Chapter 372).

Ballot Question #6 Trade-in Value of Used Vehicles

The question set forth in sections 128-132 would ask the voters whether the Sales and Use Tax Act of 1955 should be amended to exempt the gross receipts from the sale and the storage, use or other consumption of the value of any used vehicle taken in trade on the purchase of another vehicle and to remove the exemption for occasional sales of vehicles except where such sales are between family members.

If the question is not approved, Sections 58, 59, 60, 63, 64, 68, 86 and 93 of the bill become effective on January 1, 2006 and NRS 374.107, 374.112 and 374.113 are repealed. The exemption for used vehicles taken in trade on the purchase of another vehicle and the taxation of occasional sales except where such sales are between certain family members would be deleted from the Local School Support Tax provisions (Chapter 374).

If the question is approved, section 39 of the bill and the changes to the Sales and Use Tax Act set forth in section 130 of the bill would become effective on January 1, 2006. The exemption for used vehicles taken in trade on the purchase of another vehicle and the exemption for occasional sales except where such sales are between certain family members would be added to the Sales and Use Tax Act provisions (Chapter 372).

Streamlined Sales Tax Project in Nevada

EXHIBIT D Committee on Taxation

Date: 05/08/03 Page 1 of 10

Streamlined Sales Tax Project

FACT SHEET

This Is....

About simplification - SSTP would streamline the country's more than 7,500 diverse sales tax jurisdictions, each of which has different definitions of what is taxable. States must enact legislation to simplify their sales tax systems as a first step to congressional passage of legislation permitting states to require collection of sales tax by remote sellers.

About fairness - All commercial transactions should be treated the same way - whether the goods are purchased in a store on "Main Street" or remotely - in a catalog or on the Internet.

About need - Financially strapped local and state governments nationwide are losing billions in uncollected sales tax each year due to remote sales. This loss is projected to reach as much as \$54 billion by 2011.

This Is Not....

A new tax - SSTP enables the collection of sales and use taxes already owed to state and local governments through existing tax laws.

A tax on the Internet - SSTP is an agreement about collection of owed taxes on purchases made online and via catalog - not the use of the Internet itself.

A tax prohibited by Congress - The Internet Tax Freedom Act of 1998 prohibits the creation of any *new* or discriminatory taxes on the Internet. SSTP does not create new or discriminatory taxes.

Other Important Facts:

- States are facing their worst fiscal crisis since World War II. According to the National Governors Association (2002), state budget shortfalls will reach \$50 billion in 2003—and climb to \$60-\$70 billion in 2004.
- According to the Institute for State Studies (2001), local and state governments will lose as much as \$54.8 billion by 2011 in uncollected remote sales taxes.
- According to the U.S. Census Bureau (2002), 33 percent of state revenues come from sales taxes.
- According to eMarketer (2000) consumer e-commerce sales in the US will grow from \$19.4 billion in 1999 to \$125.6 billion by 2004, a 47 percent annual growth rate.
- Holiday online orders were up by 36 percent during the 2002 holiday season, according to BizRate.com (2002).

Provided by: Orquird Institute
703-299-8268

2

Streamlined Sales Tax Project

MYTHS & FACTS

MYTH: Supporters of remote sales tax collection are pushing legislation to create new taxes on the Internet.

FACT: We oppose creating any new access taxes or discriminatory taxes on the Internet. We support the collection of sales and use taxes already owed to state and local governments through existing tax laws. We support collection in a fair and equitable manner for all transactions, whether consumers shop at a store on "Main Street" or through remote means.

MYTH: State and local governments are attempting to tax the Internet.

FACT: The Streamlined Sales Tax Project (SSTP) does not create a new tax. Currently, consumers are legally required to pay a use tax on online purchases that are not taxed by the seller. Compliance with the use tax payment requirements is very low. Therefore, most remote shoppers are in violation of the law. We advocate taking the burden of paying the use tax off of the consumer and providing all merchants with equal sales tax collection responsibilities.

MYTH: Congress has already prohibited Internet taxes.

FACT: The Internet Tax Freedom Act of 1998 prohibits the creation of any new or discriminatory taxes on the Internet. SSTP does not create new or discriminatory taxes. Congress has not passed laws to prevent states from charging and collecting existing sales and use taxes.

MYTH: SSTP can result in taxation without representation.

FACT: A Congressional mandate for collection of sales taxes on multi-state sellers with no physical presence in a state does not constitute taxation without representation. The sales tax is a tax on consumers and not sellers. These consumers use the services provided by local and state governments, such as roads, schools and public safety, which are funded in part by state and local sales taxes.

MYTHS & FACTS—2

MYTH: State funded programs like education, law enforcement and transportation will not be affected if online transactions remain untaxed.

FACT: According to the U.S. Census Bureau, 33 percent of state revenues come from sales taxes. If online and mail order sellers are not required to collect sales taxes, state and local governments stand to lose as much as \$54.8 billion in revenues by 2011, according to an Institute for State Studies report (2001). Sales tax revenues fund essential government services including education, law enforcement and transportation. If sales and use taxes are not collected on remote transactions, state and local governments will have to find other ways to offset their losses. Alternative financing could include increasing property taxes and sales tax rates.

MYTH: E-commerce needs preferential tax treatment because it is a new industry.

FACT: The Internet has reached 50 million people in four years, compared to its technological counterparts: radio and TV, which took 38 and 13 years respectively, to reach the same number of users, according to Nokia Telecommunications (1999). Growing at a meteoric rate, the Internet's development has been nothing short of phenomenal. According to eMarketer (2000) consumer e-commerce sales in the U.S. will grow from \$19.4 billion in 1999 to \$125.6 billion by 2004, a 47 percent annual growth rate. Requiring online sellers to collect sales taxes will not harm the growth of the Internet economy.

MYTH: Taxing E-commerce will slow the growth of the Internet.

FACT: A level playing field is best for the new economy. A Jupiter Research report released in 2002 states that collection of sales tax on Internet purchases "will not be a significant impediment to the growth of the online retail channel." The bottom line: collection of sales tax on online purchases would have little impact on "virtual" business.

Streamlined Sales Tax Project

QUESTIONS & ANSWERS

Q: What is the Streamlined Sales Tax Project?

A: The Project is a proactive approach by states, with input from local governments and the private sector, to design, test and implement a radically simplified sales and use tax system for the 21st century. The goal of the Project is to substantially reduce or eliminate the costs and burdens of sales tax compliance for businesses through a combination of simplified laws and administrative policies and the implementation of a system that would be paid for by states. Project participants embarked on their mission to create a new, improved and simpler system in February 2000 and have agreed to a plan – the Streamlined Sales Tax Project (SSTP). This reform in sales and use tax policies will provide remote sellers that do business in multiple states an easier way to calculate, collect and remit existing use taxes.

Q: Didn't Congress already prohibit Internet taxes?

A: The Internet Tax Freedom Act (ITFA), passed by Congress in 1998, placed a three-year moratorium on any new and discriminatory taxes on the Internet, such as Internet access fees. The legislation also created the Advisory Commission on Electronic Commerce to consider issues associated with the taxation of sales purchased on the Internet. The Commission completed its work in April of 2000 and issued a report to Congress. Unfortunately, the Commission was not able to reach the two-thirds vote required by Congress to make any official "findings or recommendations" on the subject of the collection of sales and use taxes on sales made over the Internet. On November 28, 2001, this moratorium was extended two more years, giving states time to work toward sales tax simplification. The states have completed the simplification agreement called the Streamlined Sales Tax Project (SSTP).

Q: Doesn't applying the sales tax to online purchases constitute a new tax?

A: No. Requiring online merchants to collect sales tax does not create a new tax. Forty-five states currently impose sales and use taxes on the purchase of products and goods. Main Street retailers are required to collect these taxes on behalf of the states. However, some states are not allowed to mandate sales tax collection from out-of-state remote sellers. In this instance, consumers are required to pay, or remit, a comparable use tax directly to his or her state. These use taxes currently exist in all 45 states that impose sales tax. Most consumers are unaware of or often ignore this use tax requirement, thereby depriving states of much needed revenue.

5

QUESTIONS & ANSWERS—2

Q: Why is collecting sales taxes on remote purchases such a big issue?

A: The number of sales made over the Internet is growing at a phenomenal rate. According to eMarketer (2000) consumer e-commerce sales in the US will grow from \$19.4 billion in 1999 to \$125.6 billion by 2004, a 47 percent annual growth rate. The success of the New Economy is important, but increasing online sales - on which sales taxes are not uniformly paid - is unfair to Main Street merchants who must collect. Also at a disadvantage are state and local governments who have a significant loss of sales tax revenue. Sales tax revenue funds one-quarter to one-half of these governments' services, ranging from parks and recreation to police and fire, and from education to transportation. Without this essential revenue, governments have choices ranging from cutting services to increasing other taxes, such as property and income taxes.

Q: Just how big an issue is this for state and local government?

A: Several studies have been conducted to examine the revenue lost by state and local governments in uncollected sales tax due to remote sales. The studies show local and state governments are losing billions each year during the past three years in uncollected sales tax. The Institute for State Studies (2001) study estimates the loss could reach as much as \$54.8 billion by 2011.

Q: Do sales and use tax laws really need to be streamlined?

A: Yes. With some 7,500 state and local taxing jurisdictions across the nation, America's sales and use tax system is antiquated, complex and cumbersome to administer. A major problem with so many taxing jurisdictions is the variety of definitions of what is taxable. For example, a marshmallow might be defined as a food in one state - and therefore not taxed - but as a taxable candy in another state. Harmonization of sales tax laws, allowing for some local variations, is necessary to alleviate the collection burden.

Q: How will the new, simplified system work?

A: Participation will be voluntary. To take part, states will be required to conform to the Streamlined Sales Tax Project agreement by enacting certain simplification measures. Under the new system, small and medium sized multi-state retailers would be able to use state-certified, specially designed software (at no expense to them) to calculate, collect and remit use taxes for transactions in states in which they do not have a physical presence. Larger multi-state businesses would ask states to certify their existing tax software. Participating sellers would not be held liable for system errors.

QUESTIONS & ANSWERS—3

Q: Will consumers benefit by a level playing field between remote sellers and brick-and-mortar retailers?

A: Definitely. Consumers will be treated the same, regardless of whether they choose to shop in a store, online or through a catalog. Consumers also benefit when states will not have to supplant the revenues they receive from sales tax to fund essential community services.

Q: How much does revenue generated from sales and use taxes account for a state's overall budget?

A: According to U.S. Census Bureau (2002), 33 percent of states' revenues come from the collection of sales and use taxes.

Q: How are Americans who are part of the "Digital Divide" affected?

A: A "digital divide" in access to the Internet exists between more affluent and lower-income households. According to the U.S. Department of Commerce (2001), personal computers are present in 88 percent of homes in which families make \$75,000 a year or more, but in fewer than 38 percent of families making less than \$15,000. Even where access is available through public facilities, credit is not readily available to all low-income families. Any increases in sales tax to offset the lack of revenue resulting from by uncollected taxes on remote sales will fall disproportionately on those making less than \$15,000 per year.

Q: Will uniformity as proposed by the Streamlined Sales Tax Project reduce autonomy of states and their legislatures?

A: States rights will not be affected. State legislatures still determine what is taxable or exempt and what is the rate of tax in their state. Uniformity in the Streamlined Sales Tax System requires uniform definitions and uniform administrative procedures—not uniform taxes. This is in response to the U.S. Supreme Court decision (*Quill versus North Dakota*, 1992), which said the complicated state and local sales tax systems across this country have created an undue burden on interstate commerce. If states are unwilling to be a participating state and accept harmonization in definitions to reduce or eliminate burdens on sellers, they will not be eligible to collect remote sales taxes.

7

QUESTIONS & ANSWERS—4

Q: Do the simplifications go far enough to overcome past U.S. Supreme Court decision (*Quill versus North Dakota*, 1992), which said that sales tax systems across the country are complex and an undue burden on interstate commerce and therefore sellers with no physical presence in a state do not have to collect sales taxes?

A: Congress will determine if the simplifications are enough to allow state sales tax collection on remote sales. However, the Streamlined Sales Tax Project Agreement includes dramatic simplifications in exemption processing, uniform definitions, state level administration of local taxes, reducing the number of sales tax rates, determining the appropriate tax rate, and reducing audit burdens for sellers using the state-certified technology. The Agreement provides dramatic simplification in almost every aspect of sales and use tax collection and administration, especially for multi-state sellers.

Q: If Congress mandates collection of sales taxes on multi-state sellers with no physical presence in a state, is this taxation without representation.

A: No. The sales tax is a tax on consumers and not sellers and benefits the consumers home community. Also, Congress will not mandate collection unless and until a state has taken the necessary steps to reduce the sales tax collection burden on sellers.

Q: Will states expand their tax bases through the uniform definitions?

A: No. Business and government representatives jointly developed the uniform definitions to simplify tax collection and administration, not increase taxes. The definitions harmonize current tax bases to the extent possible so that increases or decreases in taxes will be minimized. To achieve the uniform definitions, some states may choose to make changes to their tax base, but the decision to do so lies solely in the hands of state legislatures.

Q: How does SSTP and related legislation help small businesses?

A: The Streamlined Sales Tax System and related legislation provides the following benefits to small businesses:

- Simplifies exemption processing with protection for sellers that accept exemption certificates.
- Provides one uniform tax return for all states with the elimination of local tax returns.
- Allows a small business the option to use state-certified software or a Certified Service Provider to reduce or eliminate sales tax administration burdens.
- Makes it easier for smaller businesses to expand to markets in other states via the Internet or catalog because all states will use the uniform definitions and administrative procedures.
- With Congressional action, levels the playing field between (1) small Main Street businesses who must collect sales taxes and (2) large, multi-state businesses that are not required to collect sales taxes because they have no physical presence in a state.

8

QUESTIONS & ANSWERS—5

Q: Why don't some of the Streamlined Sales Tax System provisions take effect until January 1, 2006?

A: Current sales tax laws and systems are complex. Simplification requires time for state and local governments to implement the changes and provide adequate notice to sellers. The Streamlined Sales Tax System allows states to simplify immediately but gives them time to absorb provisions that might affect their revenue sources.

Q: Should business activity taxes be addressed at the same time as we are simplifying sales taxes?

A: Some are suggesting that states and Congress clarify business activity tax nexus standards (e.g., corporation income or franchise taxes) at the same time they are enacting sales tax simplifications. Business activity tax issues and sales tax simplification are separate and unrelated issues. Both taxes are complex and need more uniformity. The Streamlined Sales Tax System provides a model methodology that should be used in simplifying other taxes. This cooperative effort between multiple governments and businesses is unprecedented. It would not be wise to hold up state and Congressional action on the Streamlined Sales Tax System to address business activity taxes. Business activity taxes require a deliberate effort similar to what has been done in streamlining sales taxes.

Q: What are the costs to sellers if they use state certified software or a Certified Service Provider for their tax collection functions?

A: The Streamlined Sales Tax System provides new technology options to sellers for sales tax administration. A seller can use a Certified Service Provider (CSP) or acquire state certified software. If a seller uses a CSP, the states agree to work together to pay for the costs of the CSPs that will be selected through a combined contract. The CSPs are responsible for developing software that determines the tax application, rate and jurisdiction. The CSPs will provide the necessary software to integrate with the seller's order processing and accounting systems. The CSPs will file applicable tax returns for the sellers. Most importantly, a seller's tax collection burden is eliminated under this option.

The states will also collectively certify software for use by sellers. This is called a Certified Automated System (CAS). The seller obtains the CAS and will receive a compensation allowance from the states for two years for acquiring the CAS. The amount of the allowance will be based on the cost of the CSPs. The seller remains liable for filing returns and remitting the tax with a CAS.

9

QUESTIONS & ANSWERS—6

Q: What other technology features are included in the Streamlined Sales Tax System?

A: The Streamlined Sales Tax System includes new technology to make tax collection easier including:

- Uniform returns that can be filed electronically.
- Central registration system to provide one-stop service for voluntary collectors. The system will be eventually expanded to all businesses.
- State-approved data bases matching rates with jurisdictions. Sellers using the databases will not be held responsible for errors in tax collection.
- A state-by-state taxability matrix that will list items and services and the taxability determination for each state. Sellers using the matrix will not be held responsible for errors in tax collection.

Provided by: Orquinn Institute
703-299-8268

10

STREAMLINED SALES TAX LEGISLATION

Implementing States

The following states have enacted legislation, generally known as the Uniform (or Simplified) Sales and Use Tax Administration Act, authorizing the state to enter into a multistate agreement to streamline its sales and use tax collection and administration in specified ways.

<i>Alabama</i>	<i>Kansas</i>	<i>Mississippi</i>	<i>Ohio</i>	<i>Utah</i>
<i>Arizona</i>	<i>Kentucky</i>	<i>Missouri</i>	<i>Oklahoma</i>	<i>Vermont</i>
<i>Arkansas</i>	<i>Louisiana</i>	<i>Nebraska</i>	<i>Rhode Island</i>	<i>Virginia</i>
<i>D.C.</i>	<i>Maine</i>	<i>Nevada</i>	<i>S. Carolina</i>	<i>Washington</i>
<i>Florida</i>	<i>Maryland</i>	<i>New Jersey</i>	<i>S. Dakota</i>	<i>W. Virginia</i>
<i>Illinois</i>	<i>Massachusetts</i>	<i>N. Carolina</i>	<i>Tennessee</i>	<i>Wisconsin</i>
<i>Indiana</i>	<i>Michigan</i>	<i>N. Dakota</i>	<i>Texas</i>	<i>Wyoming</i>
<i>Iowa</i>	<i>Minnesota</i>			

The Streamlined Act

The Act is pending in these states and, if enacted, the state would join the Implementing States.

California S.B. 157, to committee, April 2.

Hawaii S.B. 1397, to conference committee, April 15; H.B. 1226, to committee, Feb. 10.

New York S.B. 2850, passed Senate, March 11.

Oregon Several bills are pending that would enact a sales tax that would include the Act; however, as proposed, the tax would not be consistent with the requirements of the Agreement.

The Streamlined Agreement

The Implementing States have approved the Streamlined Sales and Use Tax Agreement. To come into effect, at least 10 states comprising at least 20% of the total population of all states imposing a state sales tax must be found to be in compliance with its requirements. Conformity legislation has been introduced in the following states during 2003.

Arkansas legislation enacted, effective once Agreement goes into effect.

Florida S.B. 1776, from committee ("reported favorably"), April 10.

Indiana S.B. 465, passed both houses, to conference committee, April 1; H.B. 1815, passed House, passed Senate, April 8.

Iowa S.S.B. 1200, introduced April 14.

Kansas S.B. 192, passed Senate, to House committee, March 5; H.B. 2264, to committee, Feb. 12; H.B. 2005 (as amended by Senate), to conference committee, March 28.

Kentucky legislation enacted, effective July 1, 2004.

Maine H.P. 552, referred to joint committee, Feb. 14.

Minnesota H.B. 1463, introduced April 3.

Missouri S.B. 631, in committee, April 8.

Nebraska L.B. 282, advanced to final reading, Feb. 24.

Nevada A.B. 514, from House committee ("do pass"), April 10.

North Carolina S.B. 99 and H.B. 44, in committees, Feb. 20.

North Dakota legislation enacted, effective Jan. 1, 2006.

Oklahoma S.B. 708, passed Senate, passed House, April 1.

South Dakota legislation enacted, effective Jan. 1 2004 or Jan. 1, 2006.

Texas S.B. 823, to committee March 10; H.B. 3143, to committee, March 31.

Utah legislation enacted, effective July 1, 2004.

Washington H.B. 1863, to committee, March 25; S.B. 5783, passed Senate, from House committee ("do pass"), April 4.

West Virginia legislation enacted, effective Jan. 1, 2004.

* See Assembly Taxation
4-1-03 Exhibit G for entire text *

EXHIBIT E Committee on Taxation

Date: 05/08/03 Page 1 of 1

CALIFORNIA REPUBLIC ILLINOIS

THE LAWMAKER'S GUIDE
to the
**Streamlined Sales
Tax Project**
2003, The Year of Decision

ARKANSAS

PUBLISHED BY:
The Deloitte & Touche
Center for Multistate Taxation

UNIVERSITY of WISCONSIN
UW MILWAUKEE

EXHIBIT F Committee on Taxation

Date: 05/08/03 Page 1 of 3

THIS EXHIBIT IS 51 PAGES LONG.
CONTACT THE RESEARCH LIBRARY FOR
A COPY OF THE COMPLETE EXHIBIT

THE LAWMAKER'S GUIDE TO THE STREAMLINED SALES TAX PROJECT 2003

Table of Contents

Introduction	1
The SST Organization	2
The Streamlined Sales Tax Implementing States Convene	4
A Historical Vote	4
The SSTP Will Continue	4
State Tax Administration	4
Single State and Local Tax Base	5
Uniform Definitions Within Tax Bases	6
Tax Rate Simplifications	8
Uniform Sourcing Rules	10
Simplified Exemption Administration	11
Caps and Thresholds	12
Sales Tax Holidays	13
Centralized Registration and Amnesty	15
Uniform Rules for Recovery of Bad Debts	15
Technology Models and Certification	16
Uniform Audit Standards and Procedures	17
Direct Pay Permits	18
Seller Compensation for Cost of Collection	19
The Vendor Allowance	19
The Joint Collection Cost Study	19
A Detailed Description	20
Taxpayer Confidentiality and Privacy	22
One Rounding Rule	23
Uniform Tax Return	24

Governance in the Interstate Agreement	24
Becoming a Member State	24
Withdrawal or Expulsion	25
Compliance	25
Public Input	25
Interpretation	26
Definition Requests	26
Amendment	26
Issue Resolution	26
State Sovereignty	27
Historical Perspective on the SSTP	
(The Great Sales Tax Collection Debate)	27
Background	27
<i>National Bellas Hess v. Department of Revenue</i>	28
<i>Quill Corp. v. North Dakota</i>	29
The NTA Communications and Electronic Commerce	
Tax Project	31
The Internet Tax Freedom Act	32
The Advisory Commission on Electronic Commerce	33
On the Road to the Agreement	34
What's Next	35
Appendix	36
Exhibit 1	37
Exhibit 2	39

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-second Session
May 15, 2003**

The Senate Committee on Taxation was called to order by Chairman Mike McGinness, at 1:40 p.m., on Thursday, May 15, 2003, 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 at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mike McGinness, Chairman
Senator Dean A. Rhoads, Vice Chairman
Senator Randolph J. Townsend
Senator Ann O'Connell
Senator Sandra J. Tiffany
Senator Joseph Neal
Senator Bob Coffin

GUEST LEGISLATORS PRESENT:

Alice Costandina (Dina) Titus, Clark County Senatorial District No. 7
Warren B. Hardy II, Clark County Senatorial District No. 12
Bernice Mathews, Washoe County Senatorial District No. 1

STAFF MEMBERS PRESENT:

Rick Combs, Fiscal Analyst
Russell J. Guindon, Deputy Fiscal Analyst
Ardyss Johns, Committee Secretary

OTHERS PRESENT:

John O. Swendseid, Attorney, State Bond Counsel, Swendseid and Stern
Dino DiCianno, Deputy Executive Director, Department of Taxation
Harvey Whittemore, Lobbyist, Nevada Resort Association
Tom R. Skancke, Lobbyist, Las Vegas Convention and Visitors Authority
Marvin A. Leavitt, Lobbyist, Urban Consortium
Ray Bacon, Lobbyist, Nevada Manufacturers Association

Senate Committee on Taxation
May 15, 2003
Page 3

JOHN O. SWENDSEID, ATTORNEY, STATE BOND COUNSEL, SWENDSEID AND STERN:

The new language is in blue and if you look at section 7, subsection 3, paragraph (d) has changed. When the bill was presented then, it had an exception for new facilities acquired by a cooperative entity like Southern Nevada Water Authority (SNWA) to serve itself and its members. That is now limited to just itself and its member who is the largest retail water purveyor in the county in which it is located. In the case of southern Nevada, that is just the water district. So, new facilities acquired by local government to serve itself, or in the case of SNWA, to serve itself where Las Vegas Valley Water District, would be exempt. Any other new facilities or any facilities already on the tax roll would not be exempt.

SENATOR O'CONNELL MOVED TO DO PASS A.B. 361.

SENATOR RHOADS SECONDED THE MOTION.

SENATOR NEAL:

Why do you want to pass the bill without the proposed amendment?

SENATOR O'CONNELL:

Because I do not like the amendment.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIRMAN MCGINNESS:

Next we will look at A.B. 514, which you will find on page 16 of your work session document (Exhibit C).

ASSEMBLY BILL 514 (1st Reprint): Provides for enactment of certain provisions that are necessary to carry out Streamlined Sales and Use Tax Agreement. (BDR 32-1292)

CHAIRMAN MCGINNESS:

As you recall, Assemblyman Goldwater was here talking about the streamlined sales and use tax. As you see in item 2, we received a conflict notice, A.B. 514 is in conflict with A.B. 224. The Legal Division indicated there is a conflict on the ballot question, "the conflict amendment will change the name of the State

Senate Committee on Taxation
May 15, 2003
Page 4

Arts Council to the Nevada Arts Council” and will add the word “to” after the word “Provides.” It is not really a substantial conflict amendment.

ASSEMBLY BILL 224: Revises provisions relating to Nevada Arts Council.
(BDR 18-531)

SENATOR TOWNSEND:

One of the things causing some concern to a number of committee members was the listing of the six items to be presented as questions to the voters in the 2004 General Election. The concern would be if you list all six, the potential for passage became unbalanced, or tipped the scales one way or the other as opposed to combining them. I do not know if the committee wants to look at that opportunity, but I think it might at least merit discussion.

CHAIRMAN MCGINNESS:

As Assemblyman Goldwater indicated, those tax questions with six items include everything from farm equipment to art tax, to aircraft components. The voters would have to decide whether to get the full exemption or take away the partial exemption.

SENATOR TIFFANY:

We have heard this issue for two sessions now, which is 4 years. I believe right now it is too early. It is never too late, but it is just too early right now to pass a bill on the Internet taxes. There are the questions of which tax, how do you register them, how do you collect them, and how do you distribute them. One of Assemblyman Goldwater’s solutions was to have a central agency do the collecting. I do not think that is the only solution on how to collect, so in my opinion, we should not process this bill. I think it is too early. We have also commissioned a study with the Department of Taxation, as you know, to the universities that will take a better look at what we can do, how we can do it, and what it means to the State of Nevada.

SENATOR TIFFANY MOVED TO INDEFINITELY POSTPONE A.B. 514.

SENATOR O’CONNELL SECONDED MOTION.

SENATOR COFFIN:

Speaking against the motion, I have been looking at this for years and I sell and buy things on the Internet. Take us back about 15 years when this committee

led the way and bit the bullet when we took a risk and probably alienated a few people who buy from catalogs. Buying from catalogs is basically the same thing, a transaction originating out of state. Once it comes in, it is taxable, but yet we were not able to do that. We have been waiting for the court and then Congress to act.

There is no difference really between the fundamentals of what has happened with catalog versus Internet as far as transactions occurring in other places is concerned. Therefore, I support this concept and I think it is important. It is particularly important for local retailers to be able to stand on an even footing with people who sell from out of state and for which tax is not collected. There has been discussion about reducing the sales tax, the only way we are going to be able to do that is to help collect on the transactions that occur. So, I will oppose the motion.

CHAIRMAN MCGINNESS:

I will oppose the motion as well. I think, as Mr. DiCianno from the Department of Taxation has indicated, Nevada has a seat at the table right now and I think since we do not meet again for 18 months, we may lose that seat for a time and actually get behind.

THE MOTION FAILED. (SENATORS MCGINNESS, RHOADS, TOWNSEND, NEAL, AND COFFIN VOTED NO.)

* * * * *

SENATOR TOWNSEND:

I think the many and various individuals headed by Assemblyman Goldwater made a remarkable attempt to deal with this issue. Therefore, based on my original comments, I would make a motion to amend and do pass A.B. 514 with an additional amendment. We would take the questions that were to be individual and combine them into one ballot question, so members of the public have a right to state their positions on these exemptions.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS A.B. 514 AS AMENDED WITH THE SIX QUESTIONS COMBINED INTO ONE BALLOT QUESTION.

SENATOR RHOADS SECONDED THE MOTION.

CHAIRMAN MCGINNESS:

There has been a motion to amend and do pass A.B. 514 by combining the questions and taking care of the conflict notice amendment as well.

SENATOR O'CONNELL MOVED TO AMEND PREVIOUS MOTION AND AMEND AND DO PASS AS AMENDED A.B. 514 WITH THE SIX QUESTIONS LISTED SEPARATELY ON THE BALLOT.

SENATOR TIFFANY SECONDED THE MOTION.

SENATOR NEAL:

We are talking about exemptions. "Exemption" has a broad title that covers all of these, so I think we should have these as one item on the ballot rather than having them separated out. If you are going to kill it, let us kill it all at once rather than do it piecemeal and if the people want it, then they will vote for it. I would vote against the motion of separating these out and just have them go as one item of exemptions.

CHAIRMAN MCGINNESS:

People have been talking to me today about combining or separating and I could fall either way. Who would be asked to draft this language? Would the Legislative Counsel Bureau be responsible for putting the language together for the ballot question? If so, each item would have to be listed separately even if they were to be combined into one question, am I correct?

RICK COMBS, FISCAL ANALYST:

Yes, we checked to make sure combining them all into one question would be allowable and the Legal Division has indicated it would be appropriate from a legal standpoint. From a policy standpoint, two issues come up. One issue, as you just mentioned, is someone is going to be responsible for putting a single question on the ballot in a format the people who are voting on it can understand. They need to understand what it is they are voting for with six separate issues being part of one question. It is a policy decision for you as the members to decide whether or not it is going to be a task too difficult to handle, or if the advantages of doing it in one question outweigh that difficulty.

The other issue would also be a policy decision for the committee, which is whether or not the voters would prefer to have the ability to vote on each item, or if they would prefer to not have six questions on their ballot and only have one decision to make.

SENATOR COFFIN:

Each question would probably add four pages to the ballot and I think we burden the voters enough. I was pretty disappointed at the number of advisory questions on the last ballot. Here we have substantive questions that really bind. To present these to local governments to print up and put out there for the voters will end up looking like California's ballot, so I will oppose the amendment to the amendment.

CHAIRMAN MCGINNESS:

The amendment to the amendment is, "shall the questions be presented separately or together?" An aye vote would separate them and a no vote would keep Senator Townsend's original motion intact.

THE MOTION FAILED. (SENATORS MCGINNESS, RHOADS, TOWNSEND, NEAL, AND COFFIN VOTED NO.)

* * * * *

CHAIRMAN MCGINNESS:

We are back to the original motion by Senator Townsend to amend and do pass A.B. 514 with the questions combined and the conflict notice amendment.

THE MOTION CARRIED. (SENATOR TIFFANY VOTED NO.)

* * * * *

CHAIRMAN MCGINNESS:

Committee, we have a separate work session document pertaining to Senate Bill (S.B.) 238 (Exhibit E. Original is on file in the Research Library.).

DISCLAIMER

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

This information is supplied as an informational service only and should not be relied upon as an official record.

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.

Work Session Document

Senate Committee on Taxation

May 15, 2003

AB 355	p. 2
AB 361	p. 6
AB 514	p. 16

EXHIBIT C Committee on Taxation

Date: 05/15/03 Page 1 of 17
~~2001~~ 1

Assembly Bill No. 514

Description

AB 514 enacts and revises various state statutes relating to sales and use taxes to carry out the provisions of the Streamlined Sales and Use Tax Agreement. Among other things, the agreement is designed to pave the way for the collection of sales taxes on purchases through the Internet and other forms of remote sales.

The bill provides for the electronic registration of sellers, establishes requirements for determining the place of sales, establishes requirements for claiming an exemption from the taxes and provides for the electronic payment of the taxes. In addition, AB 514 submits various questions to the voters at the 2004 General Election to conform state sales and use tax law to the agreement. With these questions, voters will be asked to approve or disapprove various exemptions, abatements and definitions to align the provisions of the State Sales and Use Tax Act and the provisions governing all local taxes within the Local School Support Tax Law. After the voters decide on the questions, all like items will be treated identically for purposes of both state and local sales taxes.

Testimony

The bill was introduced by Assemblyman Goldwater who has been active in the development of the Sales and Use Tax Agreement. Officials from the Department of Taxation indicated that the passage of the bill is important to ensure that the State of Nevada becomes one of the member states and receives a vote on the governing board. The governing board is responsible for interpretations of the agreement, amendments to the agreement and issue resolution.

Amendments

1. No amendments were presented for the committee's consideration at the hearing conducted on May 8, 2003.
2. On May 15, 2003, a conflict notice was received indicating that the bill is in direct conflict with AB 224, which has now passed both the Senate and Assembly and has been sent to the Governor. The conflict is not substantive, but because one of the ballot questions is affected (Section 125), the legal Division has indicated that it should be resolved at this time. The conflict amendment will change the name of the State Arts Council to the Nevada Arts Council on page 72, line 9 and will add the word "to" after the word "Provides" on page 72, line 16.

CONFLICT NOTICE

05/15/03

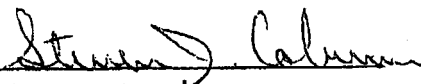
To: Senator Mike McGinness
Senate Taxation

You are hereby notified that **AB514_R1**, under consideration by your committee, is in direct conflict with **AB224_EN**, which has now passed both the Senate and the Assembly and has been sent to the Governor. Both bills affect the following:

NRS 374.2911

IT IS IMPERATIVE, therefore, before passing the bill out of your House that you confer with the bill drafting adviser for your house, or the legislative counsel, regarding this conflict.

Brenda J. Erdoes
Legislative Counsel

By: 
Steve Coburn
Codification Advisor

**PLACE THIS NOTICE IN OFFICIAL BILL UNTIL
CONFLICT HAS BEEN RESOLVED BY AMENDMENT**

AB514

AB514

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/72ND2003/JOURNAL/INDEX.CFM](http://www.leg.state.nv.us/session/72nd2003/journal/index.cfm)), WHICH ARE NOT THE OFFICIAL FINALIZED VERSIONS OF THE *JOURNALS*. CONSULT THE PRINT VERSION FOR THE OFFICIAL RECORD.

Floor Actions

April 21, 2003 *Assembly Daily Journal*

Excerpt:

Assembly Bill No. 514.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 352.

Amend the bill as a whole by deleting sections 1 through 22 and adding new sections designated sections 1 through 139 and the leadlines of repealed sections, following the enacting clause, to read as follows:

“Section 1. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 360B, 362, 364A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

- (a) The facts contained in the return;
- (b) Any information within its possession or that may come into its possession; or
- (c) Reasonable estimates of the amount.

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

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

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

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

Sec. 2. NRS 360.489 is hereby amended to read as follows:

360.489 1. In determining the amount of ~~sales~~ :

(a) Sales tax due on a sale at retail, the rate of tax used must be the sum of the rates of all taxes imposed upon sales at retail in :

(1) The county determined pursuant to the provisions of sections 13 to 18, inclusive, of this act; or

(2) If those provisions do not apply to the sale, the county in which the property is or will be delivered to the purchaser or his agent or designee.

~~[2. In determining the amount of use]~~

(b) Use tax due on the purchase of tangible personal property for use, storage or other consumption in this state, the rate of tax used must be the sum of the rates of all taxes imposed upon the use, storage or other consumption of property in :

(1) The county determined pursuant to the provisions of sections 13 to 18, inclusive, of this act; or

(2) If those provisions do not apply to the purchase, the county in which the property is first used, stored or consumed.

2. In determining the amount of taxes due pursuant to subsection 1:

(a) The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.

(b) A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.

3. On or before January 1 of each year the Department shall transmit to each retailer to whom a permit has been issued a notice which contains the provisions of subsections 1 and 2 and NRS 372.365.

Sec. 3. NRS 360.510 is hereby amended to read as follows:

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

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

Floor Actions

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed, give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this state or any political subdivision or agency of this state, who has in his possession or under his control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

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

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

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

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

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

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he is liable to the State for any indebtedness due pursuant to this chapter, or chapter 360B, 362, 364A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 4. Chapter 360B of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 24, inclusive, of this act.

Sec. 5. *“Purchaser” means a person to whom a sale of tangible personal property is made.*

Sec. 6. *“Registered seller” means a seller registered pursuant to section 9 of this act.*

Sec. 7. *“Retail sale” means any sale, lease or rental for any purpose other than for resale, sublease or subrent.*

Sec. 8. *“Tangible personal property” means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.*

Sec. 9. 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*

Floor Actions

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, 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.

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. 1. The Department shall post on a website or other Internet site that is operated or administered by or on behalf of the Department:

(a) The rates of sales and use taxes for this state and for each local government 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 section 11 of this act.

(f) 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 section 12 of this act, 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. 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. 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 is unable to determine the nine-digit zip code of a purchaser after exercising due diligence to determine that information, that seller 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 has exercised due diligence if the seller has attempted to determine the nine-digit zip code of a purchaser by using software approved by the Department which makes that determination from the street address and five-digit zip code of the purchaser.

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. The Department shall waive any liability of a registered seller and a certified service provider acting on behalf of a registered seller who, as a result of his reasonable reliance on the information posted pursuant to section 10 of this act or his compliance with subsection 2 of section 11 of this act, collects the incorrect amount of any sales or use tax imposed in this state, for:

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

2. Any penalties and interest on that amount.

Sec. 13. As used in sections 13 to 18, inclusive, of this act:

Floor Actions

1. “Receive” means taking possession of or making the first use of tangible personal property, whichever occurs first. The term does not include possession by a shipping company on behalf of a purchaser.

2. “Transportation equipment” means:

(a) Locomotives and railcars used for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors having a manufacturer’s gross vehicle weight rating of more than 10,000 pounds, and trailers, semitrailers and passenger buses that are:

(1) Registered pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Operated under the authority of a carrier who is authorized by the Federal Government to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft operated by an air carrier who is authorized by the Federal Government or a foreign government to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached or secured to any of the items described in paragraph (a), (b) or (c).

Sec. 14. 1. Except as otherwise provided in this section, for the purpose of determining the liability of a seller for sales and use taxes, a retail sale shall be deemed to take place at the location determined pursuant to sections 13 to 18, inclusive, of this act.

2. Sections 13 to 18, inclusive, of this act do not:

(a) Affect any liability of a purchaser or lessee for a use tax.

(b) Apply to:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes or mobile homes.

(2) The retail sale, other than the lease or rental, of motor vehicles, trailers, semitrailers or aircraft that do not constitute transportation equipment.

Sec. 15. Except as otherwise provided in sections 13 to 18, inclusive, of this act, the retail sale, excluding the lease or rental, of tangible personal property shall be deemed to take place:

1. If the property is received by the purchaser at a place of business of the seller, at that place of business.

2. If the property is not received by the purchaser at a place of business of the seller:

(a) At the location indicated to the seller pursuant to any instructions provided for the delivery of the property to the purchaser or to another recipient who is designated by the purchaser as his donee; or

(b) If no such instructions are provided and if known by the seller, at the location where the purchaser or another recipient who is designated by the purchaser as his donee, receives the property.

3. If subsections 1 and 2 do not apply, at the address of the purchaser indicated in the business records of the seller that are maintained in the ordinary course of the seller’s business, unless the use of that address would constitute bad faith.

4. If subsections 1, 2 and 3 do not apply, at the address of the purchaser obtained during the consummation of the sale, including, if no other address is available, the address of the purchaser’s instrument of payment, unless the use of an address pursuant to this subsection would constitute bad faith.

5. In all other circumstances, at the address from which the property was shipped or, if it was delivered electronically, at the address from which it was first available for transmission by the seller.

Sec. 16. 1. Except as otherwise provided in this section and sections 14, 17 and 18 of this act, the lease or rental of tangible personal property shall be deemed to take place as follows:

(a) If the lease or rental requires recurring periodic payments, for the purposes of:

(1) The first periodic payment, the location of the lease or rental shall be deemed to take place at the location determined pursuant to section 15 of this act; and

(2) Subsequent periodic payments, the location of the lease or rental shall be deemed to take place at the primary location of the property. For the purposes of this subparagraph, the primary location of the property shall be deemed to be the address for the property provided by the lessee and set forth in the records maintained by the lessor in the ordinary course of business, regardless of the intermittent use of the property at different locations, unless the use of that address would constitute bad faith.

(b) If the lease or rental does not require recurring periodic payments, the location of the lease or rental shall be deemed to take place at the location determined pursuant to section 15 of this act.

2. This section does not apply to the determination of any liability of a seller for any sales or use taxes imposed on:

(a) The acquisition of tangible personal property for lease; or

Floor Actions

(b) Any accelerated or lump-sum payments made pursuant to a lease or rental of tangible personal property.

Sec. 17. 1. Except as otherwise provided in this section and section 14 of this act, the lease or rental of motor vehicles, trailers, semitrailers or aircraft that do not constitute transportation equipment shall be deemed to take place:

(a) If the lease or rental requires recurring periodic payments, at the primary location of the property. For the purposes of this paragraph, the primary location of the property shall be deemed to be the address for the property provided by the lessee and set forth in the records maintained by the lessor in the ordinary course of business, regardless of the intermittent use of the property at different locations, unless the use of that address would constitute bad faith.

(b) If the lease or rental does not require recurring periodic payments, at the location determined pursuant to section 15 of this act.

2. This section does not apply to the determination of any liability of a seller for any sales or use taxes imposed on:

(a) The acquisition of tangible personal property for lease; or

(b) Any accelerated or lump-sum payments made pursuant to a lease or rental of tangible personal property.

Sec. 18. Except as otherwise provided in section 14 of this act, the lease or rental of transportation equipment shall be deemed to take place at the location determined pursuant to section 15 of this act.

Sec. 19. 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 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. 20. 1. A purchaser who:

(a) Has not obtained a direct pay permit pursuant to section 19 of this act;

(b) Purchases tangible personal property that is subject to sales and use taxes; and

(c) Has knowledge at the time of purchase that the purchased property will be available for use digitally or electronically in more than one jurisdiction, shall give written notice of that fact to the seller at the time of purchase. The notice must be given in a form required by the Department.

2. Notwithstanding the provisions of sections 13 to 18, inclusive, of this act:

(a) Upon receipt of such a notice by a seller who does not maintain a place of business in this state, the seller is relieved of any liability to collect, pay or remit any use tax that is due and the purchaser thereafter assumes the liability to pay that tax directly to the appropriate authority.

(b) To determine the tax due to this state or to a local government of this state:

(1) A purchaser who delivers a notice pursuant to subsection 1 to a seller who does not maintain a place of business in this state; and

Floor Actions

(2) A seller who maintains a place of business in this state and receives a notice pursuant to subsection 1, may 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 business records of the purchaser or seller as they exist at the time of the consummation of the sale.

3. Any notice given pursuant to subsection 1 applies to all future sales of property made by the seller to the purchaser, except for the sale of property that is specifically apportioned pursuant to subsection 2 or to property that will not be used in multiple jurisdictions, until the purchaser delivers a written notice of revocation to the seller.

Sec. 21. 1. A purchaser of direct mail must provide to the seller at the time of the purchase:

(a) If the seller does not maintain a place of business in this state:

(1) A form for direct mail approved by the Department;

(2) An informational statement of the jurisdictions to which the direct mail will be delivered to recipients; or

(3) The direct pay permit of the purchaser issued pursuant to section 19 of this act; or

(b) If the seller maintains a place of business in this state, an informational statement of the jurisdictions to which the direct mail will be delivered to recipients.

2. Notwithstanding the provisions of sections 13 to 18, inclusive, of this act:

(a) Upon the receipt pursuant to subsection 1 of:

(1) A form for direct mail by a seller who does not maintain a place of business in this state:

(I) The seller is relieved of any liability for the collection, payment or remission of any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller; and

(II) The purchaser is liable for any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller.

Any form for direct mail provided to a seller pursuant to this subparagraph applies to all future sales of direct mail made by that seller to that purchaser until the purchaser delivers a written notice of revocation to the seller.

(2) An informational statement by any seller, the seller shall collect, pay or remit any applicable sales and use taxes in accordance with the information contained in that statement. In the absence of bad faith, the seller is relieved of any liability to collect, pay or remit any sales and use taxes other than in accordance with that information received.

(b) If a purchaser of direct mail does not comply with subsection 1, the seller shall determine the location of the sale pursuant to subsection 5 of section 15 of this act and collect, pay or remit any applicable sales and use taxes. This paragraph does not limit the liability of the purchaser for the payment of any of those taxes.

3. As used in this section, "direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

Sec. 22. Notwithstanding the provisions of any other specific statute, if the boundary of a local government that has imposed a sales or use tax is changed, any change in the rate of that tax which results therefrom becomes effective on the first day of the first calendar quarter that begins at least 60 days after the effective date of the change in the boundary.

Sec. 23. Notwithstanding the provisions of any other specific statute, if any sales or use tax is due and payable on a Saturday, Sunday or legal holiday, the tax may be paid on the next succeeding business day.

Sec. 24. 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. Services that are necessary to complete the sale, including delivery and installation charges;

2. The value of exempt property given to the purchaser if taxable and exempt property are sold as a single product or piece of merchandise; and

3. Credit given to the purchaser.

Sec. 25. NRS 360B.030 is hereby amended to read as follows:

Floor Actions

360B.030 As used in NRS 360B.010 to 360B.170, inclusive, *and sections 5 to 24, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, *and sections 5 to 8, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 26. NRS 360B.070 is hereby amended to read as follows:

360B.070 “Sales tax” means the tax levied by section 19 of chapter 397, Statutes of Nevada 1955, at page 766, and any similar tax authorized by *or pursuant to a specific statute* ~~[-]~~ *or special legislative act of this state or the laws of another state that is a member of the Agreement.*

Sec. 27. NRS 360B.080 is hereby amended to read as follows:

360B.080 “Seller” means any person making sales, leases or rentals of *tangible* personal property . ~~for services.~~

Sec. 28. NRS 360B.100 is hereby amended to read as follows:

360B.100 “Use tax” means the tax levied by section 34 of chapter 397, Statutes of Nevada 1955, at page 769, as amended by section 3 of chapter 513, Statutes of Nevada 1985, at page 1562, and any similar tax authorized by *or pursuant to a specific statute* ~~[-]~~ *or special legislative act of this state or the laws of another state that is a member of the Agreement.*

Sec. 29. 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 NRS 360B.010 to 360B.170, inclusive, *and sections 5 to 24, inclusive, of this act, and the provisions of the Agreement*, including, without limitation ~~[-]~~ , *the*:

(a) Adoption of regulations to carry out the provisions of NRS 360B.010 to 360B.170, inclusive ~~[-]~~ , *and sections 5 to 24, inclusive, of this act, 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. 30. NRS 361.186 is hereby amended to read as follows:

361.186 1. A taxpayer may collect an admission fee for the exhibition of fine art otherwise exempt from taxation pursuant to NRS 361.068 if the taxpayer offers to residents of the State of Nevada a discount of 50 percent from any admission fee charged to nonresidents. The discounted admission fee for residents must be offered at any time the exhibition is open to the public and admission fees are being charged.

2. Except as otherwise provided in subsection 5, if a taxpayer collects a fee for the exhibition of fine art otherwise exempt from taxation pursuant to NRS 361.068, the exemption pertaining to that fine art for the fiscal year must be reduced by the net revenue derived by the taxpayer for that fiscal year. The exemption pertaining to fine art for a particular fiscal year must not be reduced below zero, regardless of the amount of the net revenue derived by the taxpayer for that fiscal year.

3. A tax resulting from the operation of this section is due with the tax otherwise due under the taxpayer's first statement filed pursuant to NRS 361.265 after the 15th day of the fourth month after the end of the fiscal year in which the net revenue was received or, if no such statement is required to be filed, under a statement of the net revenue filed on or before the last day of the fourth month after the end of that fiscal year.

4. A taxpayer who is required to pay a tax resulting from the operation of this section may receive a credit against the tax for any donations made by the taxpayer to the State Arts Council, the Division of Museums and History Dedicated Trust Fund established pursuant to NRS 381.0031, a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, if the taxpayer:

(a) Made the donation before the date that either statement required pursuant to subsection 3 is due; and

(b) Provides to the county assessor documentation of the donation at the time that he files the statement required pursuant to subsection 3.

Floor Actions

5. If a taxpayer qualifies for and avails himself of ~~both of~~ the exemptions from taxation provided by NRS 361.068 and 374.291 ~~and section 57.1 of chapter 397, Statutes of Nevada 1955~~, the reduction of the exemptions by the net revenue derived by the taxpayer, as required pursuant to subsection 2 of this section, ~~and subsection 2 of NRS 374.2911 and subsection 2 of section 57.2 of chapter 397, Statutes of Nevada 1955~~, must be carried out in such a manner that the total net revenue derived by the taxpayer is first applied to reduce the ~~exemption~~ exemptions provided pursuant to NRS 374.291 ~~and section 57.1 of chapter 397, Statutes of Nevada 1955~~. If the net revenue exceeds the amount of the ~~exemption~~ exemptions provided pursuant to NRS 374.291 ~~and section 57.1 of chapter 397, Statutes of Nevada 1955~~, the remaining net revenue must be applied to reduce the exemption provided pursuant to NRS 361.068. If the net revenue is less than or equal to the ~~exemption~~ exemptions provided pursuant to NRS 374.291 ~~and section 57.1 of chapter 397, Statutes of Nevada 1955~~, for that fiscal year, the exemption provided pursuant to NRS 361.068 must not be reduced.

6. For the purposes of this section:

(a) "Direct costs of owning and exhibiting the fine art" does not include any allocation of the general and administrative expense of a business or organization that conducts activities in addition to the operation of the facility in which the fine art is displayed, including, without limitation, an allocation of the salary and benefits of a senior executive who is responsible for the oversight of the facility in which the fine art is displayed and who has substantial responsibilities related to the other activities of the business or organization.

(b) "Net revenue" means the amount of the fees collected for exhibiting the fine art during that fiscal year less the following paid or made during that fiscal year:

(1) The direct costs of owning and exhibiting the fine art; and

(2) The cost of educational programs associated with the taxpayer's public display of fine art, including the cost of meeting the requirements of sub-subparagraph (IV) of subparagraph (1) of paragraph (b) of subsection 5 of NRS 361.068.

Sec. 31. NRS 361.186 is hereby amended to read as follows:

361.186 1. A taxpayer may collect an admission fee for the exhibition of fine art otherwise exempt from taxation pursuant to NRS 361.068 if the taxpayer offers to residents of the State of Nevada a discount of 50 percent from any admission fee charged to nonresidents. The discounted admission fee for residents must be offered at any time the exhibition is open to the public and admission fees are being charged.

2. Except as otherwise provided in subsection 5, if a taxpayer collects a fee for the exhibition of fine art otherwise exempt from taxation pursuant to NRS 361.068, the exemption pertaining to that fine art for the fiscal year must be reduced by the net revenue derived by the taxpayer for that fiscal year. The exemption pertaining to fine art for a particular fiscal year must not be reduced below zero, regardless of the amount of the net revenue derived by the taxpayer for that fiscal year.

3. A tax resulting from the operation of this section is due with the tax otherwise due under the taxpayer's first statement filed pursuant to NRS 361.265 after the 15th day of the fourth month after the end of the fiscal year in which the net revenue was received or, if no such statement is required to be filed, under a statement of the net revenue filed on or before the last day of the fourth month after the end of that fiscal year.

4. A taxpayer who is required to pay a tax resulting from the operation of this section may receive a credit against the tax for any donations made by the taxpayer to the State Arts Council, the Division of Museums and History Dedicated Trust Fund established pursuant to NRS 381.0031, a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, if the taxpayer:

(a) Made the donation before the date that either statement required pursuant to subsection 3 is due; and

(b) Provides to the county assessor documentation of the donation at the time that he files the statement required pursuant to subsection 3.

5. ~~If a taxpayer qualifies for and avails himself of both of the exemptions from taxation provided by NRS 361.068 and 374.291, the reduction of the exemptions by the net revenue derived by the taxpayer, as required pursuant to subsection 2 of this section and subsection 2 of NRS 374.2911, must be carried out in such a manner that the total net revenue derived by the taxpayer is first applied to reduce the exemption provided pursuant to NRS 374.291. If the net revenue exceeds the amount of the exemption provided pursuant to NRS 374.291, the remaining net revenue must be applied to reduce the exemption provided pursuant to NRS 361.068. If the net revenue is less than or equal to the exemption provided pursuant to NRS 374.291 for that fiscal year, the exemption provided pursuant to NRS 361.068 must not be reduced.~~

Floor Actions

~~6.1~~ For the purposes of this section:

(a) “Direct costs of owning and exhibiting the fine art” does not include any allocation of the general and administrative expense of a business or organization that conducts activities in addition to the operation of the facility in which the fine art is displayed, including, without limitation, an allocation of the salary and benefits of a senior executive who is responsible for the oversight of the facility in which the fine art is displayed and who has substantial responsibilities related to the other activities of the business or organization.

(b) “Net revenue” means the amount of the fees collected for exhibiting the fine art during that fiscal year less the following paid or made during that fiscal year:

(1) The direct costs of owning and exhibiting the fine art; and

(2) The cost of educational programs associated with the taxpayer’s public display of fine art, including the cost of meeting the requirements of sub-subparagraph (IV) of subparagraph (1) of paragraph (b) of subsection 5 of NRS 361.068.

Sec. 32. Chapter 372 of NRS is hereby amended by adding thereto the provisions set forth as sections 33 to 36, inclusive, of this act.

Sec. 33. *This chapter must be administered in accordance with the provisions of chapter 360B of NRS.*

Sec. 34. *In determining the amount of taxes due pursuant to this chapter:*

1. *The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.*

2. *A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.*

Sec. 35. 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.*

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.*

Sec. 36. 1. *If a retailer is unable to collect all or part of the sales price of a sale, he is entitled to receive a deduction from his taxable sales for that bad debt.*

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

3. *The amount of any deduction claimed must equal the amount of a deduction that may be claimed pursuant to 26 U.S.C. § 166 for that sale minus:*

(a) *Any finance charge or interest charged as part of the sale;*

(b) *Any sales or use tax charged on the sales price;*

(c) *Any amount not paid on the sales price because the tangible personal property that was sold has remained in the possession of the retailer until the full sales price is paid;*

(d) *Any expense incurred in attempting to collect the bad debt; and*

(e) *The value of any property sold that has been repossessed by the retailer.*

4. *A bad debt may be claimed as a deduction on the return that covers the period during which the bad debt is written off in the business records of the retailer that are maintained in the ordinary course of the retailer’s business and is eligible to be claimed as a deduction pursuant to 26 U.S.C. § 166 or, if the retailer is not required to file a federal income tax return, would be eligible to be claimed as a deduction pursuant to 26 U.S.C. § 166.*

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

Floor Actions

6. If the amount of the bad debt is greater than the amount of the taxable sales reported for the period during which the bad debt is claimed as a deduction, a claim for a refund may be filed pursuant to NRS 372.630 to 372.720, inclusive, except that the time within which the claim may be filed begins on the date on which the return that included the deduction was filed.

7. If the retailer has contracted with a certified service provider for the remittance of the tax due under this chapter, the service provider may, on behalf of the retailer, claim any deduction to which the retailer is entitled pursuant to this section. The service provider shall credit or refund the full amount of any deduction or refund received pursuant to this section to the retailer.

8. For the purposes of reporting a payment received on a bad debt for which a deduction has been claimed, the payment must first be applied to the sales price of the property sold and the tax due thereon, and then to any interest, service charge or other charge that was charged as part of the sale.

9. If the records of a retailer indicate that a bad debt may be allocated among other states that are members of the Streamlined Sales and Use Tax Agreement, the retailer may allocate the bad debt among those states.

10. Except as otherwise provided in subsection 11, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

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

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the deduction claimed or \$1,000, whichever is less.

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

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

12. As used in this section:

(a) "Bad debt" means a debt that may be deducted pursuant to 26 U.S.C. § 166.

(b) "Certified service provider" has the meaning ascribed to it in NRS 360B.060.

Sec. 37. NRS 372.123 is hereby amended to read as follows:

372.123 1. If the State or a political subdivision of the State enters into a contract pursuant to chapter 332 or 333 of NRS on or after June 5, 2001, with a person who:

(a) Sells tangible personal property in this state; and

(b) Has not obtained a permit pursuant to NRS 372.125 ~~because he does not maintain a place of business within this state,~~ or registered pursuant to section 9 of this act, the contract must include a provision requiring the person to obtain a permit pursuant to NRS 372.125 or to register pursuant to section 9 of this act, and to ~~agree to~~ collect and pay the taxes imposed pursuant to this chapter on the sale of tangible personal property in this state. For the purposes of ~~the~~ a permit obtained pursuant to NRS 372.125, the person shall be deemed to have a single place of business in this state.

2. The Department may require a state agency or local government to submit such documentation as is necessary to ensure compliance with this section.

Sec. 38. 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 with the Department pursuant to section 9 of this act or 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 other information which the Department may require.

3. The application must be signed by ~~the~~:

(a) The owner if he is a natural person; ~~in the case of an association or partnership, by a~~

Floor Actions

(b) A member or partner ~~{; in the case of a corporation, by an}~~ if the seller is an association or partnership; or

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

Sec. 39. 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 with the Department pursuant to section 9 of this act or file with the Department an application for a permit for each place of business ~~{;}~~, unless he intends to sell vehicles and will make fewer than three retail sales of vehicles during any 12-month period.

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 other information which the Department may require.

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 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. 40. NRS 372.160 is hereby amended to read as follows:

372.160 A resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who ~~{is}~~:

1. Is engaged in the business of selling tangible personal property ~~{and who holds the permit provided for in NRS 372.125 to 372.180, inclusive, and who, at}~~;

2. Is registered pursuant to section 9 of this act or holds a permit issued pursuant to NRS 372.135; and

3. At the time of purchasing the tangible personal 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.

Sec. 41. NRS 372.165 is hereby amended to read as follows:

372.165 1. ~~{The}~~ 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 section 9 of this act 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 substantially in such form as the Department may prescribe.

Sec. 42. NRS 372.230 is hereby amended to read as follows:

372.230 A resale certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who ~~{is}~~:

1. Is engaged in the business of selling tangible personal property ~~{and who holds the permit provided for by NRS 372.125 to 372.180, inclusive, and who, at}~~;

2. Is registered pursuant to section 9 of this act or holds a permit issued pursuant to NRS 372.135; and

3. At the time of purchasing the tangible personal 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.

Sec. 43. NRS 372.235 is hereby amended to read as follows:

372.235 1. ~~{The}~~ 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 section 9 of this act 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 substantially in such form as the Department may prescribe.

Sec. 44. NRS 372.355 is hereby amended to read as follows:

Floor Actions

372.355 Except as *otherwise* provided in NRS 372.380 ~~or required by the Department pursuant to section 9 of this act~~, the taxes imposed by this chapter are payable to the Department monthly on or before the last day of the month next succeeding each month.

Sec. 45. NRS 372.360 is hereby amended to read as follows:

372.360 *Except as otherwise required by the Department pursuant to section 9 of this act:*

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form as the Department may prescribe. *Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 374 of NRS.*

2. For purposes of ~~the~~ :

(a) *The sales tax a return must be filed by each seller.* ~~For purposes of the~~

(b) *The use tax a return must be filed by each retailer maintaining a place of business in the state and by each person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due.* ~~to a retailer required to collect the tax.~~

3. Returns must be signed by the person required to file the return or by his authorized agent but need not be verified by oath.

Sec. 46. NRS 372.365 is hereby amended to read as follows:

372.365 1. *Except as otherwise required by the Department pursuant to section 9 of this act or provided in sections 13 to 18, inclusive, of this act:*

(a) For the purposes of the sales tax:

~~(a)~~ (1) The return must show the gross receipts of the seller during the preceding reporting period.

~~(b)~~ (2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

~~(c)~~ (3) A sale pertains to the county in this state in which the tangible personal property is or will be delivered to the purchaser or his agent or designee.

~~(2)~~ (b) For purposes of the use tax:

~~(a)~~ (1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

~~(b)~~ (2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

~~(c)~~ (3) If the property was ~~brought~~ :

(I) *Brought* into this state by the purchaser or his agent or designee, the sale pertains to the county in this state in which the property is or will be first used, stored or otherwise consumed. ~~Otherwise,~~

(II) *Not brought into this state by the purchaser or his agent or designee*, the sale pertains to the county in this state in which the property was delivered to the purchaser or his agent or designee.

~~(3)~~ 2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this state in which the property was first used, stored or consumed.

~~(4)~~ 3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

~~(5. If a retailer:~~

(a) ~~Is unable to collect all or part of the sales price of a sale, the amount of which was included in the gross receipts reported for a previous reporting period; and~~

(b) ~~Has taken a deduction on his federal income tax return pursuant to 26 U.S.C. § 166(a) for the amount which he is unable to collect, he is entitled to receive a credit for the amount of sales tax paid on account of that uncollected sales price. The credit may be used against the amount of sales tax that the retailer is subsequently required to pay pursuant to this chapter.~~

~~6. If the Internal Revenue Service of the Department of the Treasury disallows a deduction described in paragraph (b) of subsection 5 and the retailer claimed a credit on a return for a previous reporting period pursuant to subsection 5, the retailer shall include the amount of that credit in the amount of taxes reported pursuant to subsection 4 in the first return filed with the Department after the deduction is disallowed.~~

~~7. If a retailer collects all or part of the sales price for which he claimed a credit on a return for a previous reporting period pursuant to subsection 5, he shall include:~~

Floor Actions

~~(a) The amount collected in the gross receipts reported pursuant to paragraph (a) of subsection 1; and~~
~~(b) The sales tax payable on the amount collected in the amount of taxes reported pursuant to subsection 4,~~
~~in the first return filed with the Department after that collection.~~

~~8.]~~ 4. Except as otherwise provided in subsection ~~[9.]~~ 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

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

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

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

Sec. 47. NRS 372.370 is hereby amended to read as follows:

372.370 ~~[The]~~

1. *Except as otherwise provided in subsection 2, a taxpayer shall deduct and withhold from the taxes otherwise due from him 1.25 percent of it to reimburse himself for the cost of collecting the tax.*

2. *The regulations adopted by the Department pursuant to NRS 360B.110 may authorize the deduction and withholding from the taxes otherwise due from a taxpayer such other amounts as are required to carry out the Streamlined Sales and Use Tax Agreement.*

Sec. 48. NRS 372.375 is hereby amended to read as follows:

372.375 ~~[The]~~

1. *Except as otherwise required by the Department pursuant to section 9 of this act, the person required to file ~~[the]~~ a return shall deliver the return together with a remittance of the amount of the tax due to the Department.*

2. *The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed in NRS 353.1465.*

Sec. 49. NRS 372.380 is hereby amended to read as follows:

372.380 1. ~~[The]~~ *Except as otherwise provided in subsection 2 or required by the Department pursuant to section 9 of this act, the reporting and payment period of a taxpayer whose taxable sales do not exceed \$10,000 per month is a calendar quarter.*

2. *The Department, if it deems this action necessary in order to insure payment to or facilitate the collection by the State of the amount of taxes, may require returns and payment of the amount of taxes for periods other than calendar months or quarters, depending upon the principal place of business of the seller, retailer or purchaser, as the case may be, or for other than monthly or quarterly periods.*

Sec. 50. NRS 372.635 is hereby amended to read as follows:

372.635 *Except as otherwise provided in NRS 360.235 and 360.395 ~~[.]~~ and section 36 of this act:*

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

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

Sec. 51. NRS 372.7263 is hereby amended to read as follows:

372.7263 1. *In administering the provisions of NRS 372.335, the Department shall apply the exemption for the sale of tangible personal property delivered by the vendor to a forwarding agent for shipment out of state to include:*

~~[1.]~~ (a) *The sale of a vehicle to a nonresident to whom a special movement permit has been issued by the Department of Motor Vehicles pursuant to subsection 1 of NRS 482.3955; and*

~~[2.]~~ (b) *The sale of farm machinery and equipment ~~[, as defined in NRS 374.286.]~~ to a nonresident who submits proof to the vendor that the farm machinery and equipment will be delivered out of state not later than 15 days after the sale.*

Floor Actions

2. *As used in this section:*

(a) *“Agricultural use” has the meaning ascribed to it in NRS 361A.030.*

(b) *“Farm machinery and equipment” means a farm tractor, implement of husbandry, piece of equipment used for irrigation, or a part used in the repair or maintenance of farm machinery and equipment. The term does not include:*

(1) A vehicle required to be registered pursuant to the provisions of chapter 482 or 706 of NRS; or

(2) Machinery or equipment only incidentally employed for the agricultural use of real property.

(c) *“Farm tractor” means a motor vehicle designed and used primarily for drawing an implement of husbandry.*

(d) *“Implement of husbandry” means a vehicle that is designed, adapted or used for agricultural purposes, including, without limitation, a plow, machine for mowing, hay baler, combine, piece of equipment used to stack hay, till, harvest, handle agricultural commodities or apply fertilizers, or other heavy, movable equipment designed, adapted or used for agricultural purposes.*

Sec. 52. NRS 372.740 is hereby amended to read as follows:

372.740 1. The Department, or any person authorized in writing by it, may examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

2. Any person selling or purchasing tangible personal property in this state who ~~is~~ :

(a) ~~Is required to obtain~~ :

~~(1) Obtain a permit pursuant to NRS 372.125 or register pursuant to section 9 of this act; or to file~~

~~(2) File a return pursuant to subsection 2 of NRS 372.360 [-and who keeps] ; and~~

(b) ~~Keeps outside of this state his records, receipts, invoices and other documents relating to sales he has made or the use tax due this state,~~

shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the state for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he is absent from his regular place of employment to examine those documents.

Sec. 53. Chapter 374 of NRS is hereby amended by adding thereto the provisions set forth as sections 54 to 57, inclusive, of this act.

Sec. 54. *This chapter must be administered in accordance with the provisions of chapter 360B of NRS.*

Sec. 55. *In determining the amount of taxes due pursuant to this chapter:*

1. *The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.*

2. *A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.*

Sec. 56. 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.*

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.*

Sec. 57. 1. *If a retailer is unable to collect all or part of the sales price of a sale, he is entitled to receive a deduction from his taxable sales for that bad debt.*

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

3. *The amount of any deduction claimed must equal the amount of a deduction that may be claimed pursuant to 26 U.S.C. § 166 for that sale minus:*

Floor Actions

- (a) Any finance charge or interest charged as part of the sale;
- (b) Any sales or use tax charged on the sales price;
- (c) Any amount not paid on the sales price because the tangible personal property that was sold has remained in the possession of the retailer until the full sales price is paid;
- (d) Any expense incurred in attempting to collect the bad debt; and
- (e) The value of any property sold that has been repossessed by the retailer.

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

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

6. If the amount of the bad debt is greater than the amount of the taxable sales reported for the period during which the bad debt is claimed as a deduction, a claim for a refund may be filed pursuant to NRS 374.635 to 374.720, inclusive, except that the time within which the claim may be filed begins on the date on which the return that included the deduction was filed.

7. If the retailer has contracted with a certified service provider for the remittance of the tax due under this chapter, the service provider may, on behalf of the retailer, claim any deduction to which the retailer is entitled pursuant to this section. The service provider shall credit or refund the full amount of any deduction or refund received pursuant to this section to the retailer.

8. For the purposes of reporting a payment received on a bad debt for which a deduction has been claimed, the payment must first be applied to the sales price of the property sold and the tax due thereon, and then to any interest, service charge or other charge that was charged as part of the sale.

9. If the records of a retailer indicate that a bad debt may be allocated among other states that are members of the Streamlined Sales and Use Tax Agreement, the retailer may allocate the bad debt among those states.

10. Except as otherwise provided in subsection 11, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

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

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the deduction claimed or \$1,000, whichever is less.

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

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

12. As used in this section:

(a) "Bad debt" means a debt that may be deducted pursuant to 26 U.S.C. § 166.

(b) "Certified service provider" has the meaning ascribed to it in NRS 360B.060.

Sec. 58. NRS 374.020 is hereby amended to read as follows:

374.020 Except where the context otherwise requires, the definitions given in NRS 374.025 to ~~{374.107,}~~ 374.100, inclusive, govern the construction of this chapter.

Sec. 59. NRS 374.030 is hereby amended to read as follows:

374.030 1. "Gross receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the Department may prescribe, a deduction may be taken if the retailer has purchased property for some other

Floor Actions

purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the county or has paid the use tax with respect to the property, and has resold the property before making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.

(c) The cost of transportation of the property before its sale to the purchaser.

2. The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale.

(b) All receipts, cash, credits and property of any kind.

(c) Any amount for which credit is allowed by the seller to the purchaser.

3. "Gross receipts" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The sale price of property returned by customers when the full sale price is refunded either in cash or credit, but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The price received for labor or services used in installing or applying the property sold.

(d) The amount of any tax, not including any manufacturers' or importers' excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

~~[(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.]~~

4. For purposes of the sales tax, if the retailers establish to the satisfaction of the Department that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Sec. 60. NRS 374.040 is hereby amended to read as follows:

374.040 1. "Occasional sale" ~~["except as otherwise provided in subsection 2,"]~~ includes:

(a) A sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller's permit, provided such sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit.

(b) Any transfer of all or substantially all the property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.

~~2. [The term does not include the sale of a vehicle other than the sale or transfer of a used vehicle to the seller's spouse, child, grandchild, parent, grandparent, brother or sister. For the purposes of this section, the relation of parent and child includes adoptive and illegitimate children and stepchildren.]~~

~~3.]~~ For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity.

Sec. 61. NRS 374.055 is hereby amended to read as follows:

374.055 1. "Retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business of tangible personal property. ~~[The terms do not include a sale of property that:~~

~~(a) Meets the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 4 of NRS 374.291;~~

~~(b) Is made available for sale within 2 years after it is acquired; and~~

~~(c) Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.]~~

2. The delivery in a county of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in the county, is a retail sale in the county by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

Sec. 62. NRS 374.060 is hereby amended to read as follows:

374.060 1. "Retailer" includes:

Floor Actions

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making any retail sale of a vehicle or more than two retail sales of other tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

3. *A licensed optometrist or physician is a consumer of, and shall not be considered, a retailer within the provisions of this chapter, with respect to the ophthalmic materials used or furnished by him in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.*

Sec. 63. NRS 374.060 is hereby amended to read as follows:

374.060 1. "Retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making ~~any retail sale of a vehicle or~~ more than two retail sales of other tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

Sec. 64. NRS 374.070 is hereby amended to read as follows:

374.070 1. "Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold.

(b) The cost of the materials used, labor or service cost, interest charged, losses, or any other expenses.

(c) The cost of transportation of the property before its purchase.

2. The total amount for which property is sold includes all of the following:

(a) Any services that are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

3. "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit; but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

(d) The amount of any tax, ~~not~~ including ~~however,~~ any manufacturers' or importers' excise tax, ~~imposed~~ imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

Floor Actions

(e) The amount of any tax imposed by the State of Nevada upon or with respect to the storage, use or other consumption of tangible personal property purchased from any retailer.

~~{(f) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.~~

~~4. For the purpose of a sale of a vehicle by a seller who is not required to be registered with the Department of Taxation, the sales price is the value established in the manner set forth in NRS 374.112.~~

Sec. 65. NRS 374.085 is hereby amended to read as follows:

374.085 "Storage, use or other consumption" does not include ~~;~~

~~1. The~~ the keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the State for use thereafter solely outside the State, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the State and thereafter used solely outside the State . ~~;~~
~~or~~

~~2. The keeping, retaining or exercising any right or power over tangible property that:~~

~~(a) Meets the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 4 of NRS 374.291;~~

~~(b) Is made available for sale within 2 years after it is acquired; and~~

~~(c) Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.~~

Sec. 66. NRS 374.128 is hereby amended to read as follows:

374.128 1. If the State or a political subdivision of the State enters into a contract pursuant to chapter 332 or 333 of NRS on or after June 5, 2001, with a person who:

(a) Sells tangible personal property in this state; and

(b) Has not obtained a permit pursuant to NRS 374.130 ~~{because he does not maintain a place of business within this state,}~~ or registered pursuant to section 9 of this act,

the contract must include a provision requiring the person to obtain a permit pursuant to NRS 374.130 or to register pursuant to section 9 of this act, and to ~~{agree to}~~ collect and pay the taxes imposed pursuant to this chapter on the sale of tangible personal property in any county in this state. For the purposes of ~~{the}~~ a permit obtained pursuant to NRS 374.130, the person shall be deemed to have a place of business in each county in this state, but shall pay the fee for a single permit.

2. The Department may require a state agency or local government to submit such documentation as is necessary to ensure compliance with this section.

Sec. 67. 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 with the Department pursuant to section 9 of this act or file with the Department an application for a permit for each place of business, unless he intends to sell vehicles and will make fewer than three retail sales of vehicles during any 12-month period.

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 signed by ~~{the}~~ :

(a) The owner if he is a natural person; ~~{in the case of an association or partnership, by a}~~

(b) A member or partner ~~;~~ ~~{in the case of a corporation, by an}~~ if the seller is an association or partnership; or

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

Sec. 68. 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 with the Department pursuant to section 9 of this act or file with the Department an application for a permit for each place of business . ~~;~~ ~~{unless he intends to sell vehicles and will make fewer than three retail sales of vehicles during any 12-month period.}~~

2. Every application for a permit must:

Floor Actions

(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 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 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. 69. NRS 374.165 is hereby amended to read as follows:

374.165 ~~[The]~~ A resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who ~~[is]~~ :

1. *Is engaged in the business of selling tangible personal property ~~[and who holds the permit provided for in NRS 374.130 to 374.185, inclusive, and who, at]~~ ;*

2. *Is registered pursuant to section 9 of this act or holds a permit issued pursuant to NRS 374.140; and*

3. *At the time of purchasing the tangible personal 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.*

Sec. 70. NRS 374.170 is hereby amended to read as follows:

374.170 1. ~~[The certificate shall]~~ 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 section 9 of this act 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 ~~[shall]~~ must be substantially in such form as the Department may prescribe.

Sec. 71. NRS 374.235 is hereby amended to read as follows:

374.235 ~~[The]~~ A resale certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who ~~[is]~~ :

1. *Is engaged in the business of selling tangible personal property ~~[and who holds the permit provided for by NRS 374.130 to 374.185, inclusive, and who, at]~~ ;*

2. *Is registered pursuant to section 9 of this act or holds a permit issued pursuant to NRS 374.140; and*

3. *At the time of purchasing the tangible personal 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.*

Sec. 72. NRS 374.240 is hereby amended to read as follows:

374.240 1. ~~[The certificate shall]~~ 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 section 9 of this act 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 ~~[shall]~~ must be substantially in such form as the Department may prescribe.

Sec. 73. NRS 374.287 is hereby amended to read as follows:

374.287 1. There are exempted from the taxes imposed by this chapter the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) ~~[Any ophthalmic or ocular device or appliance prescribed by a physician or optometrist.~~

~~(e)] Medicines:~~

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

Floor Actions

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

(1) Any auditory, *ophthalmic or ocular* device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 74. NRS 374.360 is hereby amended to read as follows:

374.360 Except as *otherwise* provided in NRS 374.385 ~~or~~ *or required by the Department pursuant to section 9 of this act*, the taxes imposed by this chapter are due and payable to the Department monthly on or before the last day of the month next succeeding each month.

Sec. 75. NRS 374.365 is hereby amended to read as follows:

374.365 *Except as otherwise required by the Department pursuant to section 9 of this act:*

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form as the Department may prescribe. *Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 372 of NRS.*

Floor Actions

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

(a) ~~The sales tax a return must be filed by every seller. {For purposes of the}~~

(b) ~~The use tax a return must be filed by every retailer maintaining a place of business in the county and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due . {to a retailer required to collect the tax.}~~

3. Returns must be signed by the person required to file the return or by his authorized agent but need not be verified by oath.

Sec. 76. NRS 374.370 is hereby amended to read as follows:

374.370 1. *Except as otherwise required by the Department pursuant to section 9 of this act or provided in sections 13 to 18, inclusive, of this act:*

(a) For the purposes of the sales tax:

~~{(a)}~~ (1) The return must show the gross receipts of the seller during the preceding reporting period.

~~{(b)}~~ (2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

~~{(c)}~~ (3) A sale pertains to the county in this state in which the tangible personal property is or will be delivered to the purchaser or his agent or designee.

~~{2.}~~ (b) For purposes of the use tax:

~~{(a)}~~ (1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

~~{(b)}~~ (2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

~~{(c)}~~ (3) If the property was ~~brought~~ :

(I) *Brought* into this state by the purchaser or his agent or designee, the sale pertains to the county in this state in which the property is or will be first used, stored or otherwise consumed. ~~{Otherwise,}~~

(II) *Not brought into this state by the purchaser or his agent or designee*, the sale pertains to the county in this state in which the property was delivered to the purchaser or his agent or designee.

~~{3.}~~ 2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this state in which the property was first used, stored or consumed.

~~{4.}~~ 3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

~~{5. If a retailer:~~

(a) ~~Is unable to collect all or part of the sales price of a sale, the amount of which was included in the gross receipts reported for a previous reporting period; and~~

(b) ~~Has taken a deduction on his federal income tax return pursuant to 26 U.S.C. § 166(a) for the amount which he is unable to collect, he is entitled to receive a credit for the amount of sales tax paid on account of that uncollected sales price. The credit may be used against the amount of sales tax that the retailer is subsequently required to pay pursuant to this chapter.~~

~~6. If the Internal Revenue Service of the Department of the Treasury disallows a deduction described in paragraph (b) of subsection 5 and the retailer claimed a credit on a return for a previous reporting period pursuant to subsection 5, the retailer shall include the amount of that credit in the amount of taxes reported pursuant to subsection 4 in the first return filed with the Department after the deduction is disallowed.~~

~~7. If a retailer collects all or part of the sales price for which he claimed a credit on a return for a previous reporting period pursuant to subsection 5, he shall include:~~

(a) ~~The amount collected in the gross receipts reported pursuant to paragraph (a) of subsection 1; and~~

(b) ~~The sales tax payable on the amount collected in the amount of taxes reported pursuant to subsection~~

~~4, in the first return filed with the Department after that collection.~~

~~8.}~~ 4. Except as otherwise provided in subsection ~~{9.}~~ 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

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

Floor Actions

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

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

Sec. 77. NRS 374.375 is hereby amended to read as follows:

374.375 ~~{The}~~

1. *Except as otherwise provided in subsection 2, a taxpayer shall deduct and withhold from the taxes otherwise due from him 1.25 percent thereof to reimburse himself for the cost of collecting the tax.*

2. *The regulations adopted by the Department pursuant to NRS 360B.110 may authorize the deduction and withholding from the taxes otherwise due from a taxpayer such other amounts as are required to carry out the Streamlined Sales and Use Tax Agreement.*

Sec. 78. NRS 374.380 is hereby amended to read as follows:

374.380 ~~{The}~~

1. *Except as otherwise required by the Department pursuant to section 9 of this act, the person required to file ~~{the}~~ a return shall deliver the return together with a remittance of the amount of the tax due to the Department.*

2. *The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed in NRS 353.1465.*

Sec. 79. NRS 374.385 is hereby amended to read as follows:

374.385 1. ~~{The}~~ *Except as otherwise provided in subsection 2 or required by the Department pursuant to section 9 of this act, the reporting and payment period of a taxpayer whose taxable sales do not exceed \$10,000 per month is a calendar quarter.*

2. *The Department, if it deems this action necessary in order to insure payment to or facilitate the collection by the county of the amount of taxes, may require returns and payment of the amount of taxes for periods other than calendar months or quarters, depending upon the principal place of business of the seller, retailer or purchaser as the case may be, or for other than monthly or quarterly periods.*

Sec. 80. NRS 374.640 is hereby amended to read as follows:

374.640 *Except as otherwise provided in NRS 360.235 and 360.395 ~~{-}~~ and section 57 of this act:*

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

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

Sec. 81. NRS 374.7273 is hereby amended to read as follows:

374.7273 1. *In administering the provisions of NRS 374.340, the Department shall apply the exemption for the sale of tangible personal property delivered by the vendor to a forwarding agent for shipment out of state to include:*

~~{1-}~~ (a) *The sale of a vehicle to a nonresident to whom a special movement permit has been issued by the Department of Motor Vehicles pursuant to subsection 1 of NRS 482.3955; and*

~~{2-}~~ (b) *The sale of farm machinery and equipment ~~{, as defined in NRS 374.286,}~~ to a nonresident who submits proof to the vendor that the farm machinery and equipment will be delivered out of state not later than 15 days after the sale.*

2. *As used in this section:*

(a) *"Agricultural use" has the meaning ascribed to it in NRS 361A.030.*

(b) *"Farm machinery and equipment" means a farm tractor, implement of husbandry, piece of equipment used for irrigation, or a part used in the repair or maintenance of farm machinery and equipment. The term does not include:*

(1) *A vehicle required to be registered pursuant to the provisions of chapter 482 or 706 of NRS; or*

(2) *Machinery or equipment only incidentally employed for the agricultural use of real property.*

Floor Actions

(c) “Farm tractor” means a motor vehicle designed and used primarily for drawing an implement of husbandry.

(d) “Implement of husbandry” means a vehicle that is designed, adapted or used for agricultural purposes, including, without limitation, a plow, machine for mowing, hay baler, combine, piece of equipment used to stack hay, till, harvest, handle agricultural commodities or apply fertilizers, or other heavy, movable equipment designed, adapted or used for agricultural purposes.

Sec. 82. NRS 374.785 is hereby amended to read as follows:

374.785 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to counties under this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments in the State Treasury to the credit of the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall, each month, from the Sales and Use Tax Account in the State General Fund:

(a) Transfer .75 percent of all fees, taxes, interest and penalties collected in each county during the preceding month to the appropriate account in the State General Fund as compensation to the State for the costs of collecting the tax.

(b) Transfer .75 percent of all fees, taxes, interest and penalties collected during the preceding month from out-of-state businesses not maintaining a fixed place of business within this state to the appropriate account in the State General Fund as compensation to the State for the costs of collecting the tax.

(c) Determine for each county the amount of money equal to the fees, taxes, interest and penalties collected in the county pursuant to this chapter during the preceding month less the amount transferred pursuant to paragraph (a).

(d) Transfer the total amount of taxes collected pursuant to this chapter during the preceding month from out-of-state businesses not maintaining a fixed place of business within this state, less the amount transferred pursuant to paragraph (b), to the State Distributive School Account in the State General Fund.

(e) Except as otherwise provided in NRS 387.528, transfer the amount owed to each county to the Intergovernmental Fund and remit the money to the credit of the county school district fund.

~~{4. For the purpose of the distribution required by this section, the occasional sale of a vehicle shall be deemed to take place in the county to which the governmental services tax payable by the buyer upon that vehicle is distributed.}~~

Sec. 83. NRS 374A.020 is hereby amended to read as follows:

374A.020 1. The collection of the tax imposed by NRS 374A.010 must be commenced on the first day of the first calendar quarter that begins at least ~~{30}~~ 120 days after the last condition in subsection 1 of NRS 374A.010 is met.

2. The tax must be administered, collected and distributed in the manner set forth in chapter 374 of NRS.

3. The board of trustees of the school district shall transfer the proceeds of the tax imposed by NRS 374A.010 from the county school district fund to the fund described in NRS 354.6105 which must be established by the board of trustees. The money deposited in the fund described in NRS 354.6105 pursuant to this subsection must be accounted for separately in that fund and must only be expended by the board of trustees for the cost of the extraordinary maintenance, extraordinary repair and extraordinary improvement of school facilities within the county.

Sec. 84. NRS 376A.060 is hereby amended to read as follows:

376A.060 Any ordinance enacted pursuant to NRS 376A.040 or 376A.050 must include:

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

2. A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with the chapter, automatically become a part of the ordinance imposing the tax.

3. A provision that specifies the date on which the tax is first imposed or on which any change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

Sec. 85. NRS 377.030 is hereby amended to read as follows:

377.030 1. The board of county commissioners shall enact an ordinance imposing a city-county relief tax.

Floor Actions

2. The ordinance enacted pursuant to this section must provide that the city-county relief tax be imposed on the first day of the first ~~month following~~ *calendar quarter that begins at least 120 days after the effective date of the ordinance.*

Sec. 86. NRS 377.055 is hereby amended to read as follows:

377.055 ~~1.~~ The Department shall monthly determine for each county an amount of money equal to the sum of:

~~(a)~~ 1. Any fees and any taxes, interest and penalties which derive from the basic city-county relief tax collected in that county pursuant to this chapter during the preceding month, less the corresponding amount transferred to the State General Fund pursuant to subsection 3 of NRS 377.050; and

~~(b)~~ 2. That proportion of the total amount of taxes which derive from that portion of the tax levied at the rate of one-half of 1 percent collected pursuant to this chapter during the preceding month from out-of-state businesses not maintaining a fixed place of business within this state, less the corresponding amount transferred to the State General Fund pursuant to subsection 3 of NRS 377.050, which the population of that county bears to the total population of all counties which have in effect a city-county relief tax ordinance, and deposit the money in the Local Government Tax Distribution Account created by NRS 360.660 for credit to the respective subaccounts of each county.

~~[2. For the purpose of the distribution required by this section, the occasional sale of a vehicle shall be deemed to take place in the county to which the governmental services tax payable by the buyer upon that vehicle is distributed.]~~

Sec. 87. NRS 377A.020 is hereby amended to read as follows:

377A.020 1. The board of county commissioners of any county may enact an ordinance imposing a tax for a public transit system or for the construction, maintenance and repair of public roads, or both, pursuant to NRS 377A.030. The board of county commissioners of any county whose population is less than 400,000 may enact an ordinance imposing a tax to promote tourism pursuant to NRS 377A.030.

2. An ordinance enacted pursuant to this chapter may not become effective before a question concerning the imposition of the tax is approved by a majority of the registered voters of the county voting upon the question which the board may submit to the voters at any general election. A county may combine the questions for a public transit system and for the construction, maintenance and repair of public roads with questions submitted pursuant to NRS 244.3351, 278.710 or 371.045, or any combination thereof. The board shall also submit to the voters at a general election any proposal to increase the rate of the tax or change the previously approved uses for the proceeds of the tax.

3. Any ordinance enacted pursuant to this section must specify the date on which the tax must first be imposed or on which an increase in the rate of the 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 approval of the question by the voters.*

Sec. 88. NRS 377A.030 is hereby amended to read as follows:

377A.030 Except as otherwise provided in NRS 377A.110, any ordinance enacted under this chapter must include provisions in substance as follows:

1. A provision imposing a tax upon retailers at the rate of not more than:

(a) For a tax to promote tourism, one-quarter of 1 percent; or

(b) For a tax to establish and maintain a public transit system or for the construction, maintenance and repair of public roads, or both, one-half of 1 percent, of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in a county.

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

3. A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of an ordinance imposing the tax for public mass transportation and construction of public roads or the tax to promote tourism in the county.

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

5. A provision that ~~[exempts from the tax or any increase in 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 a county of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property, entered into on or before the*

Floor Actions

effective date of the tax or the increase in the tax, or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the tax or the increase in the tax.

Sec. 89. NRS 377A.110 is hereby amended to read as follows:

377A.110 1. Subject to the provisions of subsection 2, the board may gradually reduce the amount of tax imposed pursuant to this chapter for a public transit system or for the construction, maintenance and repair of public roads, or both, as revenue from the operation of the public transit system permits. *The date on which any reduction in the tax becomes effective must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance reducing the amount of tax imposed.*

2. No such taxing ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds issued under this chapter, or other obligations incurred under this chapter, until all obligations, for which revenues from the ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter, have been discharged in full, but the board may at any time dissolve the regional transportation commission and provide that no further obligations be incurred thereafter.

Sec. 90. NRS 377B.100 is hereby amended to read as follows:

377B.100 1. The board of county commissioners of any county may by ordinance, but not as in a case of emergency, impose a tax for infrastructure pursuant to this section and NRS 377B.110.

2. An ordinance enacted pursuant to this chapter may not become effective before a question concerning the imposition of the tax is approved by a two-thirds majority of the members of the board of county commissioners. Any proposal to increase the rate of the tax or change the previously approved uses for the proceeds of the tax must be approved by a two-thirds majority of the members of the board of county commissioners. The board of county commissioners shall not change a previously approved use for the proceeds of the tax to a use that is not authorized for that county pursuant to NRS 377B.160.

3. An ordinance enacted pursuant to this section must:

(a) Specify the date on which the tax must first be imposed or on which an increase in the rate of the tax becomes effective, which must occur on the first day of the first month of the next calendar quarter that is at least ~~{60}~~ 120 days after the date on which a two-thirds majority of the board of county commissioners approved the question.

(b) In a county whose population is 400,000 or more, provide for the cessation of the tax not later than:

(1) The last day of the month in which the Department determines that the total sum collected since the tax was first imposed, exclusive of any penalties and interest, exceeds \$2.3 billion; or

(2) June 30, 2025, whichever occurs earlier.

4. The board of county commissioners in a county whose population is 400,000 or more and in which a water authority exists shall review the necessity for the continued imposition of the tax authorized pursuant to this chapter at least once every 10 years.

5. Before enacting an ordinance pursuant to this chapter, the board of county commissioners shall hold a public hearing regarding the imposition of a tax for infrastructure. In a county whose population is 400,000 or more and in which a water authority exists, the water authority shall also hold a public hearing regarding the tax for infrastructure. Notice of the time and place of each hearing must be:

(a) Published in a newspaper of general circulation in the county at least once a week for the 2 consecutive weeks immediately preceding the date of the hearing. Such notice must be a display advertisement of not less than 3 inches by 5 inches.

(b) Posted at the building in which the meeting is to be held and at not less than three other separate, prominent places within the county at least 2 weeks before the date of the hearing.

6. Before enacting an ordinance pursuant to this chapter, the board of county commissioners of a county whose population is less than 400,000 or a county whose population is 400,000 or more and in which no water authority exists, shall develop a plan for the expenditure of the proceeds of a tax imposed pursuant to this chapter for the purposes set forth in NRS 377B.160. The plan may include a regional project for which two or more such counties have entered into an interlocal agreement to expend jointly all or a portion of the proceeds of a tax imposed in each county pursuant to this chapter. Such a plan must include, without limitation, the date on which the plan expires, a description of each proposed project, the method of financing each project and the costs related to each project. Before adopting a plan pursuant to this subsection, the board of county commissioners of a county in which a regional planning commission has been established pursuant to

Floor Actions

NRS 278.0262 shall transmit to the regional planning commission a list of the proposed projects for which a tax for infrastructure may be imposed. The regional planning commission shall hold a public hearing at which it shall rank each project in relative priority. The regional planning commission shall transmit its rankings to the board of county commissioners. The recommendations of the regional planning commission regarding the priority of the proposed projects are not binding on the board of county commissioners. The board of county commissioners shall hold at least one public hearing on the plan. Notice of the time and place of the hearing must be provided in the manner set forth in subsection 5. The plan must be approved by the board of county commissioners at a public hearing. Subject to the provisions of subsection 7, on or before the date on which a plan expires, the board of county commissioners shall determine whether a necessity exists for the continued imposition of the tax. If the board determines that such a necessity does not exist, the board shall repeal the ordinance that enacted the tax. If the board of county commissioners determines that the tax must be continued for a purpose set forth in NRS 377B.160, the board shall adopt, in the manner prescribed in this subsection, a new plan for the expenditure of the proceeds of the tax for such a purpose.

7. No ordinance imposing a tax which is enacted pursuant to this chapter may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds or other obligations which are payable from or secured by a pledge of a tax enacted pursuant to this chapter until those bonds or other obligations have been discharged in full.

Sec. 91. NRS 377B.110 is hereby amended to read as follows:

377B.110 An ordinance enacted pursuant to this chapter must include provisions in substance as follows:

Floor Actions

1. A provision imposing a tax upon retailers at the rate of not more than:
 - (a) In a county whose population is 100,000 or more but less than 400,000, one-eighth of 1 percent; or
 - (b) In all other counties, one-quarter of 1 percent,of 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.
2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.
3. A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of an ordinance enacted pursuant to this chapter.
4. A provision stating the specific purpose for which the proceeds of the tax must be expended.
5. A provision that the county shall contract before the effective date of the ordinance with the Department to perform all functions incident to the administration or operation of the tax in the county.
6. A provision that ~~exempts from the tax or any increase in 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 a county of, tangible personal property used for the performance of a written contract:*
 - (a) Entered into on or before the effective date of the tax or the increase in the tax; or
 - (b) For the construction of an improvement to real property for which a binding bid was submitted before the effective date of the tax or the increase in the tax if the bid was afterward accepted, if, under the terms of the contract or bid, the contract price or bid amount cannot be adjusted to reflect the imposition of the tax or the increase in the tax.

Sec. 92. NRS 354.705 is hereby amended to read as follows:

354.705 1. As soon as practicable after the Department takes over the management of a local government, the Executive Director shall:

- (a) Determine the total amount of expenditures necessary to allow the local government to perform the basic functions for which it was created;
- (b) Determine the amount of revenue reasonably expected to be available to the local government; and
- (c) Consider any alternative sources of revenue available to the local government.

2. If the Executive Director determines that the available revenue is not sufficient to provide for the payment of required debt service and operating expenses, he may submit his findings to the Committee who shall review the determinations made by the Executive Director. If the Committee determines that additional revenue is needed, it shall prepare a recommendation to the Nevada Tax Commission as to which one or more of the following additional taxes or charges should be imposed by the local government:

(a) The levy of a property tax up to a rate which when combined with all other overlapping rates levied in the State does not exceed \$4.50 on each \$100 of assessed valuation.

(b) An additional tax on transient lodging at a rate not to exceed 1 percent of the gross receipts from the rental of transient lodging within the boundaries of the local government upon all persons in the business of providing lodging. Any such tax must be collected and administered in the same manner as all other taxes on transient lodging are collected by or for the local government.

(c) Additional service charges appropriate to the local government.

(d) If the local government is a county or has boundaries that are conterminous with the boundaries of the county:

(1) An additional tax on the gross receipts from the sale or use of tangible personal property not to exceed one quarter of 1 percent throughout the county. The ordinance imposing any such tax must ~~include~~ :

(I) *Include* provisions in substance which comply with the requirements of subsections 2 to 5, inclusive, of NRS 377A.030.

(II) *Specify the date on which the tax must first be imposed or on which a change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.*

(2) An additional governmental services tax of not more than 1 cent on each \$1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county on each vehicle based in the county except those vehicles exempt from the governmental services tax imposed pursuant to chapter 371 of NRS or a vehicle subject to NRS 706.011 to 706.861, inclusive, which is

Floor Actions

engaged in interstate or intercounty operations. As used in this subparagraph, “based” has the meaning ascribed to it in NRS 482.011.

3. Upon receipt of the plan from the Committee, a panel consisting of three members of the Nevada Tax Commission appointed by the Nevada Tax Commission and three members of the Committee appointed by the Committee shall hold a public hearing at a location within the boundaries of the local government in which the severe financial emergency exists after giving public notice of the hearing at least 10 days before the date on which the hearing will be held. In addition to the public notice, the panel shall give notice to the governing body of each local government whose jurisdiction overlaps with the jurisdiction of the local government in which the severe financial emergency exists.

4. After the public hearing conducted pursuant to subsection 3, the Nevada Tax Commission may adopt the plan as submitted or adopt a revised plan. Any plan adopted pursuant to this section must include the duration for which any new or increased taxes or charges may be collected which must not exceed 5 years.

5. Upon adoption of the plan by the Nevada Tax Commission, the local government in which the severe financial emergency exists shall impose or cause to be imposed the additional taxes and charges included in the plan for the duration stated in the plan or until the severe financial emergency has been determined by the Nevada Tax Commission to have ceased to exist.

6. The allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811 does not apply to any additional property tax levied pursuant to this section.

7. If a plan fails to satisfy the expenses of the local government to the extent expected, the Committee shall report such failure to:

- (a) The county for consideration of absorption of services; or
- (b) If the local government is a county, to the next regular session of the Legislature.

Sec. 93. NRS 482.225 is hereby amended to read as follows:

482.225 1. When application is made to the Department for registration of a vehicle purchased ~~in this state from a person other than a retailer required to be registered with the Department of Taxation or of a vehicle purchased~~ outside this state and not previously registered within this state where the registrant or owner at the time of purchase was not a resident of or employed in this state, the Department or its agent shall determine and collect any sales or use tax due and shall remit the tax to the Department of Taxation except as otherwise provided in NRS 482.260.

2. If the registrant or owner of the vehicle was a resident of the State, or employed within the State, at the time of the purchase of that vehicle, it is presumed that the vehicle was purchased for use within the State and the representative or agent of the Department of Taxation shall collect the tax and remit it to the Department of Taxation.

3. Until all applicable taxes and fees are collected, the Department shall refuse to register the vehicle.

4. In any county whose population is less than 50,000, the Department shall designate the county assessor as the agent of the Department for the collection of any sales or use tax.

5. If the registrant or owner desires to refute the presumption stated in subsection 2 that he purchased the vehicle for use in this state, he must pay the tax to the Department and then may submit his claim for exemption in writing, signed by him or his authorized representative, to the Department together with his claim for refund of tax erroneously or illegally collected.

6. If the Department finds that the tax has been erroneously or illegally collected, the tax must be refunded.

Sec. 94. Section 29 of the Local Government Tax Act of 1991, being chapter 491, Statutes of Nevada 1991, as amended by chapter 426, Statutes of Nevada 1993, at page 1370, is hereby amended to read as follows:

Sec. 29. 1. Except as otherwise provided in this section and in section 34 of this Act and in addition to all other sales and use taxes, the Board of County Commissioners of Churchill, Elko, Humboldt, Washoe and Lander Counties and the Board of Supervisors of Carson City may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to 1/4 of 1 percent of 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.

2. The tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. The ordinance enacted pursuant to this section must include provisions in substance as follows:

(a) Provisions substantially identical to those of the Local School Support Tax Law, insofar as applicable.

Floor Actions

(b) A provision that all amendments to the provisions of the Local School Support Tax Law subsequent to the date of enactment of the ordinance, not inconsistent with this section, automatically become a part of the ordinance enacted pursuant to subsection 1.

(c) A provision that the county shall contract before the effective date of the ordinance enacted pursuant to subsection 1 with the Department to perform all functions incident to the administration or operation of the tax imposed pursuant to subsection 1.

(d) A provision that ~~[exempts from the additional one quarter of one percent tax increase authorized pursuant to this section, 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 a county of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property which was executed before July 30, 1991, or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the additional tax pursuant to this section.

(e) A provision that specifies the date on which the tax is first imposed or on which any change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the county under this section must be paid to the Department of Taxation in the form of remittances made payable to the Department of Taxation.

5. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the tax distribution fund for the county in which it was collected.

6. Any ordinance enacted pursuant to this section is deemed to include the provisions set forth in paragraph (d) of subsection 3.

Sec. 95. Section 9 of chapter 566, Statutes of Nevada 1993, at page 2329, is hereby amended to read as follows:

Sec. 9. 1. The Commission shall adopt a budget for its operation and for each project it proposes for presentation to the governing bodies. Each budget must be accompanied by a proposed allocation of the net cost of the budget among the governing bodies which must be based upon the benefit of the commission or project to the jurisdiction of the governing body or another equally appropriate indicator.

2. Upon final determination and allocation of the costs by agreement of the governing bodies, each governing body shall include its portion of the costs in its budget for the purposes of chapter 354 of NRS and shall fund its share of the cost by:

(a) Issuing bonds pursuant to chapter 350 of NRS;

(b) Imposing an additional tax on the rental of transient lodging;

(c) Upon approval by the voters, imposing an additional tax upon retailers at a rate not exceeding one-half of 1 percent of the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed in the county;

(d) Upon approval of the voters, levying a property tax not exceeding 2 cents per \$100 of assessed valuation on all taxable property in the county; or

(e) Any combination of the options provided in paragraphs (a) to (d), inclusive, including the issuance of bonds which will be repaid from the revenue of one or more of the taxes authorized in this section which may be treated as pledged revenues for the purposes of NRS 350.020.

3. If the county imposes a tax pursuant to paragraph (c) of subsection 2 it shall include in the ordinance imposing the tax:

(a) Provisions substantially identical to those contained in chapter 374 of NRS;

(b) A provision stating that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with the provisions of the ordinance, automatically become a part of the ordinance;

(c) A provision that the county shall contract before the effective date of the ordinance with the Department to perform all functions incident to the administration or operation of the tax in the county; and

(d) The date on which the tax must first be imposed, 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 adoption of the ordinance by the governing body.

Floor Actions

4. The Commission is not entitled to a distribution of revenue from the supplemental city-county relief tax.

Sec. 96. Section 3 of the Elko County Hospital Tax Act, being chapter 14, Statutes of Nevada 1997, at page 29, is hereby amended to read as follows:

Sec. 3. 1. The Board may enact an ordinance imposing a tax for the construction of a hospital pursuant to section 4 of this Act.

2. A tax so imposed may be collected for not more than 4 years after the date upon which it is first imposed. The ending date of the tax must be specified in the ordinance.

3. An ordinance enacted pursuant to this act may not become effective before a question concerning the imposition of the tax is approved by a majority of the registered voters of Elko County voting upon the question. The Board may submit the question to the voters at a special election held at the same time and places as a municipal election or at a general election. The Board shall also submit to the voters at such a special or general election any proposal to increase the rate of the tax or change the previously approved uses for the proceeds of the tax.

4. Any ordinance enacted pursuant to this section must specify the date on which the tax must first be imposed or on which an increase in the rate of the 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 approval of the question by the voters.

Sec. 97. Section 4 of the Elko County Hospital Tax Act, being chapter 14, Statutes of Nevada 1997, at page 30, is hereby amended to read as follows:

Sec. 4. Except as otherwise provided in section 12 of this Act, any ordinance adopted pursuant to this Act, except an ordinance authorizing the issuance of bonds or other securities, must include provisions in substance as follows:

1. A provision imposing a tax upon retailers at the rate of not more than 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in Elko County.

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

3. A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this act, automatically become a part of an ordinance imposing the taxes.

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

5. A provision that ~~exempts from the tax or any increase in 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 a county of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property, entered into on or before the effective date of the tax or the increase in the tax, or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the tax or the increase in the tax.

Sec. 98. Section 13 of the Elko County Hospital Tax Act, being chapter 14, Statutes of Nevada 1997, at page 32, is hereby amended to read as follows:

Sec. 13. 1. Subject to the provisions of subsection 2, the Board may gradually reduce the amount of the tax imposed pursuant to this Act. *The date on which any reduction in the tax becomes effective must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance reducing the amount of the tax imposed.*

2. No such taxing ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds issued pursuant to this Act, or other obligations incurred pursuant to this Act, until all obligations, for which revenues from the ordinance have been pledged or otherwise made payable from such revenues pursuant to this act, have been discharged in full.

Sec. 99. Section 8A.080 of the Charter of Carson City, being chapter 16, Statutes of Nevada 1997, at page 43, is hereby amended to read as follows:

Sec. 8A.080 Required provisions of ordinance. An ordinance enacted pursuant to this article, except an ordinance authorizing the issuance of bonds or other securities, must include provisions in substance as follows:

Floor Actions

1. A provision imposing a tax of not more than one-quarter of 1 percent of the gross receipts of any retailer from the sale of all personal property sold at retail, or stored, used or otherwise consumed in Carson City.

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 after the date of enactment of the ordinance, not inconsistent with this article, automatically becomes a part of the ordinance imposing the tax.

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

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 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 is first imposed or on which any changes in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.*

Sec. 100. Section 24 of the Railroad Grade Separation Projects Act, being chapter 506, Statutes of Nevada 1997, as last amended by chapter 28, Statutes of Nevada 1999, at page 64, is hereby amended to read as follows:

Sec. 24. 1. The Board of County Commissioners of Washoe County may by ordinance, but not as in a case of emergency, impose a tax upon the retailers at the rate of not more than one-eighth of 1 percent of 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 if:

(a) The City of Reno imposes a tax on the rental of transient lodging pursuant to NRS 268.7845 in the maximum amount allowed by that section; and

(b) The Board receives a written commitment from one or more sources for the expenditure of not less than one-half of the total cost of a project for the acquisition, establishment, construction or expansion of railroad grade separation projects in Washoe County, including the estimated proceeds of the tax described in paragraph (a).

2. An ordinance enacted pursuant to subsection 1 may not become effective before a question concerning the imposition of the tax is approved by a two-thirds majority of the members of the Board of County Commissioners.

3. An ordinance enacted pursuant to subsection 1 must specify the date on which the tax must first be imposed which must occur on the first day of the first month of the next calendar quarter that is at least ~~60~~ 120 days after the date on which a two-thirds majority of the Board of County Commissioners approved the question.

4. An ordinance enacted pursuant to subsection 1 must include provisions in substance as follows:

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

(b) A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this section, automatically become a part of an ordinance enacted pursuant to subsection 1.

(c) A provision stating the specific purpose for which the proceeds of the tax must be expended.

(d) 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 a county of, tangible personal property used for the performance of a written contract:*

(1) Entered into on or before the effective date of the tax; or

(2) For the construction of an improvement to real property for which a binding bid was submitted before the effective date of the tax if the bid was afterward accepted,

Floor Actions

if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the tax.

5. No ordinance imposing a tax which is enacted pursuant to subsection 1 may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds or other obligations which are payable from or secured by a pledge of a tax enacted pursuant to subsection 1 until those bonds or other obligations have been discharged in full.

6. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation.

7. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

8. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund a percentage of all fees, taxes, interest and penalties collected pursuant to this section during the preceding month as compensation to the state for the cost of collecting the taxes. The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785 but the percentage must be applied to the proceeds collected pursuant to this section only.

(b) Determine for the County an amount of money equal to any fees, taxes, interest and penalties collected in or for the county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for the County to the intergovernmental fund and remit the money to the County Treasurer.

9. The County Treasurer shall deposit the money received pursuant to subsection 8 in the County Treasury for credit to a fund to be known as the Railroad Grade Separation Projects Fund. The Railroad Grade Separation Projects Fund must be accounted for as a separate fund and not as a part of any other fund.

10. The money in the Railroad Grade Separation Projects Fund, including interest and any other income from the Fund must be used by the Board of County Commissioners for the cost of the acquisition, establishment, construction or expansion of one or more railroad grade separation projects, including the payment and prepayment of principal and interest on notes, bonds or other obligations issued to fund such projects.

Sec. 101. Section 18 of the Douglas County Sales and Use Tax Act of 1999, being chapter 37, Statutes of Nevada 1999, at page 83, is hereby amended to read as follows:

Sec. 18. An ordinance enacted pursuant to this act, except an ordinance authorizing the issuance of bonds or other securities, must include provisions in substance as follows:

1. A provision imposing a tax of not more than one-quarter of 1 percent of 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.

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 before the effective date of the ordinance with the Department 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 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.

Floor Actions

6. A provision that specifies the date on which the tax is first imposed or on which any change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

Sec. 102. Section 24 of chapter 364, Statutes of Nevada 2001, at page 1716, is hereby amended to read as follows:

Sec. 24. 1. This section, sections 1 to 13, inclusive, and 17 to 23, inclusive, of this act become effective upon passage and approval.

2. ~~{Sections 14, 15 and}~~ Section 16 of this act ~~{become}~~ becomes effective on the date this state becomes a member of the streamlined sales and use tax agreement.

3. *Sections 14 and 15 of this act become effective on January 1, 2006.*

Sec. 103. At the general election on November 2, 2004, 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. 104. 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. 105. 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 2, 2004, 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 762, is hereby amended by adding thereto a new section to be designated as section 56.3, immediately following section 56.2, to read as follows:

Sec. 56.3. 1. There are exempted from the taxes imposed by this act the gross receipts from the sale of, and the storage, use or other consumption in a county of, farm machinery and equipment employed for the agricultural use of real property.

2. As used in this section:

(a) "Agricultural use" has the meaning ascribed to it in NRS 361A.030.

(b) "Farm machinery and equipment" means a farm tractor, implement of husbandry, piece of equipment used for irrigation, or a part used in the repair or maintenance of farm machinery and equipment. The term does not include:

(1) A vehicle required to be registered pursuant to the provisions of chapter 482 or 706 of NRS; or

(2) Machinery or equipment only incidentally employed for the agricultural use of real property.

(c) "Farm tractor" means a motor vehicle designed and used primarily for drawing an implement of husbandry.

(d) "Implement of husbandry" means a vehicle that is designed, adapted or used for agricultural purposes, including, without limitation, a plow, machine for mowing, hay baler, combine, piece of equipment used to stack hay, till, harvest, handle agricultural commodities or apply fertilizers, or other heavy, movable equipment designed, adapted or used for agricultural purposes.

Sec. 2. This act becomes effective on January 1, 2006.

Sec. 106. 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 provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of farm machinery and equipment employed for the agricultural use of real property?

Yes ☐ No ☐

Floor Actions

Sec. 107. 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 exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of farm machinery and equipment employed for the agricultural use of real property.

Sec. 108. At the general election on November 2, 2004, 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. 109. 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. 110. 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 2, 2004, 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. Section 15 of the above-entitled act, being chapter 397, Statutes of Nevada 1955, at page 765, is hereby amended to read as follows:

Sec. 15. 1. "Retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making more than two retail sales of tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Tax Commission determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

~~[3. A licensed optometrist or physician and surgeon is a consumer of, and shall not be considered, a retailer within the provisions of this chapter, with respect to the ophthalmic materials used or furnished by him in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.]~~

Sec. 2. Section 56.1 of the above-entitled act, being chapter 397, Statutes of Nevada 1955, as added by chapter 306, Statutes of Nevada 1969, at page 532, and amended by chapter 627, Statutes of Nevada 1985, at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at page 1007, is hereby amended to read as follows:

Sec. 56.1. 1. There are exempted from the taxes imposed by this act the gross receipts from sales and the storage, use or other consumption of:

Floor Actions

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) *Any ophthalmic or ocular device or appliance prescribed by a physician or optometrist.*

(e) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

(1) Any auditory ~~[, ophthalmic or ocular]~~ device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 3. This act becomes effective on January 1, 2006.

Sec. 111. 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 provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of ophthalmic or ocular devices or appliances prescribed by a physician or optometrist?

Yes ☐ No ☐

Sec. 112. 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 exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of ophthalmic or ocular devices or appliances prescribed by a physician or optometrist.

Sec. 113. At the general election on November 2, 2004, 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. 114. 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. 115. 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 2, 2004, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

Floor Actions

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. Section 61.5 of the above-entitled act, being chapter 397, Statutes of Nevada 1955, at page 762, as added by chapter 466, Statutes of Nevada 1985, at page 1441, is hereby amended to read as follows:

Sec. 61.5. There are exempted from the taxes imposed by this chapter the gross receipts from the sale ~~[of aircraft and major components]~~ and the storage, use or other consumption in this state of:

1. ~~Aircraft, aircraft engines and component parts 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.] or aircraft engines which are manufactured exclusively for use in aircraft, sold or purchased for lease to a commercial air carrier for use in the transportation of persons or property in intrastate, interstate or foreign commerce pursuant to a certificate or license issued to the air carrier authorizing such transportation; and~~

2. Machinery, tools and other equipment and parts which are used exclusively in the repair, remodeling or maintenance of aircraft, aircraft engines or component parts of aircraft or aircraft engines which meet the requirements of subsection 1.

Sec. 2. This act becomes effective on January 1, 2006.

Sec. 116. 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 revise and clarify the criteria used to determine which aircraft and parts of aircraft are exempt from the taxes imposed by this Act, including removing the requirement that an air carrier must be based in Nevada to be eligible for the exemption, and providing an exemption for certain machinery and equipment used on eligible aircraft and parts of aircraft?

Yes ☐ No ☐

Sec. 117. 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 revises and clarifies the criteria used to determine which aircraft and parts of aircraft are exempt from the taxes imposed by this Act, including removing the requirement that an air carrier must be based in Nevada to be eligible for the exemption, and providing an exemption for certain machinery and equipment used on eligible aircraft and parts of aircraft.

Sec. 118. At the general election on November 2, 2004, 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. 119. 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. 120. 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 2, 2004, 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.

Floor Actions

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 762, is hereby amended by adding thereto a new section to be designated as section 61.6, immediately following section 61.5, to read as follows:

Sec. 61.6. 1. There are exempted from the taxes imposed by this chapter the gross receipts from the sale, furnishing or service of, and the storage, use or other consumption in this state of:

- (a) All engines and chassis of a professional racing vehicle;*
- (b) All parts and components that are used to replace or rebuild existing parts or components of any engine or chassis of a professional racing vehicle;*
- (c) All motor vehicles used by professional racing teams to transport professional racing vehicles or to transport parts or components of professional racing vehicles, including, without limitation, an engine and chassis of a professional racing vehicle; and*
- (d) All motor vehicles used by a professional racing team or sanctioning body to transport the business office of the professional racing team or sanctioning body or to transport a facility from which hospitality services are provided.*

2. As used in this section:

- (a) "Professional racing team" means a racing operation that qualifies for the taxable year as an activity engaged in for profit pursuant to the Internal Revenue Code, Title 26 of the United States Code.*
- (b) "Professional racing motor vehicle" means any motor vehicle which is used in a professional racing competition and which is owned, leased or operated by a professional racing team.*
- (c) "Sanctioning body" means an organization that establishes an annual schedule of professional racing events in which professional racing teams participate, grants rights to conduct such events and establishes and administers rules and regulations governing the persons who conduct or participate in such events.*

Sec. 2. This act becomes effective on January 1, 2006.

Sec. 121. 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 provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of engines and chassis, including replacement parts and components for the engines and chassis, of professional racing vehicles that are owned, leased or operated by professional racing teams?

Yes ☐ No ☐

Sec. 122. 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 exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of engines and chassis, including replacement parts and components for the engines and chassis, of professional racing vehicles that are owned, leased or operated by professional racing teams.

Sec. 123. At the general election on November 2, 2004, 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. 124. 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. 125. 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 2, 2004, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

Floor Actions

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 762, is hereby amended by adding thereto two new sections to be designated as sections 57.1 and 57.2, respectively, immediately following section 57, to read as follows:

Sec. 57.1. 1. Except as otherwise provided in section 57.2 of chapter 397, Statutes of Nevada 1955, there are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption of, works of fine art for public display.

2. In determining whether a payment made pursuant to a lease of a work of fine art is exempt under subsection 1, the value for the purpose of paragraph (a) of subsection 4 is the value of the work and not the value of possession for the term of the lease, and the calendar or fiscal year described in paragraph (a) of subsection 4 is the first full calendar or fiscal year, respectively, after the payment is made.

3. During the first full fiscal year following the purchase of fine art for which a taxpayer receives the exemption provided in this section, the taxpayer shall make available, upon written request and without charge to any public school as defined in NRS 385.007, private school as defined in NRS 394.103 and parent of a child who receives instruction in a home pursuant to NRS 392.070, one copy of a poster depicting the fine art that the facility has on public display and that the facility makes available for purchase by the public at the time of the request.

4. As used in this section:

(a) “Fine art for public display”:

(1) Except as otherwise provided in subparagraph (2), means a work of art which:

(I) Is an original painting in oil, mineral, water colors, vitreous enamel, pastel or other medium, an original mosaic, drawing or sketch, an original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a similar material, an original work of mixed media or a lithograph;

(II) Is purchased in an arm’s length transaction for \$25,000 or more, or has an appraised value of \$25,000 or more;

(III) Will be on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of the first full calendar year after the date on which it is purchased or, if the facility displaying the fine art disposes of it before the end of that year, during at least two-thirds of the full weeks during which the facility had possession of it, or if the gallery, museum, or other building or area in which the fine art will be displayed will not be opened until after the beginning of the first full calendar year after the date on which the fine art is purchased, these display requirements must instead be met for the first full fiscal year after the date of opening, and the date of opening must not be later than 2 years after the purchase of the fine art being displayed; and

(IV) Will be on display in a facility that is available for group tours by pupils or students for at least 5 hours on at least 60 days of the first full fiscal year after the purchase of the fine art, during which the facility in which it is displayed is open, by prior appointment and at reasonable times, without charge; and

(2) Does not include:

(I) A work of fine art that is a fixture or an improvement to real property;

(II) Materials purchased by an artist for consumption in the production of a work of art that is to be a fixture or an improvement to real property;

(III) A work of fine art that constitutes a copy of an original work of fine art, unless the work is a lithograph that is a limited edition and that is signed and numbered by the artist;

(IV) Products of filmmaking or photography, including, without limitation, motion pictures;

(V) Literary works;

(VI) Property used in the performing arts, including, without limitation, scenery or props for a stage; or

(VII) Property that was created for a functional use other than, or in addition to, its aesthetic qualities, including, without limitation, a classic or custom-built automobile or boat, a sign that advertises a business, and custom or antique furniture, lamps, chandeliers, jewelry, mirrors, doors or windows.

Floor Actions

(b) “Public display” means the display of a work of fine art where members of the public have access to the work of fine art for viewing during publicly advertised hours. The term does not include the display of a work of fine art in an area where the public does not generally have access, including, without limitation, a private office, hallway or meeting room of a business, a room of a business used for private lodging and a private residence.

(c) “Pupil” means a person who:

(1) Is enrolled for the current academic year in a public school as defined in NRS 385.007 or a private school as defined in NRS 394.103; or

(2) Receives instruction in a home and is excused from compulsory attendance pursuant to NRS 392.070.

(d) “Student” means a person who is enrolled for the current academic year in:

(1) A community college or university; or

(2) A licensed postsecondary educational institution as defined in NRS 394.099 and a course concerning fine art.

Sec. 57.2. 1. A taxpayer may collect an admission fee for the exhibition of fine art otherwise exempt from taxation on its sale, storage, use or other consumption pursuant to section 57.1 of chapter 397, Statutes of Nevada 1955, if the taxpayer offers to residents of the State of Nevada a discount of 50 percent from any admission fee charged to nonresidents. The discounted admission fee for residents must be offered at any time the exhibition is open to the public and admission fees are being charged.

2. If a taxpayer collects a fee for the exhibition of fine art otherwise exempt from taxation on its sale, storage, use or other consumption pursuant to section 57.1 of chapter 397, Statutes of Nevada 1955, and the fee is collected during the first full fiscal year after the purchase of the fine art, the exemption pertaining to that fine art must be reduced by the net revenue derived by the taxpayer for that first full fiscal year. The exemption pertaining to fine art must not be reduced below zero, regardless of the amount of the net revenue derived by the taxpayer for that first full fiscal year.

3. Any tax due pursuant to this section must be paid with the first sales and use tax return otherwise required to be filed by the taxpayer following the 15th day of the fourth month after the end of the first full fiscal year following the purchase of the fine art or, if no sales and use tax return is otherwise required to be filed by the taxpayer, with a sales and use tax return filed specifically for this purpose on or before the last day of the fourth month after the end of the first full fiscal year following the purchase of the fine art.

4. A taxpayer who is required to pay a tax resulting from the operation of this section may receive a credit against the tax for any donations made by the taxpayer to the State Arts Council, the Division of Museums and History Dedicated Trust Fund established pursuant to NRS 381.0031, a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, if the taxpayer:

(a) Made the donation before the date that either return required pursuant to subsection 3 is due; and

(b) Provides the Department documentation of the donation at the time that he files the return required pursuant to subsection 3.

5. For the purposes of this section:

(a) “Direct costs of owning and exhibiting the fine art” does not include any allocation of the general and administrative expense of a business or organization that conducts activities in addition to the operation of the facility in which the fine art is displayed, including, without limitation, an allocation of the salary and benefits of a senior executive who is responsible for the oversight of the facility in which the fine art is displayed and who has substantial responsibilities related to the other activities of the business or organization.

(b) “Net revenue” means the amount of the fees collected for exhibiting the fine art during the fiscal year less the following paid or made during the fiscal year:

(1) The direct costs of owning and exhibiting the fine art; and

(2) The cost of educational programs associated with the taxpayer’s public display of fine art, including the cost of meeting the requirements of sub-subparagraph (IV) of subparagraph (1) of paragraph (a) of subsection 4 of section 57.1 of chapter 397, Statutes of Nevada 1955.

Sec. 2. Section 6 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 763, is hereby amended to read as follows:

Sec. 6. 1. “Retail sale” or “sale at retail” means a sale for any purpose other than resale in the regular course of business of tangible personal property. *The terms do not include a sale of property that:*

Floor Actions

(a) Meets the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 4 of section 57.1 of chapter 397, Statutes of Nevada 1955;

(b) Is made available for sale within 2 years after it is acquired; and

(c) Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.

2. The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this state, is a retail sale in this state by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

Sec. 3. Section 7 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 763, is hereby amended to read as follows:

Sec. 7. "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer. *The term does not include keeping, retaining or exercising any right or power over tangible property that:*

1. Meets the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 4 of section 57.1 of chapter 397, Statutes of Nevada 1955;

2. Is made available for sale within 2 years after it is acquired; and

3. Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.

Sec. 4. This act becomes effective on January 1, 2006.

Sec. 126. 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 provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of works of fine art for public display?

Yes ☐ No ☐

Sec. 127. 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 exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of works of fine art for public display.

Sec. 128. At the general election on November 2, 2004, 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. 129. 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. 130. 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 2, 2004, 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:

Floor Actions

Section 1. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 762, is hereby amended by adding thereto three new sections to be designated as sections 18.2, 47.4 and 47.5, respectively, immediately following sections 18.1 and 47, respectively, to read as follows:

Sec. 18.2. "Vehicle" has the meaning ascribed to it in NRS 482.135.

Sec. 47.4. 1. For the purposes of this section, "authorized appraisal" means an appraisal of the value of a motor vehicle made by:

- (a) An employee of the Department of Motor Vehicles on its behalf;*
- (b) A county assessor or his employee as an agent of the Department of Motor Vehicles;*
- (c) A person licensed by the Department of Motor Vehicles as a dealer; or*
- (d) An independent appraiser authorized by the Department of Motor Vehicles.*

2. When computing the tax on the sale of a vehicle by a seller who is not required to be registered by the Department of Taxation, the Department of Motor Vehicles or the county assessor as an agent of the Department of Taxation shall, if an authorized appraisal is submitted, use as the vehicle's sales price the amount stated on the authorized appraisal or \$100, whichever is greater.

3. The Department of Motor Vehicles shall establish by regulation the procedure for appraising vehicles and shall establish and make available a form for an authorized appraisal.

4. The Department of Motor Vehicles shall retain a copy of the appraisal considered pursuant to subsection 2 with its record of the collection of the tax.

5. A fee which does not exceed \$10 may be charged and collected for each authorized appraisal made. Any money so collected by the Department of Motor Vehicles for such an appraisal made by its employees must be deposited with the State Treasurer to the credit of the Motor Vehicle Fund. Any money so collected by a county assessor must be deposited with the county treasurer to the credit of the county's general fund.

6. If an authorized appraisal is not submitted, the Department of Motor Vehicles or the county assessor as an agent of the Department of Taxation shall establish the sales price as a value which is based on the depreciated value of the vehicle as determined in accordance with the schedule in section 47.5 of chapter 397, Statutes of Nevada 1955. To determine the original price from which the depreciation is calculated, the Department of Motor Vehicles shall use:

(a) The manufacturer's suggested retail price in Nevada, excluding options and extras, as of the time the particular make and year model is first offered for sale in Nevada;

(b) If the vehicle is specially constructed, the original retail price to the original purchaser of the vehicle as evidenced by such document or documents as the Department may require;

(c) The procedures set forth in subsections 3 and 4 of NRS 371.050; or

(d) If none of these applies, its own estimate from any available information.

Sec. 47.5. 1. Except as provided in subsection 2, for the purpose of computing the tax on the sale of a vehicle by a seller who is not required to be registered with the Department of Taxation in the manner provided for in subsection 6 of section 47.4 of chapter 397, Statutes of Nevada 1955, a vehicle must be depreciated according to the following schedule:

<i>Age</i>	<i>Percentage of Initial Value</i>
<i>New</i>	<i>100 percent</i>
<i>1 year</i>	<i>85 percent</i>
<i>2 years</i>	<i>75 percent</i>
<i>3 years</i>	<i>65 percent</i>
<i>4 years</i>	<i>60 percent</i>
<i>5 years</i>	<i>55 percent</i>
<i>6 years</i>	<i>50 percent</i>
<i>7 years</i>	<i>45 percent</i>
<i>8 years</i>	<i>40 percent</i>
<i>9 years</i>	<i>35 percent</i>
<i>10 years</i>	<i>30 percent</i>
<i>11 years</i>	<i>25 percent</i>
<i>12 years</i>	<i>20 percent</i>
<i>13 years</i>	<i>15 percent</i>
<i>14 years or more</i>	<i>10 percent</i>

2. The amount of depreciation calculated under subsection 1 must be rounded to the nearest whole multiple of \$20 and the depreciated value must not be reduced below \$100.

Floor Actions

Sec. 2. Section 11 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 764, is hereby amended to read as follows:

Sec. 11. 1. "Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

- (a) The cost of the property sold.
- (b) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.
- (c) The cost of transportation of the property prior to its purchase.

2. The total amount for which property is sold includes all of the following:

- (a) Any services that are a part of the sale.
- (b) Any amount for which credit is given to the purchaser by the seller.

3. "Sales price" does not include any of the following:

- (a) Cash discounts allowed and taken on sales.
- (b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

(d) The amount of any tax, ~~{(}~~ not including ~~{, however,}~~ any manufacturers' or importers' excise tax, ~~{)}~~ imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle that is taken in trade on the purchase of another vehicle.

4. *For the purpose of a sale of a vehicle by a seller who is not required to be registered with the Department of Taxation, the sales price is the value established in the manner set forth in section 47.4 of chapter 397, Statutes of Nevada 1955.*

Sec. 3. Section 12 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 764, is hereby amended to read as follows:

Sec. 12. 1. "Gross receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the Tax Commission may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold the property ~~{prior to}~~ before making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.

(c) The cost of transportation of the property ~~{prior to}~~ before its sale to the purchaser.

2. The total amount of the sale or lease or rental price includes all of the following:

- (a) Any services that are a part of the sale.
- (b) All receipts, cash, credits and property of any kind.
- (c) Any amount for which credit is allowed by the seller to the purchaser.

3. "Gross receipts" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) ~~{Sale}~~ The sale price of property returned by customers when the full sale price is refunded either in cash or credit, ~~{,}~~ but this exclusion ~~{shall}~~ does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The price received for labor or services used in installing or applying the property sold.

(d) The amount of any tax, ~~{(}~~ not including ~~{, however,}~~ any manufacturers' or importers' excise tax, ~~{)}~~ imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.

Floor Actions

4. For purposes of the sales tax, if the retailers establish to the satisfaction of the Tax Commission that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Sec. 4. Section 15 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 765, is hereby amended to read as follows:

Sec. 15. 1. "Retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making *any retail sale of a vehicle* or more than two retail sales of *other* tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Tax Commission determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

3. A licensed optometrist or physician and surgeon is a consumer of, and shall not be considered, a retailer within the provisions of this chapter, with respect to the ophthalmic materials used or furnished by him in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.

Sec. 5. Section 18.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 766, is hereby amended to read as follows:

Sec. 18.1 NRS 372.035 is hereby amended to read as follows:

372.035 1. "Occasional sale" includes:

(a) A sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller's permit, ~~provided such~~ if the sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit.

(b) Any transfer of all or substantially all the property held or used by a person in the course of such an activity when after ~~such~~ the transfer the real or ultimate ownership of ~~such~~ the property is substantially similar to that which existed before ~~such~~ the transfer.

2. *The term does not include the sale of a vehicle other than the sale or transfer of a used vehicle to the seller's spouse, child, grandchild, parent, grandparent, brother or sister. For the purposes of this section, the relation of parent and child includes adoptive and illegitimate children and stepchildren.*

3. For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity.

Sec. 6. This act becomes effective on January 1, 2006.

Sec. 131. 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 provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of the value of any used vehicle taken in trade on the purchase of another vehicle and to remove the exemption from those taxes for occasional sales of vehicles except where such sales are between certain family members?

Yes ☐ No ☐

Sec. 132. 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 exempt from the taxes by this Act the gross receipts from the sale and the storage, use or other consumption of the value of any used vehicle

Floor Actions

taken in trade on the purchase of another vehicle and remove the exemption from those taxes for occasional sales of vehicles except where such sales are between certain family members.

Sec. 133. If a majority of the votes cast on the question submitted to the voters pursuant to section 105, 110, 115, 120, 125 or 130 of this act is yes, the respective amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2006. If less than a majority of votes cast on a question is yes, the question fails and that amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 134. All general election laws not inconsistent with this act are applicable.

Sec. 135. 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 any proposed 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. 136. 1. Except as otherwise provided in this section, the Department of Taxation shall waive the amount of any sales and use taxes, and any penalties and interest thereon, otherwise due in this state from a seller at the time the seller registers pursuant to section 9 of this act if the seller:

(a) During the year 2005:

(1) Did not hold a seller's permit issued pursuant to chapter 372 or 374 of NRS; and

(2) Was not registered as a retailer pursuant to chapter 372 or 374 of NRS;

(b) Registers pursuant to section 9 of this act no later than December 31, 2006; and

(c) Remains registered pursuant to section 9 of this act for at least 36 months and collects and remits to this state all sales and use taxes due in this state for that period. Each statutory period of limitation applicable to any procedure or proceeding for the collection or enforcement of any sales or use tax due from a seller at the time the seller registers as provided in paragraph (b) is tolled for 36 months from the commencement of that registration.

2. The Department of Taxation shall not, pursuant to this section, waive any liability of a seller:

(a) Regarding any matter for which the seller received notice of the commencement of an audit which, including any related administrative and judicial procedures, has not been finally resolved before the registration of the seller pursuant to section 9 of this act.

(b) For any sales and use taxes collected by the seller or paid or remitted to the State before the registration of the seller pursuant to section 9 of this act.

(c) For any fraud or material misrepresentation of a material fact committed by the seller.

(d) For any sales or use taxes due from the seller in his capacity as a buyer and not as a seller.

3. For the purposes of this section, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, as amended by this act, have the meanings ascribed to them in those sections.

Sec. 137. The amendatory provisions of sections 83, 84, 85, 87 to 92, inclusive, and 94 to 101, inclusive, of this act do not apply to any ordinance enacted before January 1, 2006.

Sec. 138. 1. NRS 374.107, 374.112 and 374.113 are hereby repealed.

2. NRS 374.286 is hereby repealed.

3. NRS 374.291 and 374.2911 are hereby repealed.

4. NRS 374.322 is hereby repealed.

5. NRS 374.323 is hereby repealed.

Sec. 139. 1. This section and section 102 of this act become effective upon passage and approval.

2. Sections 103 to 135, inclusive, of this act become effective on July 1, 2003.

3. Sections 1 to 29, inclusive, 32 to 38, inclusive, 40 to 50, inclusive, 52 to 57, inclusive, 66, 67, 69 to 72, inclusive, 74 to 80, inclusive, 83, 84, 85, 87 to 92, inclusive, 94 to 101, inclusive, 136 and 137 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2006, for all other purposes.

4. Section 39 of this act becomes effective on January 1, 2006, only if the proposal submitted pursuant to sections 128 to 132, inclusive, of this act is approved by the voters at the general election on November 2, 2004.

Floor Actions

5. Sections 58, 59, 60, 63, 64, 68, 82, 86 and 93 and subsection 1 of section 138 of this act become effective on January 1, 2006, only if the proposal submitted pursuant to sections 128 to 132, inclusive, of this act is not approved by the voters at the general election on November 2, 2004.

6. Section 30 of this act becomes effective on January 1, 2006, only if the proposal submitted pursuant to sections 123 to 127, inclusive, of this act is approved by the voters at the general election on November 2, 2004.

7. Sections 31, 61 and 65 and subsection 3 of section 138 of this act become effective on January 1, 2006, only if the proposal submitted pursuant to sections 123 to 127, inclusive, of this act is not approved by the voters at the general election on November 2, 2004.

8. Sections 62 and 73 of this act become effective on January 1, 2006, only if the proposal submitted pursuant to sections 108 to 112, inclusive, of this act is not approved by the voters at the general election on November 2, 2004.

9. Sections 51 and 81 and subsection 2 of section 138 of this act becomes effective on January 1, 2006, only if the proposal submitted pursuant to sections 103 to 107, inclusive, of this act is not approved by the voters at the general election on November 2, 2004.

10. Subsection 4 of section 138 of this act becomes effective on January 1, 2006, only if the proposal submitted pursuant to sections 113 to 117, inclusive, of this act is not approved by the voters at the general election on November 2, 2004.

11. Subsection 5 of section 138 of this act becomes effective on January 1, 2006, only if the proposal submitted pursuant to sections 118 to 122, inclusive, of this act is not approved by the voters at the general election on November 2, 2004.

LEADLINES OF REPEALED SECTIONS

374.107 “Vehicle” defined.

374.112 Procedure for computing tax on sale of vehicle by seller who is not required to be registered.

374.113 Schedule of depreciation for tax on sale of vehicle.

374.286 Farm machinery and equipment.

374.291 Works of fine art for public display: General requirements.

374.2911 Works of fine art for public display: Collection of admission fee for exhibition.

374.322 Aircraft, aircraft engines and component parts of aircraft.

374.323 Engines, chassis, parts and components of professional racing vehicles; certain vehicles used by professional racing team or sanctioning body.”.

Amend the title of the bill to read as follows:

“AN ACT relating to taxation; providing for the enactment of certain provisions that are necessary to carry out the Streamlined Sales and Use Tax Agreement; providing for the electronic registration of sellers; establishing requirements for determining the place of sales for the purposes of sales and use taxes; establishing requirements for claiming an exemption from such taxes; providing for the electronic payment of such taxes; providing for the submission to the voters of questions relating to whether the Sales and Use Tax Act of 1955 should be amended to conform to the Agreement; and providing other matters properly relating thereto.”.

Assemblyman Parks moved the adoption of the amendment.

Remarks by Assemblyman Parks.

Amendment adopted.

Bill ordered reprinted, engrossed, and to the Concurrent Committee on Ways and Means.

Floor Actions

April 22, 2003 *Assembly Daily Journal*

Excerpt:

Assembly Bill No. 514.

Bill read third time.

Remarks by Assemblyman Parks.

Roll call on Assembly Bill No. 514:

YEAS—37.

NAYS—Angle, Beers, Gustavson, Knecht, Mabey—5.

Assembly Bill No. 514 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

May 23, 2003 *Senate Daily Journal*

Excerpts:

Assembly Bill No. 514.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 768.

Amend sec. 105, pages 60 and 61, by deleting lines 18 through 45 on page 60 and lines 1 through 4 on page 61 and inserting:

“Section 1. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 762, is hereby amended by adding thereto three new sections to be designated as sections 18.2, 47.4 and 47.5, respectively, immediately following sections 18.1 and 47, respectively, to read as follows:

Sec. 18.2. “Vehicle” has the meaning ascribed to it in NRS 482.135.

Sec. 47.4. 1. For the purposes of this section, “authorized appraisal” means an appraisal of the value of a motor vehicle made by:

- (a) An employee of the Department of Motor Vehicles on its behalf;
- (b) A county assessor or his employee as an agent of the Department of Motor Vehicles;
- (c) A person licensed by the Department of Motor Vehicles as a dealer; or
- (d) An independent appraiser authorized by the Department of Motor Vehicles.

2. When computing the tax on the sale of a vehicle by a seller who is not required to be registered by the Department of Taxation, the Department of Motor Vehicles or the county assessor as an agent of the Department of Taxation shall, if an authorized appraisal is submitted, use as the vehicle’s sales price the amount stated on the authorized appraisal or \$100, whichever is greater.

3. The Department of Motor Vehicles shall establish by regulation the procedure for appraising vehicles and shall establish and make available a form for an authorized appraisal.

4. The Department of Motor Vehicles shall retain a copy of the appraisal considered pursuant to subsection 2 with its record of the collection of the tax.

5. A fee which does not exceed \$10 may be charged and collected for each authorized appraisal made. Any money so collected by the Department of Motor Vehicles for such an appraisal made by its employees must be deposited with the State Treasurer to the credit of the Motor Vehicle Fund. Any money so collected by a county assessor must be deposited with the county treasurer to the credit of the county’s general fund.

6. If an authorized appraisal is not submitted, the Department of Motor Vehicles or the county assessor as an agent of the Department of Taxation shall establish the sales price as a value which is based on the depreciated value of the vehicle as determined in accordance with the schedule in section 47.5 of chapter 397, Statutes of Nevada 1955. To determine the original price from which the depreciation is calculated, the Department of Motor Vehicles shall use:

Floor Actions

(a) *The manufacturer's suggested retail price in Nevada, excluding options and extras, as of the time the particular make and year model is first offered for sale in Nevada;*

(b) *If the vehicle is specially constructed, the original retail price to the original purchaser of the vehicle as evidenced by such document or documents as the Department may require;*

(c) *The procedures set forth in subsections 3 and 4 of NRS 371.050; or*

(d) *If none of these applies, its own estimate from any available information.*

Sec. 47.5. 1. *Except as otherwise provided in subsection 2, for the purpose of computing the tax on the sale of a vehicle by a seller who is not required to be registered with the Department of Taxation in the manner provided for in subsection 6 of section 47.4 of chapter 397, Statutes of Nevada 1955, a vehicle must be depreciated according to the following schedule:*

	<i>Percentage of Age Initial Value</i>
<i>New</i>	<i>100 percent</i>
<i>1 year</i>	<i>85 percent</i>
<i>2 years</i>	<i>75 percent</i>
<i>3 years</i>	<i>65 percent</i>
<i>4 years</i>	<i>60 percent</i>
<i>5 years</i>	<i>55 percent</i>
<i>6 years</i>	<i>50 percent</i>
<i>7 years</i>	<i>45 percent</i>
<i>8 years</i>	<i>40 percent</i>
<i>9 years</i>	<i>35 percent</i>
<i>10 years</i>	<i>30 percent</i>
<i>11 years</i>	<i>25 percent</i>
<i>12 years</i>	<i>20 percent</i>
<i>13 years</i>	<i>15 percent</i>
<i>14 years or more years</i>	<i>10 percent</i>

2. *The amount of depreciation calculated under subsection 1 must be rounded to the nearest whole multiple of \$20 and the depreciated value must not be reduced below \$100.*

Sec. 2. Section 11 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 764, is hereby amended to read as follows:

Sec. 11. 1. "Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold.

(b) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.

(c) The cost of transportation of the property prior to its purchase.

2. The total amount for which property is sold includes all of the following:

(a) Any services that are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

3. "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

(d) The amount of any tax, ~~but~~ not including ~~however,~~ any manufacturers' or importers' excise tax, ~~but~~ imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) *The amount of any allowance against the selling price given by a retailer for the value of a used vehicle that is taken in trade on the purchase of another vehicle.*

4. *For the purpose of a sale of a vehicle by a seller who is not required to be registered with the Department of Taxation, the sales price is the value established in the manner set forth in section 47.4 of chapter 397, Statutes of Nevada 1955.*

Sec. 3. Section 12 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 764, is hereby amended to read as follows:

Floor Actions

Sec. 12. 1. "Gross receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the Tax Commission may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold the property ~~prior to~~ before making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.

(c) The cost of transportation of the property ~~prior to~~ before its sale to the purchaser.

2. The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale.

(b) All receipts, cash, credits and property of any kind.

(c) Any amount for which credit is allowed by the seller to the purchaser.

3. "Gross receipts" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) ~~Sale~~ The sale price of property returned by customers when the full sale price is refunded either in cash or credit, ~~but~~ but this exclusion ~~shall~~ does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The price received for labor or services used in installing or applying the property sold.

(d) The amount of any tax, ~~not~~ not including ~~however~~ any manufacturers' or importers' excise tax, ~~imposed~~ imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.

4. For purposes of the sales tax, if the retailers establish to the satisfaction of the Tax Commission that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Sec. 4. Section 15 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 765, is hereby amended to read as follows:

Sec. 15. 1. "Retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making any retail sale of a vehicle or more than two retail sales of other tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Tax Commission determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

~~{3. A licensed optometrist or physician and surgeon is a consumer of, and shall not be considered, a retailer within the provisions of this chapter, with respect to the ophthalmic materials used or furnished by him in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.}~~

Sec. 5. Section 18.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 766, is hereby amended to read as follows:

Sec. 18.1 NRS 372.035 is hereby amended to read as follows:

Floor Actions

372.035 1. “Occasional sale” includes:

(a) A sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller’s permit, ~~[provided such]~~ if the sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller’s permit.

(b) Any transfer of all or substantially all the property held or used by a person in the course of such an activity when after ~~[such]~~ the transfer the real or ultimate ownership of ~~[such]~~ the property is substantially similar to that which existed before ~~[such]~~ the transfer.

2. *The term does not include the sale of a vehicle other than the sale or transfer of a used vehicle to the seller’s spouse, child, grandchild, parent, grandparent, brother or sister. For the purposes of this section, the relation of parent and child includes adoptive and illegitimate children and stepchildren.*

3. For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the “real or ultimate ownership” of the property of such corporation or other entity.

Sec. 6. Section 56.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 306, Statutes of Nevada 1969, at page 532, and amended by chapter 627, Statutes of Nevada 1985, at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at page 1007, is hereby amended to read as follows:

Sec. 56.1. 1. There are exempted from the taxes imposed by this act the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) *Any ophthalmic or ocular device or appliance prescribed by a physician or optometrist.*

(e) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:

(a) “Medicine” means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) “Medicine” does not include:

(1) Any auditory ~~[, ophthalmic or ocular]~~ device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 7. 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 56.3, immediately following section 56.2, to read as follows:

Sec. 56.3. 1. *There are exempted from the taxes imposed by this Act the gross receipts from the sale of, and the storage, use or other consumption in a county of, farm machinery and equipment employed for the agricultural use of real property.*

2. *As used in this section:*

Floor Actions

(a) "Agricultural use" has the meaning ascribed to it in NRS 361A.030.

(b) "Farm machinery and equipment" means a farm tractor, implement of husbandry, piece of equipment used for irrigation, or a part used in the repair or maintenance of farm machinery and equipment. The term does not include:

(1) A vehicle required to be registered pursuant to the provisions of chapter 482 or 706 of NRS; or

(2) Machinery or equipment only incidentally employed for the agricultural use of real property.

(c) "Farm tractor" means a motor vehicle designed and used primarily for drawing an implement of husbandry.

(d) "Implement of husbandry" means a vehicle that is designed, adapted or used for agricultural purposes, including, without limitation, a plow, machine for mowing, hay baler, combine, piece of equipment used to stack hay, till, harvest, handle agricultural commodities or apply fertilizers, or other heavy, movable equipment designed, adapted or used for agricultural purposes.

Sec. 8. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 762, is hereby amended by adding thereto two new sections to be designated as sections 57.1 and 57.2, respectively, immediately following section 57, to read as follows:

Sec. 57.1. 1. Except as otherwise provided in section 57.2 of chapter 397, Statutes of Nevada 1955, there are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption of, works of fine art for public display.

2. In determining whether a payment made pursuant to a lease of a work of fine art is exempt under subsection 1, the value for the purpose of paragraph (a) of subsection 4 is the value of the work and not the value of possession for the term of the lease, and the calendar or fiscal year described in paragraph (a) of subsection 4 is the first full calendar or fiscal year, respectively, after the payment is made.

3. During the first full fiscal year following the purchase of fine art for which a taxpayer receives the exemption provided in this section, the taxpayer shall make available, upon written request and without charge to any public school as defined in NRS 385.007, private school as defined in NRS 394.103 and parent of a child who receives instruction in a home pursuant to NRS 392.070, one copy of a poster depicting the fine art that the facility has on public display and that the facility makes available for purchase by the public at the time of the request.

4. As used in this section:

(a) "Fine art for public display":

(1) Except as otherwise provided in subparagraph (2), means a work of art which:

(I) Is an original painting in oil, mineral, water colors, vitreous enamel, pastel or other medium, an original mosaic, drawing or sketch, an original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a similar material, an original work of mixed media or a lithograph;

(II) Is purchased in an arm's length transaction for \$25,000 or more, or has an appraised value of \$25,000 or more;

(III) Will be on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of the first full calendar year after the date on which it is purchased or, if the facility displaying the fine art disposes of it before the end of that year, during at least two-thirds of the full weeks during which the facility had possession of it, or if the gallery, museum, or other building or area in which the fine art will be displayed will not be opened until after the beginning of the first full calendar year after the date on which the fine art is purchased, these display requirements must instead be met for the first full fiscal year after the date of opening, and the date of opening must not be later than 2 years after the purchase of the fine art being displayed; and

(IV) Will be on display in a facility that is available for group tours by pupils or students for at least 5 hours on at least 60 days of the first full fiscal year after the purchase of the fine art, during which the facility in which it is displayed is open, by prior appointment and at reasonable times, without charge; and

(2) Does not include:

(I) A work of fine art that is a fixture or an improvement to real property;

(II) Materials purchased by an artist for consumption in the production of a work of art that is to be a fixture or an improvement to real property;

(III) A work of fine art that constitutes a copy of an original work of fine art, unless the work is a lithograph that is a limited edition and that is signed and numbered by the artist;

(IV) Products of filmmaking or photography, including, without limitation, motion pictures;

(V) Literary works;

Floor Actions

(VI) *Property used in the performing arts, including, without limitation, scenery or props for a stage; or*

(VII) *Property that was created for a functional use other than, or in addition to, its aesthetic qualities, including, without limitation, a classic or custom-built automobile or boat, a sign that advertises a business, and custom or antique furniture, lamps, chandeliers, jewelry, mirrors, doors or windows.*

(b) *“Public display” means the display of a work of fine art where members of the public have access to the work of fine art for viewing during publicly advertised hours. The term does not include the display of a work of fine art in an area where the public does not generally have access, including, without limitation, a private office, hallway or meeting room of a business, a room of a business used for private lodging and a private residence.*

(c) *“Pupil” means a person who:*

(1) *Is enrolled for the current academic year in a public school as defined in NRS 385.007 or a private school as defined in NRS 394.103; or*

(2) *Receives instruction in a home and is excused from compulsory attendance pursuant to NRS 392.070.*

(d) *“Student” means a person who is enrolled for the current academic year in:*

(1) *A community college or university; or*

(2) *A licensed postsecondary educational institution as defined in NRS 394.099 and a course concerning fine art.*

Sec. 57.2. 1. *A taxpayer may collect an admission fee for the exhibition of fine art otherwise exempt from taxation on its sale, storage, use or other consumption pursuant to section 57.1 of chapter 397, Statutes of Nevada 1955, if the taxpayer offers to residents of the State of Nevada a discount of 50 percent from any admission fee charged to nonresidents. The discounted admission fee for residents must be offered at any time the exhibition is open to the public and admission fees are being charged.*

2. *If a taxpayer collects a fee for the exhibition of fine art otherwise exempt from taxation on its sale, storage, use or other consumption pursuant to section 57.1 of chapter 397, Statutes of Nevada 1955, and the fee is collected during the first full fiscal year after the purchase of the fine art, the exemption pertaining to that fine art must be reduced by the net revenue derived by the taxpayer for that first full fiscal year. The exemption pertaining to fine art must not be reduced below zero, regardless of the amount of the net revenue derived by the taxpayer for that first full fiscal year.*

3. *Any tax due pursuant to this section must be paid with the first sales and use tax return otherwise required to be filed by the taxpayer following the 15th day of the fourth month after the end of the first full fiscal year following the purchase of the fine art or, if no sales and use tax return is otherwise required to be filed by the taxpayer, with a sales and use tax return filed specifically for this purpose on or before the last day of the fourth month after the end of the first full fiscal year following the purchase of the fine art.*

4. *A taxpayer who is required to pay a tax resulting from the operation of this section may receive a credit against the tax for any donations made by the taxpayer to the Nevada Arts Council, the Division of Museums and History Dedicated Trust Fund established pursuant to NRS 381.0031, a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, if the taxpayer:*

(a) *Made the donation before the date that either return required pursuant to subsection 3 is due; and*

(b) *Provides to the Department documentation of the donation at the time that he files the return required pursuant to subsection 3.*

5. *For the purposes of this section:*

(a) *“Direct costs of owning and exhibiting the fine art” does not include any allocation of the general and administrative expense of a business or organization that conducts activities in addition to the operation of the facility in which the fine art is displayed, including, without limitation, an allocation of the salary and benefits of a senior executive who is responsible for the oversight of the facility in which the fine art is displayed and who has substantial responsibilities related to the other activities of the business or organization.*

(b) *“Net revenue” means the amount of the fees collected for exhibiting the fine art during the fiscal year less the following paid or made during the fiscal year:*

(1) *The direct costs of owning and exhibiting the fine art; and*

(2) *The cost of educational programs associated with the taxpayer’s public display of fine art, including the cost of meeting the requirements of sub-subparagraph (IV) of subparagraph (1) of paragraph (a) of subsection 4 of section 57.1 of chapter 397, Statutes of Nevada 1955.*

Floor Actions

Sec. 9. Section 6 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 763, is hereby amended to read as follows:

Sec. 6. 1. “Retail sale” or “sale at retail” means a sale for any purpose other than resale in the regular course of business of tangible personal property. *The terms do not include a sale of property that:*

(a) *Meets the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 4 of section 57.1 of chapter 397, Statutes of Nevada 1955;*

(b) *Is made available for sale within 2 years after it is acquired; and*

(c) *Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.*

2. The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this state, is a retail sale in this state by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

Sec. 10. Section 7 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 763, is hereby amended to read as follows:

Sec. 7. “Storage” includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer. *The term does not include keeping, retaining or exercising any right or power over tangible property that:*

1. *Meets the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 4 of section 57.1 of chapter 397, Statutes of Nevada 1955;*

2. *Is made available for sale within 2 years after it is acquired; and*

3. *Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.*

Sec. 11. Section 61.5 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 762, as added by chapter 466, Statutes of Nevada 1985, at page 1441, is hereby amended to read as follows:

Sec. 61.5. There are exempted from the taxes imposed by this chapter the gross receipts from the sale ~~of aircraft and major components~~ and the storage, use or other consumption in this state of:

1. ~~Aircraft, aircraft engines and component parts 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.] or aircraft engines which are manufactured exclusively for use in aircraft, sold or purchased for lease to a commercial air carrier for use in the transportation of persons or property in intrastate, interstate or foreign commerce pursuant to a certificate or license issued to the air carrier authorizing such transportation; and~~

~~2. Machinery, tools and other equipment and parts which are used exclusively in the repair, remodeling or maintenance of aircraft, aircraft engines or component parts of aircraft or aircraft engines which meet the requirements of subsection 1.~~

Sec. 12. 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 61.6, immediately following section 61.5, to read as follows:

Sec. 61.6. 1. *There are exempted from the taxes imposed by this chapter the gross receipts from the sale, furnishing or service of, and the storage, use or other consumption in this state of:*

(a) *All engines and chassis of a professional racing vehicle;*

(b) *All parts and components that are used to replace or rebuild existing parts or components of any engine or chassis of a professional racing vehicle;*

(c) *All motor vehicles used by professional racing teams to transport professional racing vehicles or to transport parts or components of professional racing vehicles, including, without limitation, an engine and chassis of a professional racing vehicle; and*

Floor Actions

(d) All motor vehicles used by a professional racing team or sanctioning body to transport the business office of the professional racing team or sanctioning body or to transport a facility from which hospitality services are provided.

2. As used in this section:

(a) "Professional racing team" means a racing operation that qualifies for the taxable year as an activity engaged in for profit pursuant to the Internal Revenue Code, Title 26 of the United States Code.

(b) "Professional racing motor vehicle" means any motor vehicle which is used in a professional racing competition and which is owned, leased or operated by a professional racing team.

(c) "Sanctioning body" means an organization that establishes an annual schedule of professional racing events in which professional racing teams participate, grants rights to conduct such events and establishes and administers rules and regulations governing the persons who conduct or participate in such events.

Sec. 13. This act becomes effective on January 1, 2006.”.

Amend sec. 106, page 61, by deleting lines 8 through 12 and inserting:

“Shall the Sales and Use Tax Act of 1955 be amended to:

1. Provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of the value of any used vehicle taken in trade on the purchase of another vehicle and to remove the exemption from those taxes for occasional sales of vehicles except where such sales are between certain family members;

2. Provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of ophthalmic or ocular devices or appliances prescribed by a physician or optometrist;

3. Provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of farm machinery and equipment employed for the agricultural use of real property;

4. Provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of works of fine art for public display;

5. Revise and clarify the criteria used to determine which aircraft and parts of aircraft are exempt from the taxes imposed by this Act, including removing the requirement that an air carrier must be based in Nevada to be eligible for the exemption, and providing an exemption for certain machinery and equipment used on eligible aircraft and parts of aircraft; and

6. Provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of engines and chassis, including replacement parts and components for the engines and chassis, of professional racing vehicles that are owned, leased or operated by professional racing teams?”.

Amend sec. 107, page 61, by deleting lines 21 through 24 and inserting:

“1955 would:

1. Exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of the value of any used vehicle taken in trade on the purchase of another vehicle and remove the exemption from those taxes for occasional sales of vehicles except where such sales are between certain family members;

2. Exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of ophthalmic or ocular devices or appliances prescribed by a physician or optometrist;

3. Exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of farm machinery and equipment employed for the agricultural use of real property;

4. Exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of works of fine art for public display;

5. Revise and clarify the criteria used to determine which aircraft and parts of aircraft are exempt from the taxes imposed by this Act, including removing the requirement that an air carrier must be based in Nevada to be eligible for the exemption, and providing an exemption for certain machinery and equipment used on eligible aircraft and parts of aircraft; and

6. Exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of engines and chassis, including replacement parts and components for the engines and chassis, of professional racing vehicles that are owned, leased or operated by professional racing teams.

Floor Actions

A “yes” vote approves all of the proposals set forth in the question. A “no” vote disapproves all of the proposals set forth in the question. The proposals set forth in the question may not be voted upon individually.”.

Amend the bill as a whole by deleting sections 108 through 132 and inserting:

“Secs. 108-132. (Deleted by amendment.)”.

Amend sec. 133, page 81, by deleting lines 15 through 19 and inserting:

“is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2006. 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”.

Amend sec. 135, page 81, line 27, by deleting “any proposed” and inserting “the”.

Amend sec. 135, page 81, line 29, by deleting “office” and inserting “Office”.

Amend sec. 138, page 82, by deleting lines 28 through 33 and inserting:

“Sec. 138. NRS 374.107, 374.112, 374.113, 374.286, 374.291, 374.2911, 374.322 and 374.323 are hereby repealed.”.

Amend sec. 139, page 83, by deleting lines 1 through 34 and inserting:

“4. Sections 30 and 39 of this act become effective on January 1, 2006, only if the proposal submitted pursuant to sections 103 to 107, inclusive, of this act is approved by the voters at the general election on November 2, 2004.

5. Sections 31, 51, 58 to 65, inclusive, 68, 73, 81, 82, 86, 93 and 138 of this act become effective on January 1, 2006, only if the proposal submitted pursuant to sections 103 to 107, inclusive, of this act is not approved by the”.

Amend the title of the bill, ninth line, by deleting “questions” and inserting “a question”.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

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

Assembly Bill No. 514.

Bill read third time.

Remarks by Senators McGinness and Titus.

Roll call on Assembly Bill No. 514:

YEAS—21.

NAYS—None.

Assembly Bill No. 514 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

BILLS AND AMENDMENTS

SEE LINKS ON BILL HISTORY PAGE
FOR COMPLETE TEXT

SUPPLEMENTAL MATERIALS

QUESTION NO. 8

Amendment to the Sales and Use Tax Act of 1955
Assembly Bill No. 514 of the 72nd Session

CONDENSATION (ballot question)

Shall the Sales and Use Tax Act of 1955 be amended to revise the exemption from the tax for the sale or use of used vehicles; to provide exemptions from the tax for the sale or use of prescription ophthalmic and ocular devices and appliances, farm machinery and other agricultural equipment, works of fine art for public display, and professional racing vehicles and parts; and to revise the exemption from the tax on the sale or use of aircraft and parts of aircraft used by commercial air carriers?

Yes.....☐ 285,501
No.....☒ 469,268

EXPLANATION

The proposed amendment to the Sales and Use Tax Act of 1955 would exempt from the tax: (1) the value of any used vehicle taken in trade on the purchase of another vehicle and remove the exemption from the tax for occasional sales of vehicles except where such sales are between certain family members; (2) the sale or use of ophthalmic or ocular devices or appliances prescribed by a physician or optometrist; (3) the sale or use of farm machinery and equipment employed for the agricultural use of real property; (4) the sale or use of works of fine art for public display; and (5) the sale or use of engines and chassis, including replacement parts and components for the engines and chassis, of professional racing vehicles that are owned, leased or operated by professional racing teams.

The proposed amendment would also revise and clarify the criteria used to determine which aircraft and parts of aircraft are exempt from the tax, including removing the requirement that an air carrier must be based in Nevada to be eligible for the exemption, and providing an exemption for certain machinery and equipment used on eligible aircraft and parts of aircraft.

The proposals set forth in the question may not be voted upon individually. The exemptions and other provisions listed in the above explanation apply to the portion of the Sales and Use Tax that is distributed at the local level (currently between 4.5 percent and 5.5 percent), but do not apply to the portion that is distributed at the State level (2

percent). (See **NOTE TO VOTERS** on page 2 regarding the Streamlined Sales Tax Project and Nevada's sales tax.)

A “Yes” vote approves all of the proposals set forth in the question. The exemptions and other provisions will apply to both the local portion and the State portion of the Sales and Use Tax.

A “No” vote disapproves all of the proposals set forth in the question. The exemptions and other provisions will not apply to the local portion of the Sales and Use Tax and will be deleted from the State portion of the Sales and Use Tax.

ARGUMENTS FOR PASSAGE

If this proposal is approved, all of the exemptions and other provisions listed above will be added to the State portion of the Sales and Use Tax Act provisions. The Legislature has previously enacted laws to include the exemptions and other provisions listed above in the portion of the Sales and Use Tax that is distributed at the local level. In providing these exemptions and other provisions at the local level, the Legislature determined that those exemptions and provisions served an important social and economic purpose. Therefore, these provisions should be extended to apply to the portion of the Sales and Use Tax that is distributed at the State level.

In addition, only through the passage of this proposal will those who are currently receiving the exemptions from the local portion of the Sales and Use Tax continue to receive them.

ARGUMENTS AGAINST PASSAGE

If this proposal is not approved, the exemptions and other provisions will be deleted from the portion of the Sales and Use Tax that is distributed at the local level. The revenue available for distribution at the local level, including revenue distributed for the support of local schools, may be increased.

Although the Legislature has already granted these exemptions from the portion of the Sales and Use Tax that is distributed at the local level, legislation that enacted those provisions either did not require the submission of a question to the voters regarding including the identical provision in the state portion of the Sales and Use Tax, or the legislation required the submission of a question to the voters and the question was not approved.

In addition, passage of this proposal will reduce sales and tax revenues available to State government. Although State law already contains several exemptions from the Sales and Use Tax, if the reduction in revenues from exemptions becomes significant, the need to collect those revenues from other sources may result in an increased tax burden for those who are not eligible for an exemption.

FISCAL NOTE

Financial Impact – Yes.

Regardless of the outcome of this proposal, government revenues will be impacted in some manner. According to data provided by the Department of Taxation from Fiscal Year 2003, State government revenues will likely decrease by more than \$8.5 million if the proposal is approved. Conversely, if the proposal is not approved, revenues received by local governments will likely increase by more than \$22.1 million.

The table below indicates the increase or decrease in revenue that could result from each of the proposals described in the above explanation:

Subject	State Revenue Loss if Question is Approved	Local Revenue Gain if Question is Not Approved
Motor Vehicle Trade-Ins and Occasional Sales	-\$6,636,000	\$17,440,000
Ophthalmic or Ocular Devices	-\$1,338,000	\$3,485,000
Farm Machinery and Equipment	-\$440,000	\$1,013,000
Works of Fine Art for Public Display	Indeterminate	Indeterminate
Aircraft and Aircraft Parts and Machinery	-\$69,000	\$171,000
Professional Racing Vehicles and Parts	-\$4,000	\$12,000
Total	-\$8,487,000	\$22,121,000

The impact of the question on the average voter would depend on the extent to which the voter participates in transactions affected by the proposal. An explanation of the manner in which each proposal could impact voters is set forth below:

Motor Vehicle Trade-Ins and Occasional Sales

Currently, a person who applies the trade-in value of his vehicle to the purchase of a new vehicle is required to pay the portion of the Sales and Use Tax that is distributed at the State level (2 percent) on the entire sales price of the new car without a deduction for the trade-in allowance. However, that person is authorized to deduct from the sales price the trade-in allowance for the purposes of the portion of the Sales and Use Tax that is distributed at the local level (currently between 4.5 percent and 5.5 percent). If the question is approved, the purchaser of a new car will be able to deduct a trade-in allowance from the sales price of the new car for the purposes of the portion of the Sales and Use Tax that is distributed at the State level and the portion that is distributed at the local level. If the question is not approved, the purchaser of a new car will be required to

pay the portion of the Sales and Use Tax that is distributed at the State level and the portion that is distributed at the local level on the entire sales price of the new car without a deduction for the trade-in allowance.

Currently, the purchaser of a motor vehicle that is sold by someone who is not in the business of selling such vehicles may be exempt from the requirement to pay the portion of the Sales and Use Tax that is distributed at the State level (2 percent); however, such a purchaser would be required to pay the portion of the Sales and Use Tax that is distributed at the local level (currently between 4.5 percent and 5.5 percent) unless the vehicle is a used vehicle and the sale is between certain family members. If the question is approved, occasional sales of vehicles would be exempt from the State and local portions of the Sales and Use Tax only if the vehicle is a used vehicle and the sale is between certain family members. If the question is not approved, occasional sales of vehicles would be exempt from both the State and local portions of the Sales and Use Tax regardless of whether the vehicle was used or whether the sale is between family members.

Aircraft and Aircraft Parts and Machinery

Currently, gross receipts from the sale or use of aircraft, aircraft engines or component parts of aircraft or aircraft engines and machinery, tools and other equipment and parts used to repair or remodel aircraft are exempt from the portion of the Sales and Use Tax that is distributed at the local level (currently between 4.5 percent and 5.5 percent). In comparison, only the gross receipts from the sale or use of aircraft and major components of aircraft are exempt from the portion of the Sales and Use Tax that is distributed at the State level (2 percent). If the question is approved, the aircraft exemption would be expanded to ensure that the component parts of aircraft engines and machinery, tools and other equipment and parts used to repair or remodel aircraft are exempt from both the State and local portions of the Sales and Use Tax.

Other Proposals Set Forth in the Question

Currently, the gross receipts from the sale or the use of the following items are exempt from the portion of the Sales and Use Tax that is distributed at the local level (currently between 4.5 percent and 5.5 percent), but are not exempt from the portion of the Sales and Use Tax that is distributed at the State level (2 percent):

- Ophthalmic or ocular devices or appliances prescribed by a physician or optometrist;
- Farm machinery and equipment employed for the agricultural use of real property;
- Works of fine art for public display; and
- Engines and chassis of professional racing vehicles that are owned, leased or operated by professional racing teams.

If this question is approved, the exemption would be expanded to include the portion of the tax that is distributed at the State level and would decrease the cost of those items by 2 percent. If the question is not approved, the exemption would be eliminated from the portion of the tax that is distributed at the local level and the cost for these items would increase by between 4.5 percent and 5.5 percent.

FULL TEXT OF THE MEASURE

Assembly Bill No. 514-Committee on Taxation

AN ACT relating to taxation; providing for the enactment of certain provisions that are necessary to carry out the Streamlined Sales and Use Tax Agreement; providing for the electronic registration of sellers; establishing requirements for determining the place of sales for the purposes of sales and use taxes; establishing requirements for claiming an exemption from such taxes; providing for the electronic payment of such taxes; providing for the submission to the voters of a question relating to whether the Sales and Use Tax Act of 1955 should be amended to conform to the Agreement; and providing other matters properly relating thereto.

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

Section 1. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter **360B**, 362, 364A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

- (a) The facts contained in the return;
- (b) Any information within its possession or that may come into its possession; or
- (c) Reasonable estimates of the amount.

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

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

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

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of

whether the determination is issued before the due date of the liability.

Sec. 2. NRS 360.489 is hereby amended to read as follows: 360.489 1. In determining the amount of [sales] :

(a) *Sales* tax due on a sale at retail, the rate of tax used must be the sum of the rates of all taxes imposed upon sales at retail in :

(1) *The county determined pursuant to the provisions of sections 13 to 18, inclusive, of this act; or*

(2) *If those provisions do not apply to the sale*, the county in which the property is or will be delivered to the purchaser or his agent or designee.

~~{2. In determining the amount of use}~~

(b) *Use* tax due on the purchase of tangible personal property for use, storage or other consumption in this state, the rate of tax used must be the sum of the rates of all taxes imposed upon the use, storage or other consumption of property in :

(1) *The county determined pursuant to the provisions of sections 13 to 18, inclusive, of this act; or*

(2) *If those provisions do not apply to the purchase*, the county in which the property is first used, stored or consumed.

2. *In determining the amount of taxes due pursuant to subsection 1:*

(a) *The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.*

(b) *A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.*

3. On or before January 1 of each year the Department shall transmit to each retailer to whom a permit has been issued a notice which contains the provisions of subsections 1 and 2 and NRS 372.365.

Sec. 3. NRS 360.510 is hereby amended to read as follows:

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

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

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed, give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this state or any political subdivision or agency of this state, who has in his possession or under his control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

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

3. After receiving the demand to transmit, the person notified by the demand may not

transfer or otherwise dispose of the credits, other personal property, or debts in his possession or under his control at the time he received the notice until the Department consents to a transfer or other disposition.

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

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

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

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he is liable to the State for any indebtedness due pursuant to this chapter, or chapter **360B**, 362, 364A, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 4. Chapter 360B of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 24, inclusive, of this act.

Sec. 5. *“Purchaser” means a person to whom a sale of tangible personal property is made.*

Sec. 6. *“Registered seller” means a seller registered pursuant to section 9 of this act.*

Sec. 7. *“Retail sale” means any sale, lease or rental for any purpose other than for resale, sublease or subrent.*

Sec. 8. *“Tangible personal property” means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.*

Sec. 9. 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, 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.

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. 1. The Department shall post on a website or other Internet site that is operated or administered by or on behalf of the Department:

(a) The rates of sales and use taxes for this state and for each local government 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 section 11 of this act.

(f) 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 section 12 of this act, 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. 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. 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 is unable to determine the nine-digit zip code of a purchaser after exercising due diligence to determine that information, that seller 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 has exercised due diligence if the seller has attempted to determine the nine-digit zip code of a purchaser by using software approved by the Department which makes that determination from the street address and five-digit zip code of the purchaser.

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. The Department shall waive any liability of a registered seller and a certified service provider acting on behalf of a registered seller who, as a result of his reasonable reliance on the information posted pursuant to section 10 of this act or his compliance with subsection 2 of section 11 of this act, collects the incorrect amount of any sales or use tax imposed in this state, for:

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

2. Any penalties and interest on that amount.

Sec. 13. As used in sections 13 to 18, inclusive, of this act:

1. "Receive" means taking possession of or making the first use of tangible personal property, whichever occurs first. The term does not include possession by a shipping company on behalf of a purchaser.

2. "Transportation equipment" means:

(a) Locomotives and railcars used for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors having a manufacturer's gross vehicle weight rating of more than 10,000 pounds, and trailers, semi trailers and passenger buses that are:

(1) Registered pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Operated under the authority of a carrier who is authorized by the Federal Government to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft operated by an air carrier who is authorized by the Federal Government or a foreign government to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached or secured to any of the items described in paragraph (a), (b) or (c).

Sec. 14. 1. Except as otherwise provided in this section, for the purpose of determining the liability of a seller for sales and use taxes, a retail sale shall be deemed to take place at the location determined pursuant to sections 13 to 18, inclusive, of this

act.

2. Sections 13 to 18, inclusive, of this act do not:

(a) Affect any liability of a purchaser or lessee for a use tax.

(b) Apply to:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes or mobile homes.

(2) The retail sale, other than the lease or rental, of motor vehicles, trailers, semi trailers or aircraft that do not constitute transportation equipment.

Sec. 15. Except as otherwise provided in sections 13 to 18, inclusive, of this act, the retail sale, excluding the lease or rental, of tangible personal property shall be deemed to take place:

1. If the property is received by the purchaser at a place of business of the seller, at that place of business.

2. If the property is not received by the purchaser at a place of business of the seller:

(a) At the location indicated to the seller pursuant to any instructions provided for the delivery of the property to the purchaser or to another recipient who is designated by the purchaser as his donee; or

(b) If no such instructions are provided and if known by the seller, at the location where the purchaser or another recipient who is designated by the purchaser as his donee, receives the property.

3. If subsections 1 and 2 do not apply, at the address of the purchaser indicated in the business records of the seller that are maintained in the ordinary course of the seller's business, unless the use of that address would constitute bad faith.

4. If subsections 1, 2 and 3 do not apply, at the address of the purchaser obtained during the consummation of the sale, including, if no other address is available, the address of the purchaser's instrument of payment, unless the use of an address pursuant to this subsection would constitute bad faith.

5. In all other circumstances, at the address from which the property was shipped or, if it was delivered electronically, at the address from which it was first available for transmission by the seller.

Sec. 16. 1. Except as otherwise provided in this section and sections 14, 17 and 18 of this act, the lease or rental of tangible personal property shall be deemed to take place as follows:

(a) If the lease or rental requires recurring periodic payments, for the purposes of:

(1) The first periodic payment, the location of the lease or rental shall be deemed to take place at the location determined pursuant to section 15 of this act; and

(2) Subsequent periodic payments, the location of the lease or rental shall be deemed to take place at the primary location of the property. For the purposes of this subparagraph, the primary location of the property shall be deemed to be the address for the property provided by the lessee and set forth in the records maintained by the lessor in the ordinary course of business, regardless of the intermittent use of the property at different locations, unless the use of that address would constitute bad faith.

(b) If the lease or rental does not require recurring periodic payments, the location of the lease or rental shall be deemed to take place at the location determined pursuant to section 15 of this act.

2. This section does not apply to the determination of any liability of a seller for any sales or use taxes imposed on:

- (a) The acquisition of tangible personal property for lease; or
- (b) Any accelerated or lump-sum payments made pursuant to a lease or rental of tangible personal property.

Sec. 17. 1. Except as otherwise provided in this section and section 14 of this act, the lease or rental of motor vehicles, trailers, semitrailers or aircraft that do not constitute transportation equipment shall be deemed to take place:

(a) If the lease or rental requires recurring periodic payments, at the primary location of the property. For the purposes of this paragraph, the primary location of the property shall be deemed to be the address for the property provided by the lessee and set forth in the records maintained by the lessor in the ordinary course of business, regardless of the intermittent use of the property at different locations, unless the use of that address would constitute bad faith.

(b) If the lease or rental does not require recurring periodic payments, at the location determined pursuant to section 15 of this act.

2. This section does not apply to the determination of any liability of a seller for any sales or use taxes imposed on:

- (a) The acquisition of tangible personal property for lease; or
- (b) Any accelerated or lump-sum payments made pursuant to a lease or rental of tangible personal property.

Sec. 18. Except as otherwise provided in section 14 of this act, the lease or rental of transportation equipment shall be deemed to take place at the location determined pursuant to section 15 of this act.

Sec. 19. 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 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. 20. 1. A purchaser who:

(a) Has not obtained a direct pay permit pursuant to section 19 of this act;
(b) Purchases tangible personal property that is subject to sales and use taxes; and
(c) Has knowledge at the time of purchase that the purchased property will be available for use digitally or electronically in more than one jurisdiction, shall give written notice of that fact to the seller at the time of purchase. The notice must be given in a form required by the Department.

2. Notwithstanding the provisions of sections 13 to 18, inclusive, of this act:

(a) Upon receipt of such a notice by a seller who does not maintain a place of business in this state, the seller is relieved of any liability to collect, pay or remit any use tax that is due and the purchaser thereafter assumes the liability to pay that tax directly to the appropriate authority.

(b) To determine the tax due to this state or to a local government of this state:

(1) A purchaser who delivers a notice pursuant to subsection 1 to a seller who does not maintain a place of business in this state; and

(2) A seller who maintains a place of business in this state and receives a notice pursuant to subsection 1, may 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 business records of the purchaser or seller as they exist at the time of the consummation of the sale.

3. Any notice given pursuant to subsection 1 applies to all future sales of property made by the seller to the purchaser, except for the sale of property that is specifically apportioned pursuant to subsection 2 or to property that will not be used in multiple jurisdictions, until the purchaser delivers a written notice of revocation to the seller.

Sec. 21. 1. A purchaser of direct mail must provide to the seller at the time of the purchase:

(a) If the seller does not maintain a place of business in this state:

(1) A form for direct mail approved by the Department;

(2) An informational statement of the jurisdictions to which the direct mail will be delivered to recipients; or

(3) The direct pay permit of the purchaser issued pursuant to section 19 of this act; or

(b) If the seller maintains a place of business in this state, an informational statement of the jurisdictions to which the direct mail will be delivered to recipients.

2. Notwithstanding the provisions of sections 13 to 18, inclusive, of this act:

(a) Upon the receipt pursuant to subsection 1 of:

(1) A form for direct mail by a seller who does not maintain a place of business in this state:

(I) The seller is relieved of any liability for the collection, payment or remission of any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller; and

(II) The purchaser is liable for any sales or use taxes applicable to the purchase of direct mail by that purchaser from that seller. Any form for direct mail provided to a seller pursuant to this subparagraph applies to all future sales of direct mail made by that seller to that purchaser until the purchaser delivers a written notice of revocation to the seller.

(2) An informational statement by any seller, the seller shall collect, pay or remit any applicable sales and use taxes in accordance with the information contained in that statement. In the absence of bad faith, the seller is relieved of any liability to collect, pay or remit any sales and use taxes other than in accordance with that information received.

(b) If a purchaser of direct mail does not comply with subsection 1, the seller shall determine the location of the sale pursuant to subsection 5 of section 15 of this act and collect, pay or remit any applicable sales and use taxes. This paragraph does not limit the liability of the purchaser for the payment of any of those taxes.

3. As used in this section, "direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

Sec. 22. Notwithstanding the provisions of any other specific statute, if the boundary of a local government that has imposed a sales or use tax is changed, any change in the rate of that tax which results therefrom becomes effective on the first day of the first calendar quarter that begins at least 60 days after the effective date of the change in the boundary.

Sec. 23. Notwithstanding the provisions of any other specific statute, if any sales or use tax is due and payable on a Saturday, Sunday or legal holiday, the tax may be paid on the next succeeding business day.

Sec. 24. 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. Services that are necessary to complete the sale, including delivery and installation charges;

2. The value of exempt property given to the purchaser if taxable and exempt property are sold as a single product or piece of merchandise; and

3. Credit given to the purchaser.

Sec. 25. NRS 360B.030 is hereby amended to read as follows:

360B.030 As used in NRS 360B.010 to 360B.170, inclusive, and sections 5 to 24, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, and sections 5 to 8, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 26. NRS 360B.070 is hereby amended to read as follows:

360B.070 "Sales tax" means the tax levied by section 19 of chapter 397, Statutes of Nevada 1955, at page 766, and any similar tax authorized by or pursuant to a specific

statute [.] *or special legislative act of this state or the laws of another state that is a member of the Agreement.*

Sec. 27. NRS 360B.080 is hereby amended to read as follows:

360B.080 “Seller” means any person making sales, leases or rentals of *tangible* personal property . [or services.]

Sec. 28. NRS 360B.100 is hereby amended to read as follows:

360B.100 “Use tax” means the tax levied by section 34 of chapter 397, Statutes of Nevada 1955, at page 769, as amended by section 3 of chapter 513, Statutes of Nevada 1985, at page 1562, and any similar tax authorized by *or pursuant to a* specific statute [.] *or special legislative act of this state or the laws of another state that is a member of the Agreement.*

Sec. 29. 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 NRS 360B.010 to 360B.170, inclusive, *and sections 5 to 24, inclusive, of this act, and the provisions of the Agreement,* including, without limitation [:], *the:*

(a) Adoption of regulations to carry out the provisions of NRS 360B.010 to 360B.170, inclusive [:], *and sections 5 to 24, inclusive, of this act, 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. 30. NRS 361.186 is hereby amended to read as follows:

361.186 1. A taxpayer may collect an admission fee for the exhibition of fine art otherwise exempt from taxation pursuant to NRS 361.068 if the taxpayer offers to residents of the State of Nevada a discount of 50 percent from any admission fee charged to nonresidents. The discounted admission fee for residents must be offered at any time the exhibition is open to the public and admission fees are being charged.

2. Except as otherwise provided in subsection 5, if a taxpayer collects a fee for the exhibition of fine art otherwise exempt from taxation pursuant to NRS 361.068, the exemption pertaining to that fine art for the fiscal year must be reduced by the net revenue derived by the taxpayer for that fiscal year. The exemption pertaining to fine art for a particular fiscal year must not be reduced below zero, regardless of the amount of the net revenue derived by the taxpayer for that fiscal year.

3. A tax resulting from the operation of this section is due with the tax otherwise due

under the taxpayer's first statement filed pursuant to NRS 361.265 after the 15th day of the fourth month after the end of the fiscal year in which the net revenue was received or, if no such statement is required to be filed, under a statement of the net revenue filed on or before the last day of the fourth month after the end of that fiscal year.

4. A taxpayer who is required to pay a tax resulting from the operation of this section may receive a credit against the tax for any donations made by the taxpayer to the State Arts Council, the Division of Museums and History Dedicated Trust Fund established pursuant to NRS 381.0031, a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, if the taxpayer:

(a) Made the donation before the date that either statement required pursuant to subsection 3 is due; and

(b) Provides to the county assessor documentation of the donation at the time that he files the statement required pursuant to subsection 3.

5. If a taxpayer qualifies for and avails himself of [both of] the exemptions from taxation provided by NRS 361.068 and 374.291 [,] **and section 57.1 of chapter 397, Statutes of Nevada 1955**, the reduction of the exemptions by the net revenue derived by the taxpayer, as required pursuant to subsection 2 of this section , [and] subsection 2 of NRS 374.2911 [,] **and subsection 2 of section 57.2 of chapter 397, Statutes of Nevada 1955**, must be carried out in such a manner that the total net revenue derived by the taxpayer is first applied to reduce the [exemption] **exemptions** provided pursuant to NRS 374.291 [,] **and section 57.1 of chapter 397, Statutes of Nevada 1955**. If the net revenue exceeds the amount of the [exemption] **exemptions** provided pursuant to NRS 374.291 [,] **and section 57.1 of chapter 397, Statutes of Nevada 1955**, the remaining net revenue must be applied to reduce the exemption provided pursuant to NRS 361.068. If the net revenue is less than or equal to the [exemption] **exemptions** provided pursuant to NRS 374.291 **and section 57.1 of chapter 397, Statutes of Nevada 1955**, for that fiscal year, the exemption provided pursuant to NRS 361.068 must not be reduced.

6. For the purposes of this section:

(a) "Direct costs of owning and exhibiting the fine art" does not include any allocation of the general and administrative expense of a business or organization that conducts activities in addition to the operation of the facility in which the fine art is displayed, including, without limitation, an allocation of the salary and benefits of a senior executive who is responsible for the oversight of the facility in which the fine art is displayed and who has substantial responsibilities related to the other activities of the business or organization.

(b) "Net revenue" means the amount of the fees collected for exhibiting the fine art during that fiscal year less the following paid or made during that fiscal year:

(1) The direct costs of owning and exhibiting the fine art; and

(2) The cost of educational programs associated with the taxpayer's public display of fine art, including the cost of meeting the requirements of sub-subparagraph (IV) of subparagraph (1) of paragraph (b) of subsection 5 of NRS 361.068.

Sec. 31. NRS 361.186 is hereby amended to read as follows:

361.186 1. A taxpayer may collect an admission fee for the exhibition of fine art otherwise exempt from taxation pursuant to NRS 361.068 if the taxpayer offers to residents of the State of Nevada a discount of 50 percent from any admission fee charged to nonresidents. The discounted admission fee for residents must be offered at any time

the exhibition is open to the public and admission fees are being charged.

2. Except as otherwise provided in subsection 5, if a taxpayer collects a fee for the exhibition of fine art otherwise exempt from taxation pursuant to NRS 361.068, the exemption pertaining to that fine art for the fiscal year must be reduced by the net revenue derived by the taxpayer for that fiscal year. The exemption pertaining to fine art for a particular fiscal year must not be reduced below zero, regardless of the amount of the net revenue derived by the taxpayer for that fiscal year.

3. A tax resulting from the operation of this section is due with the tax otherwise due under the taxpayer's first statement filed pursuant to NRS 361.265 after the 15th day of the fourth month after the end of the fiscal year in which the net revenue was received or, if no such statement is required to be filed, under a statement of the net revenue filed on or before the last day of the fourth month after the end of that fiscal year.

4. A taxpayer who is required to pay a tax resulting from the operation of this section may receive a credit against the tax for any donations made by the taxpayer to the State Arts Council, the Division of Museums and History Dedicated Trust Fund established pursuant to NRS 381.0031, a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, if the taxpayer:

(a) Made the donation before the date that either statement required pursuant to subsection 3 is due; and

(b) Provides to the county assessor documentation of the donation at the time that he files the statement required pursuant to subsection 3.

5. ~~If a taxpayer qualifies for and avails himself of both of the exemptions from taxation provided by NRS 361.068 and 374.291, the reduction of the exemptions by the net revenue derived by the taxpayer, as required pursuant to subsection 2 of this section and subsection 2 of NRS 374.2911, must be carried out in such a manner that the total net revenue derived by the taxpayer is first applied to reduce the exemption provided pursuant to NRS 374.291. If the net revenue exceeds the amount of the exemption provided pursuant to NRS 374.291, the remaining net revenue must be applied to reduce the exemption provided pursuant to NRS 361.068. If the net revenue is less than or equal to the exemption provided pursuant to NRS 374.291 for that fiscal year, the exemption provided pursuant to NRS 361.068 must not be reduced.~~

6.] For the purposes of this section:

(a) "Direct costs of owning and exhibiting the fine art" does not include any allocation of the general and administrative expense of a business or organization that conducts activities in addition to the

operation of the facility in which the fine art is displayed, including, without limitation, an allocation of the salary and benefits of a senior executive who is responsible for the oversight of the facility in which the fine art is displayed and who has substantial responsibilities related to the other activities of the business or organization.

(b) "Net revenue" means the amount of the fees collected for exhibiting the fine art during that fiscal year less the following paid or made during that fiscal year:

(1) The direct costs of owning and exhibiting the fine art; and

(2) The cost of educational programs associated with the taxpayer's public display of fine art, including the cost of meeting the requirements of sub-subparagraph (IV) of subparagraph (1) of paragraph (b) of subsection 5 of NRS 361.068.

Sec. 32. Chapter 372 of NRS is hereby amended by adding thereto the provisions set

forth as sections 33 to 36, inclusive, of this act.

Sec. 33. *This chapter must be administered in accordance with the provisions of chapter 360B of NRS.*

Sec. 34. *In determining the amount of taxes due pursuant to this chapter:*

1. The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.

2. A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.

Sec. 35. 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.

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.

Sec. 36. 1. *If a retailer is unable to collect all or part of the sales price of a sale, he is entitled to receive a deduction from his taxable sales for that bad debt.*

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

3. The amount of any deduction claimed must equal the amount of a deduction that may be claimed pursuant to 26 U.S.C. § 166 for that sale minus:

(a) Any finance charge or interest charged as part of the sale;

(b) Any sales or use tax charged on the sales price;

(c) Any amount not paid on the sales price because the tangible personal property that was sold has remained in the possession of the retailer until the full sales price is paid;

(d) Any expense incurred in attempting to collect the bad debt; and

(e) The value of any property sold that has been repossessed by the retailer.

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

5. If a bad debt for which a deduction has been claimed is subsequently collected in whole or in part, the tax on the amount so collected must be reported on the return that

covers the period in which the collection is made.

6. If the amount of the bad debt is greater than the amount of the taxable sales reported for the period during which the bad debt is claimed as a deduction, a claim for a refund may be filed pursuant to NRS 372.630 to 372.720, inclusive, except that the time within which the claim may be filed begins on the date on which the return that included the deduction was filed.

7. If the retailer has contracted with a certified service provider for the remittance of the tax due under this chapter, the service provider may, on behalf of the retailer, claim any deduction to which the retailer is entitled pursuant to this section. The service provider shall credit or refund the full amount of any deduction or refund received pursuant to this section to the retailer.

8. For the purposes of reporting a payment received on a bad debt for which a deduction has been claimed, the payment must first be applied to the sales price of the property sold and the tax due thereon, and then to any interest, service charge or other charge that was charged as part of the sale.

9. If the records of a retailer indicate that a bad debt may be allocated among other states that are members of the Streamlined Sales and Use Tax Agreement, the retailer may allocate the bad debt among those states.

10. Except as otherwise provided in subsection 11, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

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

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the deduction claimed or \$1,000, whichever is less.

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

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

12. As used in this section:

(a) "Bad debt" means a debt that may be deducted pursuant to 26 U.S.C. § 166.

(b) "Certified service provider" has the meaning ascribed to it in NRS 360B.060.

Sec. 37. NRS 372.123 is hereby amended to read as follows:

372.123 1. If the State or a political subdivision of the State enters into a contract pursuant to chapter 332 or 333 of NRS on or after June 5, 2001, with a person who:

(a) Sells tangible personal property in this state; and

(b) Has not obtained a permit pursuant to NRS 372.125 [~~because he does not maintain a place of business within this state,~~ **or registered pursuant to section 9 of this act,**

the contract must include a provision requiring the person to obtain a permit pursuant to NRS 372.125 **or to register pursuant to section 9 of this act,** and to [agree to] collect and

pay the taxes imposed pursuant to this chapter on the sale of tangible personal property in this state. For the purposes of [the] *a* permit obtained pursuant to NRS 372.125, the person shall be deemed to have a single place of business in this state.

2. The Department may require a state agency or local government to submit such documentation as is necessary to ensure compliance with this section.

Sec. 38. 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 with the Department pursuant to section 9 of this act or* 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 other information which the Department may require.

3. The application must be signed by [the] :

(a) *The* owner if he is a natural person; [in the case of an association or partnership, by a]

(b) A member or partner [; in the case of a corporation, by an] *if the seller is an association or partnership; or*

(c) *An* executive officer or some person specifically authorized [by the corporation] to sign the application [, to which must be attached the written evidence of his authority.] *if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.*

Sec. 39. 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 with the Department pursuant to section 9 of this act or file with the Department an application for a permit for each place of business [.] , *unless he intends to sell vehicles and will make fewer than three retail sales of vehicles during any 12-month period.*

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 other information which the Department may require.

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 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. 40. NRS 372.160 is hereby amended to read as follows: 372.160 A resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who [is] :

1. *Is* engaged in the business of selling tangible personal property [and who holds the permit provided for in NRS 372.125 to 372.180, inclusive, and who, at];

2. *Is registered pursuant to section 9 of this act or holds a permit issued pursuant to*

NRS 372.135; and

3. At the time of purchasing the tangible personal 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.

Sec. 41. NRS 372.165 is hereby amended to read as follows: 372.165 1. [The] 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 section 9 of this act 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 substantially in such form as the Department may prescribe.

Sec. 42. NRS 372.230 is hereby amended to read as follows: 372.230 A resale certificate relieves the person selling the

property from the burden of proof only if taken in good faith from a person who [is] :

1. ***Is*** engaged in the business of selling tangible personal property [and who holds the permit provided for by NRS 372.125 to 372.180, inclusive, and who, at];

2. ***Is registered pursuant to section 9 of this act or holds a permit issued pursuant to NRS 372.135; and***

3. At the time of purchasing the tangible personal 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.

Sec. 43. NRS 372.235 is hereby amended to read as follows: 372.235 1. [The] 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 section 9 of this act 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 substantially in such form as the Department may prescribe.

Sec. 44. NRS 372.355 is hereby amended to read as follows: 372.355 Except as ***otherwise*** provided in NRS 372.380 ***[.] or required by the Department pursuant to section 9 of this act,*** the taxes imposed by this chapter are payable to the Department monthly on or before the last day of the month next succeeding each month.

Sec. 45. NRS 372.360 is hereby amended to read as follows: 372.360 ***Except as otherwise required by the Department pursuant to section 9 of this act:***

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form as the Department may prescribe. ***Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 374 of NRS.***

2. For purposes of [the] :

(a) ***The*** sales tax a return must be filed by each seller. ~~[For purposes of the]~~

(b) ***The*** use tax a return must be filed by each retailer maintaining a place of business

in the state and by each person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due .
[to a retailer required to collect the tax.]

3. Returns must be signed by the person required to file the return or by his authorized agent but need not be verified by oath.

Sec. 46. NRS 372.365 is hereby amended to read as follows: 372.365 1. *Except as otherwise required by the Department pursuant to section 9 of this act or provided in sections 13 to 18, inclusive, of this act:*

(a) For the purposes of the sales tax: [(a)] (1) The return must show the gross receipts of the seller during the preceding reporting period.

[(b)] (2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

[(c)] (3) A sale pertains to the county in this state in which the tangible personal property is or will be delivered to the purchaser or his agent or designee.

[2.] (b) For purposes of the use tax:

[(a)] (1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

[(b)] (2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

[(c)] (3) If the property was [brought] :

(I) *Brought* into this state by the purchaser or his agent or designee, the sale pertains to the county in this state in which the property is or will be first used, stored or otherwise consumed.

{Otherwise,}

(II) *Not brought into this state by the purchaser or his agent or designee*, the sale pertains to the county in this state in which the property was delivered to the purchaser or his agent or designee.

[3.] 2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this state in which the property was first used, stored or consumed.

[4.] 3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

~~[5. If a retailer:~~

~~(a) Is unable to collect all or part of the sales price of a sale, the amount of which was included in the gross receipts reported for a previous reporting period; and~~

~~(b) Has taken a deduction on his federal income tax return pursuant to 26 U.S.C. § 166(a) for the amount which he is unable to collect, he is entitled to receive a credit for the amount of sales tax paid on account of that uncollected sales price. The credit may be used against the amount of sales tax that the retailer is subsequently required to pay pursuant to this chapter.~~

6. If the Internal Revenue Service of the Department of the Treasury disallows a deduction described in paragraph (b) of subsection 5 and the retailer claimed a credit on a return for a previous reporting period pursuant to subsection 5, the retailer shall include

~~the amount of that credit in the amount of taxes reported pursuant to subsection 4 in the first return filed with the Department after the deduction is disallowed.~~

7. If a retailer collects all or part of the sales price for which he claimed a credit on a return for a previous reporting period pursuant to subsection 5, he shall include:

(a) The amount collected in the gross receipts reported pursuant to paragraph (a) of subsection 1; and

(b) The sales tax payable on the amount collected in the amount of taxes reported pursuant to subsection 4, in the first return filed with the Department after that collection.

8.] 4. Except as otherwise provided in subsection [9.] 5, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

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

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

[9.] 5. For the purposes of subsection [8.] 4, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection [8.] 4.

Sec. 47. NRS 372.370 is hereby amended to read as follows: 372.370 [The]

1. Except as otherwise provided in subsection 2, a taxpayer shall deduct and withhold from the taxes otherwise due from him

1.25 percent of it to reimburse himself for the cost of collecting the tax.

2. The regulations adopted by the Department pursuant to NRS 360B.110 may authorize the deduction and withholding from the taxes otherwise due from a taxpayer such other amounts as are required to carry out the Streamlined Sales and Use Tax Agreement.

Sec. 48. NRS 372.375 is hereby amended to read as follows:

372.375 [The]

1. Except as otherwise required by the Department pursuant to section 9 of this act, the person required to file [the] a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed in NRS 353.1465.

Sec. 49. NRS 372.380 is hereby amended to read as follows:

372.380 1. [The] *Except as otherwise provided in subsection 2 or required by the Department pursuant to section 9 of this act, the reporting and payment period of a taxpayer whose taxable sales do not exceed \$10,000 per month is a calendar quarter.*

2. The Department, if it deems this action necessary in order to insure payment to or facilitate the collection by the State of the amount of taxes, may require returns and payment of the amount of taxes for periods other than calendar months or quarters, depending upon the principal place of business of the seller, retailer or purchaser, as the case may be, or for other than monthly or quarterly periods.

Sec. 50. NRS 372.635 is hereby amended to read as follows: 372.635 Except as otherwise provided in NRS 360.235 and 360.395 [:] ***and section 36 of this act:***

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

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

Sec. 51. NRS 372.7263 is hereby amended to read as follows:

372.7263 **1.** In administering the provisions of NRS 372.335, the Department shall apply the exemption for the sale of tangible personal property delivered by the vendor to a forwarding agent for shipment out of state to include:

[1.] **(a)** The sale of a vehicle to a nonresident to whom a special movement permit has been issued by the Department of Motor Vehicles pursuant to subsection 1 of NRS 482.3955; and

[2.] **(b)** The sale of farm machinery and equipment [, as defined in NRS 374.286,] to a nonresident who submits proof to the vendor that the farm machinery and equipment will be delivered out of state not later than 15 days after the sale.

2. As used in this section:

(a) *“Agricultural use” has the meaning ascribed to it in NRS 361A.030.*

(b) *“Farm machinery and equipment” means a farm tractor, implement of husbandry, piece of equipment used for irrigation, or a part used in the repair or maintenance of farm machinery and equipment. The term does not include:*

(1) *A vehicle required to be registered pursuant to the provisions of chapter 482 or 706 of NRS; or*

(2) *Machinery or equipment only incidentally employed for the agricultural use of real property.*

(c) *“Farm tractor” means a motor vehicle designed and used primarily for drawing an implement of husbandry.*

(d) *“Implement of husbandry” means a vehicle that is designed, adapted or used for agricultural purposes, including, without limitation, a plow, machine for mowing, hay baler, combine, piece of equipment used to stack hay, till, harvest, handle agricultural commodities or apply fertilizers, or other heavy, movable equipment designed, adapted or used for agricultural purposes.*

Sec. 52. NRS 372.740 is hereby amended to read as follows:

372.740 **1.** The Department, or any person authorized in writing by it, may examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person to verify the accuracy of any return made, or, if no return is made by the

person, to ascertain and determine the amount required to be paid.

2. Any person selling or purchasing tangible personal property in this state who [is] :

(a) *Is* required to [obtain] :

(1) *Obtain* a permit pursuant to NRS 372.125 *or register pursuant to section 9 of this act*; or [to file]

(2) *File* a return pursuant to subsection 2 of NRS 372.360 [, and who keeps] ; *and*

(b) *Keeps* outside of this state his records, receipts, invoices and other documents relating to sales he has made or the use tax due this state, shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the state for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he is absent from his regular place of employment to examine those documents.

Sec. 53. Chapter 374 of NRS is hereby amended by adding thereto the provisions set forth as sections 54 to 57, inclusive, of this act.

Sec. 54. *This chapter must be administered in accordance with the provisions of chapter 360B of NRS.*

Sec. 55. *In determining the amount of taxes due pursuant to this chapter:*

1. *The amount due must be computed to the third decimal place and rounded to a whole cent using a method that rounds up to the next cent if the numeral in the third decimal place is greater than 4.*

2. *A retailer may compute the amount due on a transaction on the basis of each item involved in the transaction or a single invoice for the entire transaction.*

Sec. 56. 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.*

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.*

Sec. 57. 1. *If a retailer is unable to collect all or part of the sales price of a sale, he is entitled to receive a deduction from his taxable sales for that bad debt.*

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

3. *The amount of any deduction claimed must equal the amount of a deduction that may be claimed pursuant to 26 U.S.C. § 166 for that sale minus:*

(a) *Any finance charge or interest charged as part of the sale;*

(b) Any sales or use tax charged on the sales price;
(c) Any amount not paid on the sales price because the tangible personal property that was sold has remained in the possession of the retailer until the full sales price is paid;

(d) Any expense incurred in attempting to collect the bad debt; and

(e) The value of any property sold that has been repossessed by the retailer.

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

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

6. If the amount of the bad debt is greater than the amount of the taxable sales reported for the period during which the bad debt is claimed as a deduction, a claim for a refund may be filed pursuant to NRS 374.635 to 374.720, inclusive, except that the time within which the claim may be filed begins on the date on which the return that included the deduction was filed.

7. If the retailer has contracted with a certified service provider for the remittance of the tax due under this chapter, the service provider may, on behalf of the retailer, claim any deduction to which the retailer is entitled pursuant to this section. The service provider shall credit or refund the full amount of any deduction or refund received pursuant to this section to the retailer.

8. For the purposes of reporting a payment received on a bad debt for which a deduction has been claimed, the payment must first be applied to the sales price of the property sold and the tax due thereon, and then to any interest, service charge or other charge that was charged as part of the sale.

9. If the records of a retailer indicate that a bad debt may be allocated among other states that are members of the Streamlined Sales and Use Tax Agreement, the retailer may allocate the bad debt among those states.

10. Except as otherwise provided in subsection 11, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

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

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the deduction claimed or \$1,000, whichever is less.

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

11. For the purposes of subsection 10, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than

one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 10.

12. As used in this section:

(a) *“Bad debt” means a debt that may be deducted pursuant to 26 U.S.C. § 166.*

(b) *“Certified service provider” has the meaning ascribed to it in NRS 360B.060.*

Sec. 58. NRS 374.020 is hereby amended to read as follows:

374.020 Except where the context otherwise requires, the definitions given in NRS 374.025 to [374.107,] **374.100**, inclusive, govern the construction of this chapter.

Sec. 59. NRS 374.030 is hereby amended to read as follows:

374.030 1. “Gross receipts” means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the Department may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the county or has paid the use tax with respect to the property, and has resold the property before making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.

(c) The cost of transportation of the property before its sale to the purchaser.

2. The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale.

(b) All receipts, cash, credits and property of any kind.

(c) Any amount for which credit is allowed by the seller to the purchaser.

3. “Gross receipts” does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The sale price of property returned by customers when the full sale price is refunded either in cash or credit, but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The price received for labor or services used in installing or applying the property sold.

(d) The amount of any tax, not including any manufacturers’ or importers’ excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

~~[(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.]~~

4. For purposes of the sales tax, if the retailers establish to the satisfaction of the Department that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Sec. 60. NRS 374.040 is hereby amended to read as follows: 374.040 1. “Occasional

sale ” [~~,” except as otherwise provided in subsection 2,~~] includes:

(a) A sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller’s permit, provided such sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller’s permit.

(b) Any transfer of all or substantially all the property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.

~~2. [The term does not include the sale of a vehicle other than the sale or transfer of a used vehicle to the seller’s spouse, child, grandchild, parent, grandparent, brother or sister. For the purposes of this section, the relation of parent and child includes adoptive and illegitimate children and stepchildren.~~

~~3.]~~ For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the “real or ultimate ownership” of the property of such corporation or other entity.

Sec. 61. NRS 374.055 is hereby amended to read as follows:

374.055 1. “Retail sale” or “sale at retail” means a sale for any purpose other than resale in the regular course of business of tangible personal property. [The terms do not include a sale of property that:

(a) Meets the requirements of subparagraphs (1) and (2) of ~~paragraph (a) of subsection 4 of NRS 374.291;~~

(b) Is made available for sale within 2 years after it is acquired; and

(c) Is made available for viewing by the public or prospective purchasers, ~~or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.]~~

2. The delivery in a county of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in the county, is a retail sale in the county by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

Sec. 62. NRS 374.060 is hereby amended to read as follows: 374.060 1. “Retailer” includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making any retail sale of a vehicle or more than two retail sales of other tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of

whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

3. A licensed optometrist or physician is a consumer of, and shall not be considered, a retailer within the provisions of this chapter, with respect to the ophthalmic materials used or furnished by him in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.

Sec. 63. NRS 374.060 is hereby amended to read as follows:

374.060 1. "Retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making [any retail sale of a vehicle or] more than two retail sales of other tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

Sec. 64. NRS 374.070 is hereby amended to read as follows:

374.070 1. "Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold.

(b) The cost of the materials used, labor or service cost, interest charged, losses, or any other expenses.

(c) The cost of transportation of the property before its purchase.

2. The total amount for which property is sold includes all of the following:

(a) Any services that are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

3. "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit; but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

(d) The amount of any tax, [() not including [, however,] any manufacturers' or importers' excise tax, ()] imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any tax imposed by the State of Nevada upon or with respect to the storage, use or other consumption of tangible personal property purchased from any retailer.

~~[(f) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.]~~

4. For the purpose of a sale of a vehicle by a seller who is not required to be registered with the Department of Taxation, the sales price is the value established in the manner set forth in ~~NRS 374.112.]~~

Sec. 65. NRS 374.085 is hereby amended to read as follows: 374.085 "Storage, use or other consumption" does not include

‡

1. The] *the* keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the State for use thereafter solely outside the State, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the State and thereafter used solely outside the State . [; or

2. The keeping, retaining or exercising any right or power over ~~tangible property that:~~

(a) Meets the requirements of subparagraphs (1) and (2) of ~~paragraph (a) of subsection 4 of NRS 374.291;~~

(b) Is made available for sale within 2 years after it is acquired; and

(c) Is made available for viewing by the public or prospective purchasers, ~~or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.~~

Sec. 66. NRS 374.128 is hereby amended to read as follows:

374.128 1. If the State or a political subdivision of the State enters into a contract pursuant to chapter 332 or 333 of NRS on or after June 5, 2001, with a person who:

(a) Sells tangible personal property in this state; and

(b) Has not obtained a permit pursuant to NRS 374.130 ~~[because he does not maintain a place of business within this state,]~~ **or registered pursuant to section 9 of this act,**

the contract must include a provision requiring the person to obtain a permit pursuant to NRS 374.130 **or to register pursuant to section 9 of this act,** and to [agree to] collect and pay the taxes imposed pursuant to this chapter on the sale of tangible personal property in any county in this state. For the purposes of [the] *a* permit obtained pursuant to NRS 374.130, the person shall be deemed to have a place of business in each county in this state, but shall pay the fee for a single permit.

2. The Department may require a state agency or local government to submit such documentation as is necessary to ensure compliance with this section.

Sec. 67. 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 with the Department pursuant to section 9 of this act or** file with the Department an application for a permit for each place of business, unless he intends to sell vehicles and will make fewer than three retail sales of vehicles during any 12-month period.

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 signed by [the] :

(a) *The* owner if he is a natural person; ~~[in the case of an association or partnership, by a]~~

(b) *A* member or partner [; in the case of a corporation, by an] **if the seller is an association or partnership; or**

(c) *An* executive officer or some person specifically authorized [by the corporation] to sign the application [, to which must be attached the written evidence of his authority.] **if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.**

Sec. 68. 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 with the Department pursuant to section 9 of this act or file with the Department an application for a permit for each place of business . [, unless he intends to sell vehicles and will

~~make fewer than three retail sales of vehicles during any 12-month period.]~~

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 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 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. 69. NRS 374.165 is hereby amended to read as follows: 374.165 [The] **A resale** certificate relieves the seller from the burden of proof only if taken in good faith from a person who [is] :

1. **Is** engaged in the business of selling tangible personal property [and who holds the permit provided for in NRS 374.130 to ~~374.185, inclusive, and who, at~~];

2. **Is registered pursuant to section 9 of this act or holds a permit issued pursuant to NRS 374.140; and**

3. **At** the time of purchasing the tangible personal 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.

Sec. 70. NRS 374.170 is hereby amended to read as follows: 374.170 1. [The certificate shall:] **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 section 9 of this act 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 [shall] **must** be substantially in such form as the Department may prescribe.

Sec. 71. NRS 374.235 is hereby amended to read as follows:

374.235 [The] **A resale** certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who [is] :

1. **Is** engaged in the business of selling tangible personal property [and who holds the permit provided for by NRS 374.130 to ~~374.185, inclusive, and who, at~~];

2. **Is registered pursuant to section 9 of this act or holds a permit issued pursuant to NRS 374.140; and**

3. **At** the time of purchasing the tangible personal 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.

Sec. 72. NRS 374.240 is hereby amended to read as follows: 374.240 1. [The certificate shall:] **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 section 9 of this act 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 [shall] **must** be substantially in such form as

the Department may prescribe.

Sec. 73. NRS 374.287 is hereby amended to read as follows: 374.287 1. There are exempted from the taxes imposed by this chapter the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) [Any ophthalmic or ocular device or appliance prescribed by
a physician or optometrist.

-(e)] Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

(1) Any auditory, *ophthalmic or ocular* device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 74. NRS 374.360 is hereby amended to read as follows:

374.360 Except as *otherwise* provided in NRS 374.385 [,] *or required by the Department pursuant to section 9 of this act*, the taxes imposed by this chapter are due and payable to the Department monthly on or before the last day of the month next succeeding each month.

Sec. 75. NRS 374.365 is hereby amended to read as follows: 374.365 *Except as otherwise required by the Department pursuant to section 9 of this act:*

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form as the Department may prescribe. *Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapter 372 of NRS.*

2. For purposes of [the] :

(a) ~~The~~ sales tax a return must be filed by every seller. ~~[For purposes of the]~~

(b) ~~The~~ use tax a return must be filed by every retailer maintaining a place of business in the county and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due . ~~[to a retailer required to collect the tax.]~~

3. Returns must be signed by the person required to file the return or by his authorized agent but need not be verified by oath.

Sec. 76. NRS 374.370 is hereby amended to read as follows:

374.370 1. *Except as otherwise required by the Department pursuant to section 9 of this act or provided in sections 13 to 18, inclusive, of this act:*

(a) For the purposes of the sales tax: [(a)] (I) The return must show the gross receipts of the seller during the preceding reporting period.

[(b)] (2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

[(c)] (3) A sale pertains to the county in this state in which the tangible personal property is or will be delivered to the purchaser or his agent or designee.

[2.] (b) For purposes of the use tax:

[(a)] (I) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

[(b)] (2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

[(c)] (3) If the property was [brought] :

(I) *Brought* into this state by the purchaser or his agent or designee, the sale pertains to the county in this state in which the property is or will be first used, stored or otherwise consumed.

~~[Otherwise,]~~

(II) *Not brought into this state by the purchaser or his agent or designee*, the sale pertains to the county in this state in which the property was delivered to the purchaser or his agent or designee.

[3.] 2. In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this state in which the property was first used, stored or consumed.

[4.] 3. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

~~{5. If a retailer:~~

(a) ~~Is unable to collect all or part of the sales price of a sale, the amount of which was included in the gross receipts reported for a previous reporting period; and~~

(b) ~~Has taken a deduction on his federal income tax return pursuant to 26 U.S.C. § 166(a) for the amount which he is unable to collect;~~

~~he is entitled to receive a credit for the amount of sales tax paid on account of that uncollected sales price. The credit may be used against the amount of sales tax that the retailer is subsequently required to pay pursuant to this chapter.~~

6. ~~If the Internal Revenue Service of the Department of the Treasury disallows a deduction described in paragraph (b) of subsection 5 and the retailer claimed a credit on a return for a~~

~~previous reporting period pursuant to subsection 5, the retailer shall include the amount of that credit in the amount of taxes reported pursuant to subsection 4 in the first return filed with the Department after the deduction is disallowed.~~

~~7. If a retailer collects all or part of the sales price for which he claimed a credit on a return for a previous reporting period pursuant to subsection 5, he shall include:~~

~~(a) The amount collected in the gross receipts reported pursuant to paragraph (a) of subsection 1; and~~

~~(b) The sales tax payable on the amount collected in the amount of taxes reported pursuant to subsection 4, in the first return filed with the Department after that collection.~~

8.] **4.** Except as otherwise provided in subsection [9,] **5**, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

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

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

[9.] **5.** For the purposes of subsection [8,] **4**, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection [8.] **4**.

Sec. 77. NRS 374.375 is hereby amended to read as follows: 374.375 [The]

1. Except as otherwise provided in subsection 2, a taxpayer shall deduct and withhold from the taxes otherwise due from him 1.25 percent thereof to reimburse himself for the cost of collecting the tax.

2. The regulations adopted by the Department pursuant to NRS 360B.110 may authorize the deduction and withholding from the taxes otherwise due from a taxpayer such other amounts as are required to carry out the Streamlined Sales and Use Tax Agreement.

Sec. 78. NRS 374.380 is hereby amended to read as follows:

374.380 [The]

1. Except as otherwise required by the Department pursuant to section 9 of this act, the person required to file [the] a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed in NRS 353.1465.

Sec. 79. NRS 374.385 is hereby amended to read as follows:

374.385 1. [The] **Except as otherwise provided in subsection 2 or required by the Department pursuant to section 9 of this act, the reporting and payment period of a taxpayer whose taxable sales do not exceed \$10,000 per month is a calendar quarter.**

2. The Department, if it deems this action necessary in order to insure payment to or facilitate the collection by the county of the amount of taxes, may require returns and payment of the amount of taxes for periods other than calendar months or quarters, depending upon the principal place of business of the seller, retailer or purchaser as the case may be, or for other than monthly or quarterly periods.

Sec. 80. NRS 374.640 is hereby amended to read as follows: 374.640 Except as otherwise provided in NRS 360.235 and 360.395 [:] *and section 57 of this act:*

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

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

Sec. 81. NRS 374.7273 is hereby amended to read as follows:

374.7273 **1.** In administering the provisions of NRS 374.340, the Department shall apply the exemption for the sale of tangible personal property delivered by the vendor to a forwarding agent for shipment out of state to include:

[1.] *(a)* The sale of a vehicle to a nonresident to whom a special movement permit has been issued by the Department of Motor Vehicles pursuant to subsection 1 of NRS 482.3955; and

[2.] *(b)* The sale of farm machinery and equipment [, as defined in NRS 374.286,] to a nonresident who submits proof to the vendor that the farm machinery and equipment will be delivered out of state not later than 15 days after the sale.

2. As used in this section:

(a) "Agricultural use" has the meaning ascribed to it in NRS 361A.030.

(b) "Farm machinery and equipment" means a farm tractor, implement of husbandry, piece of equipment used for irrigation, or a part used in the repair or maintenance of farm machinery and equipment. The term does not include:

(1) A vehicle required to be registered pursuant to the provisions of chapter 482 or 706 of NRS; or

(2) Machinery or equipment only incidentally employed for the agricultural use of real property.

(c) "Farm tractor" means a motor vehicle designed and used primarily for drawing an implement of husbandry.

(d) "Implement of husbandry" means a vehicle that is designed, adapted or used for agricultural purposes, including, without limitation, a plow, machine for mowing, hay baler, combine, piece of equipment used to stack hay, till, harvest, handle agricultural commodities or apply fertilizers, or other heavy, movable equipment designed, adapted or used for agricultural purposes.

Sec. 82. NRS 374.785 is hereby amended to read as follows:

374.785 **1.** All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to counties under this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments in the State Treasury to the credit of the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall, each month, from the Sales and Use Tax Account in the State General Fund:

(a) Transfer .75 percent of all fees, taxes, interest and penalties collected in each county during the preceding month to the appropriate account in the State General Fund as compensation to the State for the costs of collecting the tax.

(b) Transfer .75 percent of all fees, taxes, interest and penalties collected during the preceding month from out-of-state businesses not maintaining a fixed place of business within this state to the appropriate account in the State General Fund as compensation to the State for the costs of collecting the tax.

(c) Determine for each county the amount of money equal to the fees, taxes, interest and penalties collected in the county pursuant to this chapter during the preceding month less the amount transferred pursuant to paragraph (a).

(d) Transfer the total amount of taxes collected pursuant to this chapter during the preceding month from out-of-state businesses not maintaining a fixed place of business within this state, less the amount transferred pursuant to paragraph (b), to the State Distributive School Account in the State General Fund.

(e) Except as otherwise provided in NRS 387.528, transfer the amount owed to each county to the Intergovernmental Fund and remit the money to the credit of the county school district fund.

~~[4. For the purpose of the distribution required by this section, the occasional sale of a vehicle shall be deemed to take place in the county to which the governmental services tax payable by the buyer upon that vehicle is distributed.]~~

Sec. 83. NRS 374A.020 is hereby amended to read as follows:

374A.020 1. The collection of the tax imposed by NRS 374A.010 must be commenced on the first day of the first calendar quarter that begins at least [30] **120** days after the last condition in subsection 1 of NRS 374A.010 is met.

2. The tax must be administered, collected and distributed in the manner set forth in chapter 374 of NRS.

3. The board of trustees of the school district shall transfer the proceeds of the tax imposed by NRS 374A.010 from the county school district fund to the fund described in NRS 354.6105 which must be established by the board of trustees. The money deposited in the fund described in NRS 354.6105 pursuant to this subsection must be accounted for separately in that fund and must only be expended by the board of trustees for the cost of the extraordinary maintenance, extraordinary repair and extraordinary improvement of school facilities within the county.

Sec. 84. NRS 376A.060 is hereby amended to read as follows: 376A.060 Any ordinance enacted pursuant to NRS 376A.040 or 376A.050 must include:

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

2. A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with the chapter, automatically become a part of the ordinance imposing the tax.

3. *A provision that specifies the date on which the tax is first imposed or on which any change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter*

Sec. 85. NRS 377.030 is hereby amended to read as follows: 377.030 1. The board of county commissioners shall enact an ordinance imposing a city-county relief tax.

2. The ordinance enacted pursuant to this section must provide that the city-county relief tax be imposed on the first day of the first

[month following] *calendar quarter that begins at least 120 days after the effective date of the ordinance.*

Sec. 86. NRS 377.055 is hereby amended to read as follows: 377.055 ~~[-]~~ The Department shall monthly determine for each county an amount of money equal to the sum of:

[(a)] **1.** Any fees and any taxes, interest and penalties which derive from the basic city-county relief tax collected in that county pursuant to this chapter during the preceding month, less the corresponding amount transferred to the State General Fund pursuant to subsection 3 of NRS 377.050; and

[(b)] **2.** That proportion of the total amount of taxes which derive from that portion of the tax levied at the rate of one-half of 1 percent collected pursuant to this chapter during the preceding

month from out-of-state businesses not maintaining a fixed place of business within this state, less the corresponding amount transferred to the State General Fund pursuant to subsection 3 of NRS 377.050, which the population of that county bears to the total population of all counties which have in effect a city-county relief tax ordinance, and deposit the money in the Local Government Tax Distribution Account created by NRS 360.660 for credit to the respective subaccounts of each county.

~~{2. For the purpose of the distribution required by this section, the occasional sale of a vehicle shall be deemed to take place in the county to which the governmental services tax payable by the buyer upon that vehicle is distributed.}~~

Sec. 87. NRS 377A.020 is hereby amended to read as follows:

377A.020 1. The board of county commissioners of any county may enact an ordinance imposing a tax for a public transit system or for the construction, maintenance and repair of public roads, or both, pursuant to NRS 377A.030. The board of county commissioners of any county whose population is less than 400,000 may enact an ordinance imposing a tax to promote tourism pursuant to NRS 377A.030.

2. An ordinance enacted pursuant to this chapter may not become effective before a question concerning the imposition of the tax is approved by a majority of the registered voters of the county voting upon the question which the board may submit to the voters at any general election. A county may combine the questions for a public transit system and for the construction, maintenance and repair of public roads with questions submitted pursuant to NRS 244.3351, 278.710 or 371.045, or any combination thereof. The board shall also submit to the voters at a general election any proposal to increase the rate of the tax or change the previously approved uses for the proceeds of the tax.

3. Any ordinance enacted pursuant to this section must specify the date on which the tax must first be imposed or on which an increase in the rate of the 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 approval of the question by the voters.

Sec. 88. NRS 377A.030 is hereby amended to read as follows:

377A.030 Except as otherwise provided in NRS 377A.110, any ordinance enacted under this chapter must include provisions in substance as follows:

1. A provision imposing a tax upon retailers at the rate of not more than:

(a) For a tax to promote tourism, one-quarter of 1 percent; or
(b) For a tax to establish and maintain a public transit system or for the construction, maintenance and repair of public roads, or both, one-half of 1 percent, of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in a county.

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

3. A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of an ordinance imposing the tax for public mass transportation and construction of public roads or the tax to promote tourism in the county.

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

5. A provision that ~~[exempts from the tax or any increase in 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 a county of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property, entered into on or before the effective date of the tax or the increase in the tax, or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the tax or the increase in the tax.

Sec. 89. NRS 377A.110 is hereby amended to read as follows:

377A.110 1. Subject to the provisions of subsection 2, the board may gradually reduce the amount of tax imposed pursuant to this chapter for a public transit system or for the construction, maintenance and repair of public roads, or both, as revenue from the operation of the public transit system permits. *The date on which any reduction in the tax becomes effective must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance reducing the amount of tax imposed.*

2. No such taxing ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds issued under this chapter, or other obligations incurred under this chapter, until all obligations, for which revenues from the ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter, have been discharged in full, but the board may at any time dissolve the regional transportation commission and provide that no further obligations be incurred thereafter.

Sec. 90. NRS 377B.100 is hereby amended to read as follows:

377B.100 1. The board of county commissioners of any county may by ordinance, but not as in a case of emergency, impose a tax for infrastructure pursuant to this section and NRS 377B.110.

2. An ordinance enacted pursuant to this chapter may not become effective before a question concerning the imposition of the tax is approved by a two-thirds majority of the members of the board of county commissioners. Any proposal to increase the rate of the tax or change the previously approved uses for the proceeds of the tax must be approved by a two-thirds majority of the members of the board of county commissioners. The board of county commissioners shall not change a previously approved use for the proceeds of the tax to a use that is not authorized for that county pursuant to NRS 377B.160.

3. An ordinance enacted pursuant to this section must:

(a) Specify the date on which the tax must first be imposed or on which an increase in the rate of the tax becomes effective, which must occur on the first day of the first month of the next calendar quarter that is at least [60] **120** days after the date on which a two-thirds majority of the board of county commissioners approved the question.

(b) In a county whose population is 400,000 or more, provide for the cessation of the tax not later than:

(1) The last day of the month in which the Department determines that the total sum collected since the tax was first imposed, exclusive of any penalties and interest, exceeds \$2.3 billion; or

(2) June 30, 2025, whichever occurs earlier.

4. The board of county commissioners in a county whose population is 400,000 or more and in which a water authority exists shall review the necessity for the continued imposition of the tax authorized pursuant to this chapter at least once every 10 years.

5. Before enacting an ordinance pursuant to this chapter, the board of county commissioners shall hold a public hearing regarding the imposition of a tax for infrastructure. In a county whose population is 400,000 or more and in which a water authority exists, the water authority shall also hold a public hearing regarding the tax for infrastructure. Notice of the time and place of each hearing must be:

(a) Published in a newspaper of general circulation in the county at least once a week for the 2 consecutive weeks immediately preceding the date of the hearing. Such notice must be a display advertisement of not less than 3 inches by 5 inches.

(b) Posted at the building in which the meeting is to be held and at not less than three other separate, prominent places within the county at least 2 weeks before the date of the hearing.

6. Before enacting an ordinance pursuant to this chapter, the board of county commissioners of a county whose population is less than 400,000 or a county whose population is 400,000 or more and in which no water authority exists, shall develop a plan for the expenditure of the proceeds of a tax imposed pursuant to this chapter for the purposes set forth in NRS 377B.160. The plan may include a regional project for which two or more such counties have entered into an interlocal agreement to expend jointly all or a portion of the proceeds of a tax imposed in each county pursuant to this chapter. Such a plan must include, without limitation, the date on which the plan expires, a description of each proposed project, the method of financing each project and the costs related to each project. Before adopting a plan pursuant to this subsection, the board of county commissioners of a county in which a regional planning commission has been established pursuant to NRS 278.0262 shall transmit to the regional planning commission a list of the proposed projects for which a tax for infrastructure may be imposed. The regional planning commission shall hold a public hearing at which it shall rank each project in relative priority. The regional planning commission shall transmit its rankings to the board of county commissioners. The recommendations of the regional planning commission regarding the priority of the proposed

projects are not binding on the board of county commissioners. The board of county commissioners shall hold at least one public hearing on the plan. Notice of the time and place of the hearing must be provided in the manner set forth in subsection 5. The plan must be approved by the board of county commissioners at a public hearing. Subject to the provisions of subsection 7, on or before the date on which a plan expires, the board of county commissioners shall determine whether a necessity exists for the continued imposition of the tax. If the board determines that such a necessity does not exist, the board shall repeal the ordinance that enacted the tax. If the board of county commissioners determines that the tax must be continued for a purpose set forth in NRS 377B.160, the board shall adopt, in the manner prescribed in this subsection, a new plan for the expenditure of the proceeds of the tax for such a purpose.

7. No ordinance imposing a tax which is enacted pursuant to this chapter may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds or other obligations which are payable from or secured by a pledge of a tax enacted pursuant to this chapter until those bonds or other obligations have been discharged in full.

Sec. 91. NRS 377B.110 is hereby amended to read as follows: 377B.110 An ordinance enacted pursuant to this chapter must include provisions in substance as follows:

1. A provision imposing a tax upon retailers at the rate of not more than:

(a) In a county whose population is 100,000 or more but less than 400,000, one-eighth of 1 percent; or

(b) In all other counties, one-quarter of 1 percent, of 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.

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

3. A provision that all amendments to chapter 374 of NRS after the date of enactment of the

ordinance, not inconsistent with this chapter, automatically become a part of an ordinance enacted pursuant to this chapter.

4. A provision stating the specific purpose for which the proceeds of the tax must be expended.

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

6. A provision that [exempts from the tax or any increase in 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 a county of, tangible personal property used for the performance of a written contract:

(a) Entered into on or before the effective date of the tax or the increase in the tax; or

(b) For the construction of an improvement to real property for which a binding bid was submitted before the effective date of the tax or the increase in the tax if the bid was afterward accepted, if, under the terms of the contract or bid, the contract price or bid amount cannot be adjusted to reflect the imposition of the tax or the increase in the tax.

Sec. 92. NRS 354.705 is hereby amended to read as follows:

354.705 1. As soon as practicable after the Department takes over the management of a local government, the Executive Director shall:

(a) Determine the total amount of expenditures necessary to allow the local government to perform the basic functions for which it was created;

(b) Determine the amount of revenue reasonably expected to be available to the local government; and

(c) Consider any alternative sources of revenue available to the local government.

2. If the Executive Director determines that the available revenue is not sufficient to provide for the payment of required debt service and operating expenses, he may submit his findings to the Committee who shall review the determinations made by the Executive Director. If the Committee determines that additional revenue is needed, it shall prepare a recommendation to the Nevada Tax Commission as to which one or more of the following additional taxes or charges should be imposed by the local government:

(a) The levy of a property tax up to a rate which when combined with all other overlapping rates levied in the State does not exceed \$4.50 on each \$100 of assessed valuation.

(b) An additional tax on transient lodging at a rate not to exceed 1 percent of the gross receipts from the rental of transient lodging within the boundaries of the local government upon all persons in the business of providing lodging. Any such tax must be collected and administered in the same manner as all other taxes on transient lodging are collected by or for the local government.

(c) Additional service charges appropriate to the local government.

(d) If the local government is a county or has boundaries that are coterminous with the boundaries of the county:

(1) An additional tax on the gross receipts from the sale or use of tangible personal property not to exceed one quarter of 1 percent throughout the county. The ordinance imposing any such tax must [include] :

(I) *Include* provisions in substance which comply with the requirements of subsections 2 to 5, inclusive, of NRS 377A.030.

(II) *Specify the date on which the tax must first be imposed or on which a change in the*

rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

(2) An additional governmental services tax of not more than 1 cent on each \$1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county on each vehicle based in the county except those vehicles exempt from the governmental services tax imposed pursuant to chapter 371 of NRS or a vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations. As used in this subparagraph, "based" has the meaning ascribed to it in NRS 482.011.

3. Upon receipt of the plan from the Committee, a panel consisting of three members of the Nevada Tax Commission appointed by the Nevada Tax Commission and three members of the Committee appointed by the Committee shall hold a public hearing at a location within the boundaries of the local government in which the severe financial emergency exists after giving public notice of the hearing at least 10 days before the date on which the hearing will be held. In addition to the public notice, the panel shall give notice to the governing body of each local government whose jurisdiction overlaps with the jurisdiction of the local government in which the severe financial emergency exists.

4. After the public hearing conducted pursuant to subsection 3, the Nevada Tax Commission may adopt the plan as submitted or adopt a revised plan. Any plan adopted pursuant to this section must include the duration for which any new or increased taxes or charges may be collected which must not exceed 5 years.

5. Upon adoption of the plan by the Nevada Tax Commission, the local government in which the severe financial emergency exists shall impose or cause to be imposed the additional taxes and charges included in the plan for the duration stated in the plan or until the severe financial emergency has been determined by the Nevada Tax Commission to have ceased to exist.

6. The allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811 does not apply to any additional property tax levied pursuant to this section.

7. If a plan fails to satisfy the expenses of the local government to the extent expected, the Committee shall report such failure to:

- (a) The county for consideration of absorption of services; or
- (b) If the local government is a county, to the next regular session of the Legislature.

Sec. 93. NRS 482.225 is hereby amended to read as follows:

482.225 1. When application is made to the Department for registration of a vehicle purchased [in this state from a person other than a retailer required to be registered with the Department of Taxation or of a vehicle purchased] outside this state and not previously registered within this state where the registrant or owner at the time of purchase was not a resident of or employed in this state, the Department or its agent shall determine and collect any sales or use tax due and shall remit the tax to the Department of Taxation except as otherwise provided in NRS 482.260.

2. If the registrant or owner of the vehicle was a resident of the State, or employed within the State, at the time of the purchase of that vehicle, it is presumed that the vehicle was purchased for use within the State and the representative or agent of the Department of Taxation shall collect the tax and remit it to the Department of Taxation.

3. Until all applicable taxes and fees are collected, the Department shall refuse to register the vehicle.

4. In any county whose population is less than 50,000, the Department shall designate the county assessor as the agent of the Department for the collection of any sales or use tax.

5. If the registrant or owner desires to refute the presumption stated in subsection 2 that he purchased the vehicle for use in this state, he must pay the tax to the Department and then

may submit his claim for exemption in writing, signed by him or his authorized representative, to the Department together with his claim for refund of tax erroneously or illegally collected.

6. If the Department finds that the tax has been erroneously or illegally collected, the tax must be refunded.

Sec. 94. Section 29 of the Local Government Tax Act of 1991, being chapter 491, Statutes of Nevada 1991, as amended by chapter 426, Statutes of Nevada 1993, at page 1370, is hereby amended to read as follows:

Sec. 29. 1. Except as otherwise provided in this section and in section 34 of this Act and in addition to all other sales and use taxes, the Board of County Commissioners of Churchill, Elko, Humboldt, Washoe and Lander Counties and the Board of Supervisors of Carson City may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to 1/4 of 1 percent of 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.

2. The tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. The ordinance enacted pursuant to this section must include provisions in substance as follows:

(a) Provisions substantially identical to those of the Local School Support Tax Law, insofar as applicable.

(b) A provision that all amendments to the provisions of the Local School Support Tax Law subsequent to the date of enactment of the ordinance, not inconsistent with this section, automatically become a part of the ordinance enacted pursuant to subsection 1.

(c) A provision that the county shall contract before the effective date of the ordinance enacted pursuant to subsection 1 with the Department to perform all functions incident to the administration or operation of the tax imposed pursuant to subsection 1.

(d) A provision that ~~[exempts from the additional one quarter of one percent tax increase authorized pursuant to this section, 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 a county of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property which was executed before July 30, 1991, or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the additional tax pursuant to this section.

(e) A provision that specifies the date on which the tax is first imposed or on which any change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the county under this section must be paid to the Department of Taxation in the form of remittances made payable to the Department of Taxation.

5. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the tax distribution fund for the county in which it was collected.

6. Any ordinance enacted pursuant to this section is deemed to include the provisions set forth in paragraph (d) of subsection 3.

Sec. 95. Section 9 of chapter 566, Statutes of Nevada 1993, at page 2329, is hereby amended to read as follows:

Sec. 9. 1. The Commission shall adopt a budget for its operation and for each project it proposes for presentation to the governing bodies. Each budget must be accompanied by a

proposed allocation of the net cost of the budget among the governing bodies which must be based upon the benefit of the commission or project to the jurisdiction of the governing body or another equally appropriate indicator.

2. Upon final determination and allocation of the costs by agreement of the governing bodies, each governing body shall include its portion of the costs in its budget for the purposes of chapter 354 of NRS and shall fund its share of the cost by:

- (a) Issuing bonds pursuant to chapter 350 of NRS;
- (b) Imposing an additional tax on the rental of transient lodging;
- (c) Upon approval by the voters, imposing an additional tax upon retailers at a rate not exceeding one-half of 1 percent of the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed in the county;
- (d) Upon approval of the voters, levying a property tax not exceeding 2 cents per \$100 of assessed valuation on all taxable property in the county; or

(e) Any combination of the options provided in paragraphs (a) to (d), inclusive, including the issuance of bonds which will be repaid from the revenue of one or more of the taxes authorized in this section which may be treated as pledged revenues for the purposes of NRS 350.020.

3. If the county imposes a tax pursuant to paragraph (c) of subsection 2 it shall include in the ordinance imposing the tax:

- (a) Provisions substantially identical to those contained in chapter 374 of NRS;
- (b) A provision stating that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with the provisions of the ordinance, automatically become a part of the ordinance;

(c) A provision that the county shall contract before the effective date of the ordinance with the Department to perform all functions incident to the administration or operation of the tax in the county; and

(d) The date on which the tax must first be imposed, 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 adoption of the ordinance by the governing body.

4. The Commission is not entitled to a distribution of revenue from the supplemental city-county relief tax.

Sec. 96. Section 3 of the Elko County Hospital Tax Act, being chapter 14, Statutes of Nevada 1997, at page 29, is hereby amended to read as follows:

Sec. 3. 1. The Board may enact an ordinance imposing a tax for the construction of a hospital pursuant to section 4 of this Act.

2. A tax so imposed may be collected for not more than 4 years after the date upon which it is first imposed. The ending date of the tax must be specified in the ordinance.

3. An ordinance enacted pursuant to this act may not become effective before a question concerning the imposition of the tax is approved by a majority of the registered voters of Elko County voting upon the question. The Board may submit the question to the voters at a special election held at the same time and places as a municipal election or at a general election. The Board shall also submit to the voters at such a special or general election any proposal to increase the rate of the tax or change the previously approved uses for the proceeds of the tax.

4. Any ordinance enacted pursuant to this section must specify the date on which the tax must first be imposed or on which an increase in the rate of the 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 approval of the question by the voters.

Sec. 97. Section 4 of the Elko County Hospital Tax Act, being chapter 14, Statutes of Nevada 1997, at page 30, is hereby amended to read as follows:

Sec. 4. Except as otherwise provided in section 12 of this Act, any ordinance adopted pursuant to this Act, except an ordinance authorizing the issuance of bonds or other securities, must include provisions in substance as follows:

1. A provision imposing a tax upon retailers at the rate of not more than 1 percent of the gross receipts of any retailer

from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in Elko County.

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

3. A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this act, automatically become a part of an ordinance imposing the taxes.

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

5. A provision that ~~[exempts from the tax or any increase in 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 a county of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property, entered into on or before the effective date of the tax or the increase in the tax, or for which a binding bid was submitted before that date if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the tax or the increase in the tax.

Sec. 98. Section 13 of the Elko County Hospital Tax Act, being chapter 14, Statutes of Nevada 1997, at page 32, is hereby amended to read as follows:

Sec. 13. 1. Subject to the provisions of subsection 2, the Board may gradually reduce the amount of the tax imposed pursuant to this Act. ***The date on which any reduction in the tax becomes effective must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance reducing the amount of the tax imposed.***

2. No such taxing ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds issued pursuant to this Act, or other obligations incurred pursuant to this Act, until all obligations, for which revenues from the ordinance have been pledged or otherwise made payable from such revenues pursuant to this act, have been discharged in full.

Sec. 99. Section 8A.080 of the Charter of Carson City, being chapter 16, Statutes of Nevada 1997, at page 43, is hereby amended to read as follows:

Sec. 8A.080 Required provisions of ordinance. An ordinance enacted pursuant to this article, except an ordinance authorizing the issuance of bonds or other securities, must include provisions in substance as follows:

1. A provision imposing a tax of not more than one-quarter of 1 percent of the gross receipts of any retailer from the sale of all personal property sold at retail, or stored, used or otherwise consumed in Carson City.

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 after the date of enactment of the ordinance, not inconsistent with this article, automatically becomes a part of the ordinance imposing the tax.

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

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 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 is first imposed or on which any changes in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

Sec. 100. Section 24 of the Railroad Grade Separation Projects Act, being chapter 506, Statutes of Nevada 1997, as last amended by chapter 28, Statutes of Nevada 1999, at page 64, is hereby amended to read as follows:

Sec. 24. 1. The Board of County Commissioners of Washoe County may by ordinance, but not as in a case of emergency, impose a tax upon the retailers at the rate of not more than one-eighth of 1 percent of 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 if:

(a) The City of Reno imposes a tax on the rental of transient lodging pursuant to NRS 268.7845 in the maximum amount allowed by that section; and

(b) The Board receives a written commitment from one or more sources for the expenditure of not less than one-half of the total cost of a project for the acquisition, establishment, construction or expansion of railroad grade separation projects in Washoe County, including the estimated proceeds of the tax described in paragraph (a).

2. An ordinance enacted pursuant to subsection 1 may not become effective before a question concerning the imposition of the tax is approved by a two-thirds majority of the members of the Board of County Commissioners.

3. An ordinance enacted pursuant to subsection 1 must specify the date on which the tax must first be imposed which must occur on the first day of the first month of the next calendar quarter that is at least [60] **120** days after the date on which a two-thirds majority of the Board of County Commissioners approved the question.

4. An ordinance enacted pursuant to subsection 1 must include provisions in substance as follows:

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

(b) A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this section, automatically become a part of an ordinance enacted pursuant to subsection 1.

(c) A provision stating the specific purpose for which the proceeds of the tax must be expended.

(d) 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 a county of, tangible personal property used for the performance of a written contract:

(1) Entered into on or before the effective date of the tax; or

(2) For the construction of an improvement to real property for which a binding bid was submitted before the effective date of the tax if the bid was afterward accepted, if under the terms of the contract or bid the contract price or bid amount cannot be adjusted to reflect the imposition of the tax.

5. No ordinance imposing a tax which is enacted pursuant to subsection 1 may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair any outstanding bonds or other obligations which are payable from or secured by a pledge of a tax enacted pursuant to subsection 1 until those bonds or other obligations have been discharged in full.

6. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation.

7. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

8. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund a percentage of all fees, taxes, interest and penalties collected pursuant to this section during the preceding month as compensation to the state for the cost of collecting the taxes. The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785 but the percentage must be applied to the proceeds collected pursuant to this section only.

(b) Determine for the County an amount of money equal to any fees, taxes, interest and penalties collected in or for the county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for the County to the intergovernmental fund and remit the money to the County Treasurer.

9. The County Treasurer shall deposit the money received pursuant to subsection 8 in the County Treasury for credit to a fund to be known as the Railroad Grade Separation Projects Fund. The Railroad Grade Separation Projects Fund must be accounted for as a separate fund and not as a part of any other fund.

10. The money in the Railroad Grade Separation Projects Fund, including interest and any other income from the Fund must be used by the Board of County Commissioners for the cost of the acquisition, establishment, construction or expansion of one or more railroad grade separation projects, including the payment and prepayment of principal and interest on notes, bonds or other obligations issued to fund such projects.

Sec. 101. Section 18 of the Douglas County Sales and Use Tax Act of 1999, being chapter 37, Statutes of Nevada 1999, at page 83, is hereby amended to read as follows:

Sec. 18. An ordinance enacted pursuant to this act, except an ordinance authorizing the issuance of bonds or other securities, must include provisions in substance as follows:

1. A provision imposing a tax of not more than one-quarter of 1 percent of 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.

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 before the effective date of the ordinance with the Department 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 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 is first imposed or on which any change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.***

Sec. 102. Section 24 of chapter 364, Statutes of Nevada 2001, at page 1716, is hereby amended to read as follows:

Sec. 24. 1. This section, sections 1 to 13, inclusive, and 17 to 23, inclusive, of this act become effective upon passage and approval.

2. [Sections 14, 15 and] **Section** 16 of this act [become] ***becomes*** effective on the date this state becomes a member of the streamlined sales and use tax agreement.

3. Sections 14 and 15 of this act become effective on January 1, 2006.

Sec. 103. At the general election on November 2, 2004, 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. 104. 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. 105. 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 2, 2004, 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 762, is hereby amended by adding thereto three new sections to be designated as sections 18.2, 47.4 and 47.5, respectively, immediately following sections 18.1 and 47, respectively, to read as follows:

Sec. 18.2. *“Vehicle” has the meaning ascribed to it in NRS 482.135.*

Sec. 47.4. *1. For the purposes of this section, “authorized appraisal” means an appraisal of the value of a motor vehicle made by:*

- (a) An employee of the Department of Motor Vehicles on its behalf;*
- (b) A county assessor or his employee as an agent of the Department of Motor Vehicles;*
- (c) A person licensed by the Department of Motor Vehicles as a dealer; or*
- (d) An independent appraiser authorized by the Department of Motor Vehicles.*

2. When computing the tax on the sale of a vehicle by a seller who is not required to be registered by the Department of Taxation, the Department of Motor Vehicles or the county assessor as an agent of the Department of Taxation shall, if an authorized appraisal is submitted, use as the vehicle’s sales price the amount stated on the authorized appraisal or \$100, whichever is greater.

3. The Department of Motor Vehicles shall establish by regulation the procedure for appraising vehicles and shall establish and make available a form for an authorized appraisal.

4. The Department of Motor Vehicles shall retain a copy of the appraisal considered pursuant to subsection 2 with its record of the collection of the tax.

5. A fee which does not exceed \$10 may be charged and collected for each authorized appraisal made. Any money so collected by the Department of Motor Vehicles for such an appraisal made by its employees must be deposited with the State Treasurer to the credit of the Motor Vehicle Fund. Any money so collected by a county assessor must be deposited with the county treasurer to the credit of the county’s general fund.

6. If an authorized appraisal is not submitted, the Department of Motor Vehicles or the county assessor as an agent of the Department of Taxation shall establish the sales price as a value which is based on the depreciated value of the vehicle as determined in accordance with the schedule in section 47.5 of chapter 397, Statutes of Nevada 1955. To determine the original price from which the depreciation is calculated, the Department of Motor Vehicles shall use:

- (a) The manufacturer’s suggested retail price in Nevada, excluding options and extras, as of the time the particular make and year model is first offered for sale in Nevada;*
- (b) If the vehicle is specially constructed, the original retail price to the original purchaser of the vehicle as evidenced by such document or documents as the Department may require;*
- (c) The procedures set forth in subsections 3 and 4 of NRS 371.050; or*
- (d) If none of these applies, its own estimate from any available information.*

Sec. 47.5. *1. Except as otherwise provided in subsection 2, for the purpose of computing the tax on the sale of a vehicle by a seller who is not required to be registered with the Department of Taxation in the manner provided for in subsection 6 of section 47.4 of chapter 397, Statutes of Nevada 1955, a vehicle must be depreciated according to the following schedule:*

		Percentage		of
Age		Initial		Value
New		.....	100	percent
1	year	.....	85	percent
2	years	.....	75	percent
3	years	.....	65	percent
4	years	.....	60	percent

5	years	.....	55	percent
6	years	.....	50	percent
7	years	.....	45	percent
8	years	.....	40	percent
9	years	.....	35	percent
10	years	.....	30	percent
11	years	.....	25	percent
12	years	.....	20	percent
13	years	.....	15	percent
14	years	or more	10	percent

2. The amount of depreciation calculated under subsection 1 must be rounded to the nearest whole multiple of \$20 and the depreciated value must not be reduced below \$100.

Sec. 2. Section 11 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 764, is hereby amended to read as follows:

Sec. 11. 1. "Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold.

(b) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.

(c) The cost of transportation of the property prior to its purchase.

2. The total amount for which property is sold includes all of the following:

(a) Any services that are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

3. "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

(d) The amount of any tax, [() not including [, however,] any manufacturers' or importers' excise tax, ()] imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle that is taken in trade on the purchase of another vehicle.

4. For the purpose of a sale of a vehicle by a seller who is not required to be registered with the Department of Taxation, the sales price is the value established in the manner set forth in section 47.4 of chapter 397, Statutes of Nevada 1955.

Sec. 3. Section 12 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 764, is hereby amended to read as follows:

Sec. 12. 1. "Gross receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the Tax Commission may prescribe, a deduction may be taken if the retailer has purchased

property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold the property [prior to] **before** making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.

(c) The cost of transportation of the property [prior to] **before** its sale to the purchaser.

2. The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale.

(b) All receipts, cash, credits and property of any kind.

(c) Any amount for which credit is allowed by the seller to the purchaser.

3. "Gross receipts" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) [Sale] **The sale** price of property returned by customers when the full sale price is refunded either in cash or credit, [:] but this exclusion [shall] **does** not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The price received for labor or services used in installing or applying the property sold.

(d) The amount of any tax, [(] not including [, however,] any manufacturers' or importers' excise tax, [)] imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.

4. For purposes of the sales tax, if the retailers establish to the satisfaction of the Tax Commission that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Sec. 4. Section 15 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 765, is hereby amended to read as follows:

Sec. 15. 1. "Retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making **any retail sale of a vehicle or** more than two retail sales of **other** tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the Tax Commission determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors or

employers as retailers for purposes of this chapter.

~~{3. A licensed optometrist or physician and surgeon is a consumer of, and shall not be considered, a retailer within the provisions of this chapter, with respect to the ophthalmic materials used or furnished by him in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.}~~

Sec. 5. Section 18.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 766, is hereby amended to read as follows:

Sec. 18.1 NRS 372.035 is hereby amended to read as follows:

372.035 1. "Occasional sale" includes:

(a) A sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller's permit, [provided such] **if the** sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit.

(b) Any transfer of all or substantially all the property held or used by a person in the course of such an activity when after [such] **the** transfer the real or ultimate ownership of [such] **the** property is substantially similar to that which existed before [such] **the** transfer.

2. The term does not include the sale of a vehicle other than the sale or transfer of a used vehicle to the seller's spouse, child, grandchild, parent, grandparent, brother or sister. For the purposes of this section, the relation of parent and child includes adoptive and illegitimate children and stepchildren.

3. For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity. Sec. 6. Section 56.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 306, Statutes of Nevada 1969, at page 532, and amended by chapter 627, Statutes of Nevada 1985, at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at page 1007, is hereby amended to read as follows:

Sec. 56.1. 1. There are exempted from the taxes imposed by this act the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) **Any ophthalmic or ocular device or appliance prescribed by a physician or optometrist.**

(e) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal

application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

- (1) Any auditory [, ophthalmic or ocular] device or appliance.
- (2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.
- (3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.
- (4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section. Sec. 7. 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 56.3, immediately following section 56.2, to read as follows:

Sec. 56.3. 1. There are exempted from the taxes imposed by this Act the gross receipts from the sale of, and the storage, use or other consumption in a county of, farm machinery and equipment employed for the agricultural use of real property.

2. As used in this section:

(a) "Agricultural use" has the meaning ascribed to it in NRS 361A.030.

(b) "Farm machinery and equipment" means a farm tractor, implement of husbandry, piece of equipment used for irrigation, or a part used in the repair or maintenance of farm machinery and equipment. The term does not include:

(1) A vehicle required to be registered pursuant to the provisions of chapter 482 or 706 of NRS; or

(2) Machinery or equipment only incidentally employed for the agricultural use of real property.

(c) "Farm tractor" means a motor vehicle designed and used primarily for drawing an implement of husbandry.

(d) "Implement of husbandry" means a vehicle that is designed, adapted or used for agricultural purposes, including, without limitation, a plow, machine for mowing, hay baler, combine, piece of equipment used to stack hay, till, harvest, handle agricultural commodities or apply fertilizers, or other heavy, movable equipment designed, adapted or used for agricultural purposes.

Sec. 8. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 762, is hereby amended by adding thereto two new sections to be designated as sections 57.1 and 57.2, respectively, immediately following section 57, to read as follows:

Sec. 57.1. 1. Except as otherwise provided in section 57.2 of chapter 397, Statutes of Nevada 1955, there are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption of, works of fine art for public display.

2. In determining whether a payment made pursuant to a lease of a work of fine art is exempt under subsection 1, the value for the purpose of paragraph (a) of subsection 4 is the value of the work and not the value of possession for the term of the lease, and the calendar or fiscal year described in paragraph (a) of subsection 4 is the first full calendar or fiscal year, respectively, after the payment is made.

3. During the first full fiscal year following the purchase of fine art for which a taxpayer receives the exemption provided in this section, the taxpayer shall make available, upon written request and without charge to any public school as defined in NRS 385.007, private school as defined in NRS 394.103 and parent of a child who receives instruction in a home pursuant to NRS 392.070, one copy of a poster depicting the fine art that the facility has on public display and that the facility makes available for purchase by the public at the time of the request.

4. As used in this section:

(a) "Fine art for public display":

(I) Except as otherwise provided in subparagraph (2), means a work of art which:

(I) Is an original painting in oil, mineral, water colors, vitreous enamel, pastel or other medium, an original mosaic, drawing or sketch, an original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a similar material, an original work of mixed media or a lithograph;

(II) Is purchased in an arm's length transaction for \$25,000 or more, or has an appraised value of \$25,000 or more;

(III) Will be on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of the first full calendar year after the date on which it is purchased or, if the facility displaying the fine art disposes of it before the end of that year, during at least two-thirds of the full weeks during which the facility had possession of it, or if the gallery, museum, or other building or area in which the fine art will be displayed will not be opened until after the beginning of the first full calendar year after the date on which the fine art is purchased, these display requirements must instead be met for the first full fiscal year after the date of opening, and the date of opening must not be later than 2 years after the purchase of the fine art being displayed; and

(IV) Will be on display in a facility that is available for group tours by pupils or students for at least 5 hours on at least 60 days of the first full fiscal year after the purchase of the fine art, during which the facility in which it is displayed is open, by prior appointment and at reasonable times, without charge; and

(2) Does not include:

(I) A work of fine art that is a fixture or an improvement to real property;

(II) Materials purchased by an artist for consumption in the production of a work of art that is to be a fixture or an improvement to real property;

(III) A work of fine art that constitutes a copy of an original work of fine art, unless the work is a lithograph that is a limited edition and that is signed and numbered by the artist;

(IV) Products of filmmaking or photography, including, without limitation, motion pictures;

(V) Literary works;

(VI) Property used in the performing arts, including, without limitation, scenery or props for a stage; or

(VII) Property that was created for a functional use other than, or in addition to, its aesthetic qualities, including, without limitation, a classic or custom-built automobile or boat, a sign that advertises a business, and custom or antique furniture, lamps, chandeliers, jewelry, mirrors, doors or windows.

(b) "Public display" means the display of a work of fine art where members of the public have access to the work of fine art for viewing during publicly advertised hours. The term does not include the display of a work of fine art in an area where the public does not generally have access, including, without limitation, a private office, hallway or meeting room of a

business, a room of a business used for private lodging and a private residence.

(c) "Pupil" means a person who:

(1) Is enrolled for the current academic year in a public school as defined in NRS 385.007 or a private school as defined in NRS 394.103; or

(2) Receives instruction in a home and is excused from compulsory attendance pursuant to NRS 392.070.

(d) "Student" means a person who is enrolled for the current academic year in:

(1) A community college or university; or

(2) A licensed postsecondary educational institution as defined in NRS 394.099 and a course concerning fine art.

Sec. 57.2. 1. A taxpayer may collect an admission fee for the exhibition of fine art otherwise exempt from taxation on its sale, storage, use or other consumption pursuant to section 57.1 of chapter 397, Statutes of Nevada 1955, if the taxpayer offers to residents of the State of Nevada a discount of 50 percent from any admission fee charged to nonresidents. The discounted admission fee for residents must be offered at any time the exhibition is open to the public and admission fees are being charged.

2. If a taxpayer collects a fee for the exhibition of fine art otherwise exempt from taxation on its sale, storage, use or other consumption pursuant to section 57.1 of chapter 397, Statutes of Nevada 1955, and the fee is collected during the first full fiscal year after the purchase of the fine art, the exemption pertaining to that fine art must be reduced by the net revenue derived by the taxpayer for that first full fiscal year. The exemption pertaining to fine art must not be reduced below zero, regardless of the amount of the net revenue derived by the taxpayer for that first full fiscal year.

3. Any tax due pursuant to this section must be paid with the first sales and use tax return otherwise required to be filed by the taxpayer following the 15th day of the fourth month after the end of the first full fiscal year following the purchase of the fine art or, if no sales and use tax return is otherwise required to be filed by the taxpayer, with a sales and use tax return filed specifically for this purpose on or before the last day of the fourth month after the end of the first full fiscal year following the purchase of the fine art.

4. A taxpayer who is required to pay a tax resulting from the operation of this section may receive a credit against the tax for any donations made by the taxpayer to the Nevada Arts Council, the Division of Museums and History Dedicated Trust Fund established pursuant to NRS 381.0031, a museum that provides exhibits specifically related to nature or a museum that provides exhibits specifically related to children, if the taxpayer:

(a) Made the donation before the date that either return required pursuant to subsection 3 is due; and

(b) Provides to the Department documentation of the donation at the time that he files the return required pursuant to subsection 3.

5. For the purposes of this section:

(a) "Direct costs of owning and exhibiting the fine art" does not include any allocation of the general and administrative expense of a business or organization that conducts activities in addition to the operation of the facility in which the fine art is displayed, including, without limitation, an allocation of the salary and benefits of a senior executive who is responsible for the oversight of the facility in which the fine art is displayed and who has substantial responsibilities related to the other activities of the business or organization.

(b) "Net revenue" means the amount of the fees collected for exhibiting the fine art during the fiscal year less the following paid or made during the fiscal year:

(1) The direct costs of owning and exhibiting the fine art; and

(2) The cost of educational programs associated with the taxpayer's public display of fine art, including the cost of meeting the requirements of sub-subparagraph (IV) of subparagraph (1) of paragraph (a) of subsection 4 of section 57.1 of chapter 397, Statutes of Nevada 1955.

Sec. 9. Section 6 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 763, is hereby amended to read as follows:

Sec. 6. 1. "Retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business of tangible personal property. *The terms do not include a sale of property that:*

(a) Meets the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 4 of section 57.1 of chapter 397, Statutes of Nevada 1955;

(b) Is made available for sale within 2 years after it is acquired; and

(c) Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.

2. The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this state, is a retail sale in this state by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

Sec. 10. Section 7 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 763, is hereby amended to read as follows:

Sec. 7. "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer. *The term does not include keeping, retaining or exercising any right or power over tangible property that:*

1. Meets the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 4 of section 57.1 of chapter 397, Statutes of Nevada 1955;

2. Is made available for sale within 2 years after it is acquired; and

3. Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.

Sec. 11. Section 61.5 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 762, as added by chapter 466, Statutes of Nevada 1985, at page 1441, is hereby amended to read as follows:

Sec. 61.5. There are exempted from the taxes imposed by this chapter the gross receipts from the sale

[of aircraft and major components] *and the storage, use or other consumption in this state of:*

1. Aircraft, aircraft engines and component parts 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.] or aircraft engines which are manufactured exclusively for use in aircraft, sold or purchased for lease to a commercial air carrier for use in the transportation of persons or property in~~

intrastate, interstate or foreign commerce pursuant to a certificate or license issued to the air carrier authorizing such transportation; and

2. Machinery, tools and other equipment and parts which are used exclusively in the repair, remodeling or maintenance of aircraft, aircraft engines or component parts of aircraft or aircraft engines which meet the requirements of subsection 1.

Sec. 12. 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 61.6, immediately following section 61.5, to read as follows:

Sec. 61.6. 1. There are exempted from the taxes imposed by this chapter the gross receipts from the sale, furnishing or service of, and the storage, use or other consumption in this state of:

(a) All engines and chassis of a professional racing vehicle;

(b) All parts and components that are used to replace or rebuild existing parts or components of any engine or chassis of a professional racing vehicle;

(c) All motor vehicles used by professional racing teams to transport professional racing vehicles or to transport parts or components of professional racing vehicles, including, without limitation, an engine and chassis of a professional racing vehicle; and

(d) All motor vehicles used by a professional racing team or sanctioning body to transport the business office of the professional racing team or sanctioning body or to transport a facility from which hospitality services are provided.

2. As used in this section:

(a) "Professional racing team" means a racing operation that qualifies for the taxable year as an activity engaged in for profit pursuant to the Internal Revenue Code, Title 26 of the United States Code.

(b) "Professional racing motor vehicle" means any motor vehicle which is used in a professional racing competition and which is owned, leased or operated by a professional racing team.

(c) "Sanctioning body" means an organization that establishes an annual schedule of professional racing events in which professional racing teams participate, grants rights to conduct such events and establishes and administers rules and regulations governing the persons who conduct or participate in such events.

Sec. 13. This act becomes effective on January 1, 2006.

Sec. 106. 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:

1. Provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of the value of any used vehicle taken in trade on the purchase of another vehicle and to remove the exemption from those taxes for occasional sales of vehicles except where such sales are between certain family members;

2. Provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of ophthalmic or ocular devices or appliances prescribed by a physician or optometrist;

3. Provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of farm machinery and equipment employed for the agricultural use of real property;

4. Provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of works of fine art for public display;

5. Revise and clarify the criteria used to determine which aircraft and parts of aircraft are

exempt from the taxes imposed by this Act, including removing the requirement that an air carrier must be based in Nevada to be eligible for the exemption, and providing an exemption for certain machinery and equipment used on eligible aircraft and parts of aircraft; and

6. Provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of engines and chassis, including replacement parts and components for the engines and chassis, of professional racing vehicles that are owned, leased or operated by professional racing teams?

Yes __ No __

Sec. 107. 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:

1. Exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of the value of any used vehicle taken in trade on the purchase of another vehicle and remove the exemption from those taxes for occasional sales of vehicles except where such sales are between certain family members;

2. Exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of ophthalmic or ocular devices or appliances prescribed by a physician or optometrist;

3. Exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of farm machinery and equipment employed for the agricultural use of real property;

4. Exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of works of fine art for public display;

5. Revise and clarify the criteria used to determine which aircraft and parts of aircraft are exempt from the taxes imposed by this Act, including removing the requirement that an air carrier must be based in Nevada to be eligible for the exemption, and providing an exemption for certain machinery and equipment used on eligible aircraft and parts of aircraft; and

6. Exempt from the taxes imposed by this Act the gross receipts from the sale and the storage, use or other consumption of engines and chassis, including replacement parts and components for the engines and chassis, of professional racing vehicles that are owned, leased or operated by professional racing teams. A “yes” vote approves all of the proposals set forth in the question. A “no” vote disapproves all of the proposals set forth in the question. The proposals set forth in the question may not be voted upon individually.

Secs. 108-132. (Deleted by amendment.)

Sec. 133. 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, 2006. 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. 134. All general election laws not inconsistent with this act are applicable.

Sec. 135. 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. 136. 1. Except as otherwise provided in this section, the Department of Taxation shall waive the amount of any sales and use taxes, and any penalties and interest thereon, otherwise due in this state from a seller at the time the seller registers pursuant to section 9 of this act if the seller:

(a) During the year 2005:

(1) Did not hold a seller's permit issued pursuant to chapter 372 or 374 of NRS; and

(2) Was not registered as a retailer pursuant to chapter 372 or 374 of NRS;

(b) Registers pursuant to section 9 of this act no later than December 31, 2006; and

(c) Remains registered pursuant to section 9 of this act for at least 36 months and collects and remits to this state all sales and use taxes due in this state for that period. Each statutory period of limitation applicable to any procedure or proceeding for the collection or enforcement of any sales or use tax due from a seller at the time the seller registers as provided in paragraph (b) is tolled for 36 months from the commencement of that registration.

2. The Department of Taxation shall not, pursuant to this section, waive any liability of a seller:

(a) Regarding any matter for which the seller received notice of the commencement of an audit which, including any related administrative and judicial procedures, has not been finally resolved before the registration of the seller pursuant to section 9 of this act.

(b) For any sales and use taxes collected by the seller or paid or remitted to the State before the registration of the seller pursuant to section 9 of this act.

(c) For any fraud or material misrepresentation of a material fact committed by the seller.

(d) For any sales or use taxes due from the seller in his capacity as a buyer and not as a seller.

3. For the purposes of this section, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, as amended by this act, have the meanings ascribed to them in those sections.

Sec. 137. The amendatory provisions of sections 83, 84, 85, 87 to 92, inclusive, and 94 to 101, inclusive, of this act do not apply to any ordinance enacted before January 1, 2006.

Sec. 138. NRS 374.107, 374.112, 374.113, 374.286, 374.291, 374.2911, 374.322 and 374.323 are hereby repealed. **Sec. 139.** 1. This section and section 102 of this act become effective upon passage and approval.

2. Sections 103 to 135, inclusive, of this act become effective on July 1, 2003.

3. Sections 1 to 29, inclusive, 32 to 38, inclusive, 40 to 50, inclusive, 52 to 57, inclusive, 66, 67, 69 to 72, inclusive, 74 to 80, inclusive, 83, 84, 85, 87 to 92, inclusive, 94 to 101, inclusive, 136 and 137 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2006, for all other purposes.

4. Sections 30 and 39 of this act become effective on January 1, 2006, only if the proposal submitted pursuant to sections 103 to 107, inclusive, of this act is approved by the voters at the general election on November 2, 2004.

5. Sections 31, 51, 58 to 65, inclusive, 68, 73, 81, 82, 86, 93 and 138 of this act become effective on January 1, 2006, only if the proposal submitted pursuant to sections 103 to 107, inclusive, of this act is not approved by the voters at the general election on November 2, 2004.