

AB 403 - 2009

Introduced on: Mar 16, 2009

By Settelmeyer, Gansert, Goedhart, Goicoechea, Grady, Hambrick, Hardy, Stewart, Woodbury
Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement. (BDR 32-752)

Effect on Local Government: *No.*

Effect on State: *No.*

Most Recent History Action: Approved by the Governor. Chapter 163. **Effective May 22, 2009.**
(See full list below)

Past Hearings

Assembly Taxation	Mar-31-2009	Amend, and do pass as amended
Senate Taxation	Apr-30-2009	No Action
Senate Taxation	May-12-2009	Do pass

Votes

Assembly Final Passage	Apr-13	Yea 40, Nay 0, Excused 2, Not Voting 0, Absent 0
Senate Final Passage	May-18	Yea 21, Nay 0, Excused 0, Not Voting 0, Absent 0

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

Amendments (PDF) [Amend. No.164](#)

Bill History

Mar 16, 2009 Read first time. Referred to Committee on Taxation. To printer.

Mar 18, 2009 From printer. To committee.

Apr 06, 2009 From committee: Amend, and do pass as amended.
Placed on Second Reading File.
Read second time. Amended. (Amend. No. 164.) To printer.

Apr 07, 2009 From printer. To engrossment. Engrossed. First reprint.

Apr 09, 2009 Taken from General File. Placed on General File for next legislative day.

Apr 10, 2009 Taken from General File. Placed on General File for next legislative day.

Apr 13, 2009 Read third time. Passed, as amended. Title approved, as amended. (Yeas: 40, Nays: None, Excused: 2.) To Senate.

Apr 14, 2009 In Senate.
Read first time. Referred to Committee on Taxation. To committee.

May 15, 2009 From committee: Do pass.

May 16, 2009 Read second time.

May 18, 2009 Read third time. Passed. Title approved. (Yeas: 21, Nays: None.) To Assembly.

May 19, 2009 In Assembly. To enrollment.
Enrolled and delivered to Governor.

May 22, 2009 Approved by the Governor. Chapter 163.

Effective May 22, 2009.



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

FLOOR STATEMENT
75th REGULAR SESSION
OF THE NEVADA STATE LEGISLATURE

ASSEMBLY BILL 403 (Enrolled)

Relates to the Streamlined Sales and Use Tax Agreement

Summary

Assembly Bill 403 makes technical changes to provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement. The proposed changes reflect amendments made to the Agreement since the end of the 2007 Legislative Session.

In addition, this measure provides for the submission of a ballot question at the November 2, 2010, General Election to authorize the Legislature to make changes to the Sales and Use Tax Act of 1955 without voter approval, only if such a legislative amendment:

- Is necessary to resolve a conflict with any federal statute, regulation, or interstate agreement for the administration, collection or enforcement of sales and use taxes;
- Does not increase the rate of any tax imposed pursuant to the Act; and
- Does not narrow the scope of any tax exemption provided pursuant to the provisions of the Act, as amended by the direct vote of the people.

Effective Date

This measure is effective on May 22, 2009.

LEGISLATIVE HEARINGS

MINUTES AND EXHIBITS

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

**Seventy-Fifth Session
March 31, 2009**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:35 p.m. on Tuesday, March 31, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Kathy McClain, Chair
Assemblywoman Marilyn Kirkpatrick, Vice Chair
Assemblyman Paul Aizley
Assemblyman Bernie Anderson
Assemblyman Ed A. Goedhart
Assemblyman Tom Grady
Assemblyman Don Gustavson
Assemblywoman Ellen Koivisto
Assemblywoman Sheila Leslie
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblywoman Peggy Pierce

COMMITTEE MEMBERS ABSENT:

Assemblyman Morse Arberry, Jr. (excused)

Minutes ID: 722



Chair McClain:

It includes the entire 7.75 percent. It has all of the taxes included as it would affect them anyway.

Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties, Carson City, Nevada:

We are neutral on this bill. We just have one concern that we want to share with the Committee and that is the number of bills this session that deal with abatements, exceptions, or redistributions of tax revenues. We hope that you will take a look at the big picture and how this is all going to work together and affect both the state and the counties.

Chair McClain:

We will close the hearing on A.B. 386.

The next bill is Assembly Bill 403.

Assembly Bill 403: Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement. (BDR 32-752)

Assemblyman James Settelmeyer, Assembly District No. 39:

Assembly Bill 403 deals with the Streamlined Sales Tax. This was originally passed back in 2001. The Legislature, at that time, found and declared that we should simplify and modernize the sales and use tax to reduce the burden of tax compliance for all sellers and types of commerce. The bill is really about bringing us into compliance with the original bill that was passed in 2001. At that time, we only had one person vote against it, and that person is no longer within this body. Thirty-three states have passed this, and Nevada has agreed to it, as well as requiring the collection of sales and use tax by remote sellers that have no physical presence in the state to which the item is delivered.

Currently, in the State of Nevada, this is causing a little erosion of our tax base due to electronic commerce. Judging by the newest data that Mr. DiCianno will talk about in a moment, we are seeing this going up. Of all the tax streams that we have in the State of Nevada, not one is going up; they are all going down. But this one is actually going up. Currently, from the latest information that I have seen for this year, it will be approximately \$100 million towards the state, but that would have to be divided up with the counties, and they would like more money this year too.

This will remove the burden to interstate commerce as has been indicated. I tend to agree with that too; it will create a level playing field. It will also

create a situation where Main Street businesses that pay taxes will not be significantly disadvantaged as they currently are with eStreet-Commerce.

I gave you an amendment (Exhibit G). I took the original bill from the Legal Division, looked at it, and wondered: if I was one of my constituents who did not have knowledge of the Streamlined Sales Tax, would I actually vote for it? Unfortunately, I came to the conclusion that I would not; therefore, I tried to modify it to clearly state that all we are trying to do is bring us into compliance with federal rules.

Chair McClain:

Is section 1 of the original bill the new items that are included in the compact?

Dino DiCianno, Executive Director, Department of Taxation:

Mr. Settelmeyer discussed this with me, and I have a copy of the mock-up. We have no issue with it.

Chair McClain:

My question is still, in section 1, are these for the compact?

Dino DiCianno:

If you would like, I can get into the discussion about why this is necessary. I am here as the State of Nevada voting member to the Governing Board, and I am here in support of Mr. Settelmeyer's bill. The sections of the bill that you are referring to relate to changes that have occurred to the Streamlined Agreement since we last met. This is the agreement, and in order to maintain ourselves as a full member to the Governing Board, each state must amend its statutory language to conform to this agreement. That is what sections 1, 2, 3, 4, and all the way through the bill do until you get to the language that refers to what the ballot measure does. The ballot measure will go to the voters in 2010.

One of the documents that I provided is a listing of all the Governing Board members and the participating members (Exhibit H). Nevada is a full member. There are 19 full members to this Board, and there are three associate members. I realize that is only 22, but not all 50 states are participating in this process, including California and New York. They have not made the legislative changes in order to become affiliated either as an associate member or as a full member.

The second document highlights all the different states. The states that are in blue are full members of the Governing Board. As you can see, Nevada is one of them. There is action in Congress. Senator Enzi is in the process of

mocking-up the Sales Tax Fairness and Simplification Act, a bill that will probably be introduced shortly at the federal level. The idea is to allow the full member states to share the revenues associated with remote sales that occur through Internet providers. As far as what is referred to as the "Fox Study," which was done by the University of Tennessee, I would like to read a couple of excerpts from it because it gets to the heart of why we are here today in support of this bill.

It is entitled, "State and Local Governments Sales Tax Revenue Losses from E-Commerce: Updated Estimates," and this is part of the executive summary from that document:

"The development of new technologies and digital processes has had a profound effect on the U.S. economy as e-commerce sales have grown from \$995 billion in 1999 to \$2,385 billion by 2006. The rapid growth in e-commerce affects state and local economies in several important ways. First, state and local governments continue to lose sales and use tax revenues because of the inability to collect taxes that are due. Second, firms change their best business practices to avoid creating a collection responsibility in certain states. Firms choose to locate their selling or warehousing activities to avoid creating nexus rather than locating where they can operate more efficiently. Also, local vendors face a competitive disadvantage to e-commerce competitors as consumers browse in shops on Main Street but then make their purchases online to evade the tax. Finally, there may be distributional consequences if lower-income consumers are more likely to make purchases in local stores where the tax is collected."

We went to the ballot in 2008, and it is unfortunate that there was a misunderstanding of the language contained in the ballot. I feel as much to blame as anyone because more should have been done to inform the voters of this state why we were doing it. It boils down to two things: this is not a tax increase at all—only the voters of this state can change the 2 percent state rate. We are not asking for that. All we are asking for is the ability for this body to make the necessary changes to our sales tax act so that we are in conformance with the federal agreement. That is all we are asking. Without that, if we do not, the state runs a risk that it will no longer be a full member of that Governing Board.

Let me explain the consequences of not being a full member of that Board. Part of Senator Enzi's bill, which is the Sales Tax Fairness and Simplification Act, only allows those states that have conformed to the Streamlined Sales and

Use Tax Agreement to be able to share in that revenue. If we are not part of it, we get nothing. That was part of the agreement with the business community, the remote sellers, and even those businesses that have a nexus in the various states that agreed to this, and as we have agreed to it.

We have talked about this loss to the state and local governments. Based on the most current study, Nevada lost \$107.4 million in sales tax revenue in 2007. In 2008, it lost \$114.6 million. By the time we work this out in 2012, we are talking about nearly \$170 million. I think it is important to break that number down. It is not just state money; it is also local government money. Two-fifths of that amount would go to the General Fund. The remainder would go to local governments. That is why it is important that we get the support from local governments and the business community. I have also talked to Carole Vilardo with the Nevada Taxpayers Association. The Chambers of Commerce also support this, including Mr. Bacon with the Manufacturers Association. I need to emphasize again, this is not a new tax. This is a tax that the states were prohibited from collecting based upon a court case that occurred in 1992. What Congress is doing is to enact federal legislation that would allow the states to be able to collect this money.

Chair McClain:

I am sure the Committee knows that we need to do this. Other than the ballot language, the other language must remain compliant with the agreement. Let us talk about how this is better now so people will understand what we are trying to do.

Assemblyman Settlemeyer:

In an earlier amendment, I tried to take too much out of it; however, the Legal Division came back and indicated that I had taken out too much. It was important to clearly convey to the voters that we are in no way trying to increase taxes, and in no way are they giving the Legislature the power to increase taxes. It was my feeling that most voters were afraid of giving the Legislature that type of authority over sales tax. In that respect, I tried to craft the language to clearly indicate numerous times this only allows us to be in compliance with the federal rules. The language throughout the bill is towards that end: to specifically narrow the focus of the power that would be vested in us, and to clearly indicate to the voters that these are the only powers that we shall have. I wish we could go much further, but there are certain sections that need to remain in here to have any effect, according to the Legislative Counsel Bureau.

Chair McClain:

The Legal Division is okay with this language?

Assemblyman Settlemeyer:

Correct.

Chair McClain:

I guess we would have to rely on the pros and cons—the statements that they write—so they could pull the intent from this Committee.

Assemblyman Settlemeyer:

There has been some discussion with Carole Vilardo and other entities that are going to try to take a much more active role in education this time. I would greatly urge anyone here who is going to run in any capacity during the next election to try to encourage the voters to approve the bill. I did it at every forum that I was at.

Chair McClain:

I think the people just did not understand. They saw two words together, "Legislature" and "taxes," and said no.

Assemblyman Grady:

I agree with Dino; we have gotten this far, let us not mess it up.

Assemblyman Settlemeyer:

It was Assembly Bill No. 455 of the 71st Session by Goldwater, Cegavske, Arberry, McGinness, Coffin, and Schneider.

Assemblyman Gustavson:

I support your bill. You said you have been trying to convince the voters that this is a good thing, but I think they knew it was not a tax increase. They still worry that it might be. They enjoy buying things over the Internet and not paying that tax. How are we going to convince them that this is a good idea? Some of them buy things over the Internet because they do not have to pay that tax, and sometimes not the freight. What is the best way to convince them that it is a good thing?

Assemblyman Settlemeyer:

We have been asked what the most palatable tax is. It is already in law that these individuals pay taxes in these situations, but due to a loophole in existing law, they are not. Those who are not paying it are violating the law. We just do not have any way to enforce it. How are you going to tell someone who enjoys not paying duty on things that they should? I am not sure that you can win that discussion.

Chair McClain:

If they have a physical presence in your state, they will also pay that tax online.

Carole Vilardo, President, Nevada Taxpayers Association, Carson City, Nevada:

I am not going to be redundant because every time the Streamlined Sales Tax has come up, we have supported it. Two points I would like to make, or reiterate: the person who is buying goods online and not paying sales tax is actually guilty of violating Nevada sales and use tax laws. If you go on the Department of Taxation's website, there is a form you are supposed to download if you buy something online. It is called the Consumer Use Tax form. But, as Mr. DiCianno said, it is impossible to police 2 million people.

The other point I would like to make is, not only does this attempt to clarify that it has nothing to do with a base rate increase, but the fact that it has "digital" in front is strictly a compliance issue. We need to be in compliance so the Governing Board and the powers that be that constantly monitor our status as a member of the Governing Board know that we are in compliance. This does not mean that you are suddenly taxing every item just because we have changed the definition. The ballot question tries to address that, not only the rate, but the base issue. You are not expanding the base by approving this. But we will expand the state's revenue system and, if Congress acts soon enough, this revenue will become available to us probably within 120 days because our law is already set up to collect the tax. We would have an additional revenue source but, unfortunately, I do not think Congress is going to act before we leave session.

Chair McClain:

Besides that, we will not be able to get this on the ballot until 2010.

Carole Vilardo:

I realize that, but since we are on the Governing Board until we are reviewed, we would be able to collect it.

Bryan Wachter, Deputy Director, Retail Association of Nevada, Carson City, Nevada:

We want to go on record in support of this bill. We obviously do not need to go into why it is important to be part of this. I am just reiterating that this is a tax already provided on goods that you can get anywhere else. The infrastructure is already there for you to collect. We like the new language and we feel that, by making this change, we are giving the voters a chance to not be inundated in future elections.

Chair McClain:

I will close the hearing on A.B. 403.

There has been a motion to amend and do pass by accepting Assemblyman Settlemeyer's proposed Amendment 3791.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 403.

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

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

We are adjourned [at 3:07 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Recording Secretary

RESPECTFULLY SUBMITTED:

Karyn Werner
Transcribing Secretary

APPROVED BY:

Assemblywoman Kathy McClain, Chair

DATE: _____

MOCK-UP

PROPOSED AMENDMENT 3791 TO
ASSEMBLY BILL NO. 403

PREPARED FOR ASSEMBLYMAN SETTELMAYER
MARCH 31, 2009

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN
CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE
OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) *orange double underlining* is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

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

- 1 **Section 1.** Chapter 360B of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 1. *"Specified digital products" means electronically transferred*
4 *digital audio works, digital audiovisual works and digital books.*
5 2. *As used in this section:*
6 (a) *"Digital audio works" means works that result from the fixation*
7 *of a series of musical, spoken or other sounds, including ringtones.*
8 (b) *"Digital audiovisual works" means a series of related images*
9 *which, when shown in succession, impart an impression of motion,*
10 *together with accompanying sounds, if any.*
11 (c) *"Digital books" means works that are generally recognized in the*
12 *ordinary and usual sense as books.*
13 (d) *"Electronically transferred" means obtained by a purchaser by*
14 *means other than tangible storage media.*
15 (e) *"Ringtones" means digitized sound files that are downloaded onto*
16 *a device and may be used to alert the customer with respect to a*
17 *communication.*

PROPOSED AMENDMENT TO AB403

1 **Sec. 2.** NRS 360B.225 is hereby amended to read as follows:

2 360B.225 The Department shall:

3 1. Review the software submitted for the certification of a certified
4 automated system pursuant to the Agreement and, if the Department
5 determines that the software ~~{adequately classifies each exemption from~~
6 ~~the sales and use taxes imposed in this State which is based upon the~~
7 ~~description of a product,}~~ *accurately reflects the taxability of the product*
8 *categories included in the program*, certify its acceptance of the
9 ~~{classifications made by the system.}~~ *determination of the taxability of the*
10 *product categories included in the program.*

11 2. Except as otherwise provided in subsection 3:

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

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

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

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

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

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

31 3. Notify a certified service provider or a registered seller who elects
32 to use a certified automated system pursuant to subsection 3 of NRS
33 360B.200 if the Department determines that the taxability of any item or
34 transaction is being incorrectly classified by the certified automated system
35 used by the certified service provider or registered seller. The provisions of
36 subsection 2 do not require the waiver of any liability for the incorrect
37 classification of an item or transaction regarding which notice was
38 provided to the certified service provider or registered seller pursuant to
39 this subsection if the incorrect classification occurs more than 10 days after
40 the receipt of that notice.

41 **Sec. 3.** NRS 360B.250 is hereby amended to read as follows:

42 360B.250 The Department shall:

43 1. If a registered seller fails to collect the correct amount of any sales
44 or use tax imposed in this State as a result of his reasonable reliance on the
45 information posted pursuant to NRS 360B.230 or his compliance with

subsection 2 of NRS 360B.240, waive any liability of the registered seller for:

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

(b) Any penalties and interest on that amount.

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

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

(b) Any penalties and interest on that amount.

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

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

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

(b) Any penalties and interest on that amount.

5. *If an increase in the rate of any sales or use tax imposed in this State becomes effective within 30 days after the enactment of a statute providing for that increase, waive any liability of a registered seller for:*

(a) The amount of the sales or use tax which the registered seller fails to collect at the increased rate; and

(b) Any penalties and interest on that amount,

unless the registered seller fails to collect the tax at the rate in effect immediately preceding that increase, the registered seller's failure to collect the tax at the increased rate extends beyond the first 30 days after the enactment of the statute providing for that increase, the registered seller fraudulently fails to collect the tax at the increased rate or the registered seller solicits purchasers based on the rate in effect immediately preceding that increase.

Sec. 4. NRS 360B.290 is hereby amended to read as follows:

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

1. *Any transportation, shipping or postage charges for the delivery of the property to a location designated by the purchaser.*

2. Any installation charges for the property;

~~2.~~ 3. Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;

~~3.~~ 4. Any interest, financing and carrying charges from credit extended on the sale; and

~~4.~~ 5. Any taxes legally imposed directly on the consumer.

Sec. 5. NRS 360B.400 is hereby amended to read as follows:

360B.400 In administering the provisions of this chapter and chapters 372 and 374 of NRS, and in carrying out the provisions of the Agreement, the Department shall construe the terms defined in NRS 360B.405 to 360B.495, inclusive, *and section 1 of this act*, unless the context otherwise requires, in the manner prescribed by those sections.

Sec. 6. NRS 360B.415 is hereby amended to read as follows:

360B.415 "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. *The term does not include any specified digital products.*

Sec. 7. NRS 360B.425 is hereby amended to read as follows:

360B.425 "Delivery charges" means charges by a seller of personal property for the preparation and delivery of the property to a location designated by the purchaser of the property, including, but not limited to, charges for transportation, shipping, postage, handling, crating and packing ~~it~~, *except that the term does not include any charges for transportation, shipping or postage which are stated separately pursuant to NRS 360B.290.*

Sec. 8. NRS 360B.480 is hereby amended to read as follows:

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

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

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

(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges *which are not stated separately pursuant to NRS 360B.290* and excluding any installation charges which are stated separately pursuant to NRS 360B.290; and

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

2. The term does not include:

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

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

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

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

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

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

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

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

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

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

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

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

(d) Any of the following criteria is satisfied:

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

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

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

Sec. 9. NRS 360B.485 is hereby amended to read as follows:

360B.485 "Tangible personal property" includes, but is not limited to, electricity, water, gas, steam and prewritten computer software. *The term does not include any products that are transferred electronically to a purchaser.*

Sec. 10. Section 15 of the Nye County Sales and Use Tax Act of 2007, being chapter 545, Statutes of Nevada 2007, at page 3425, is hereby amended to read as follows:

Sec. 15. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1 1. A provision imposing a tax on the gross receipts of any retailer
2 from the sale of all tangible personal property sold at retail or stored, used
3 or otherwise consumed in the County, including incorporated cities in the
4 County, at a rate that does not exceed one-half of 1 percent.

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

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

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

13 5. A provision that a purchaser is entitled to a refund, in accordance
14 with the provisions of NRS 374.635 to 374.720, inclusive, of the amount
15 of the tax required to be paid that is attributable to the tax imposed on the
16 sale of, and the storage, use or other consumption in the County, including
17 incorporated cities in the County, of, tangible personal property used for
18 the performance of a written contract for the construction of an
19 improvement to real property:

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

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

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

30 **Sec. 11.** The Legislature hereby finds and declares that:

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

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

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

44 4. The nonpayment of Nevada sales and use taxes by merchants in
45 other states provides those merchants with an unfair competitive advantage

1 over local merchants who lawfully pay the sales and use taxes due in this
2 State.

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

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

13 7. The Nevada Sales and Use Tax Act was approved by referendum at
14 the General Election in 1956 and therefore, pursuant to Section 1 of Article
15 19 of the Constitution of the State of Nevada, may not be "amended,
16 annulled, repealed, set aside, suspended or in any way made inoperative
17 except by the direct vote of the people."

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

25 9. It would be beneficial to the public welfare for the people of this
26 State by direct vote to authorize the Legislature to enact without any
27 additional voter approval such amendments to the Nevada Sales and Use
28 Tax Act as are necessary to resolve conflicts with any congressional
29 legislation or interstate agreements providing for the administration,
30 collection or enforcement of sales and use taxes.

31 **Sec. 12.** At the General Election on November 2, 2010, a proposal
32 must be submitted to the registered voters of this State to amend the Sales
33 and Use Tax Act, which was enacted by the 47th Session of the Legislature
34 of the State of Nevada and approved by the Governor in 1955, and
35 subsequently approved by the people of this State at the General Election
36 held on November 6, 1956.

37 **Sec. 13.** At the time and in the manner provided by law, the
38 Secretary of State shall transmit the proposed act to the several county
39 clerks, and the county clerks shall cause it to be published and posted as
40 provided by law.

41 **Sec. 14.** The proclamation and notice to the voters given by the
42 county clerks pursuant to law must be in substantially the following form:

43 Notice is hereby given that at the General Election on November
44 2, 2010, a question will appear on the ballot for the adoption or

rejection by the registered voters of the State of the following proposed act:

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

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

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

~~Sec. 153.5. *The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, only if such legislation:*~~

~~1. *Is necessary to resolve a conflict with any federal statute or regulation or interstate agreement for the administration, collection or enforcement of sales and use taxes;*~~

~~2. *Does not increase the rate of any tax imposed pursuant to this Act; and*~~

~~3. *Does not narrow the scope of any tax exemption provided pursuant to the provisions of sections 48 to 67.1, inclusive, of this Act, as amended by the direct vote of the people.*~~

The people of the State of Nevada hereby authorize the Legislature to enact legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, only if such legislation meets all of the following criteria:

1. It is necessary to resolve a conflict with any federal statute or regulation or interstate agreement for the administration, collection or enforcement of sales and use taxes;

2. It does not increase the rate of any tax imposed pursuant to this Act; and

3. It does not narrow the scope of any tax exemption provided pursuant to the provisions of

sections 48 to 67.1, inclusive, of this Act, as amended
by the direct vote of the people.

Sec. 2. This act becomes effective on January 1, 2011.

Sec. 15. 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
authorize the Legislature to amend or repeal any provision of this
Act without an additional direct vote of the people if necessary to
resolve a conflict with any federal law or interstate agreement for
the administration, collection or enforcement of sales and use
taxes?}~~ Shall the Sales and Use Tax Act of 1955 be amended
to authorize the Legislature to amend a provision of this
Act only if necessary to resolve a conflict with any federal
law or interstate agreement for the administration,
collection or enforcement of sales and use taxes?

Yes ☐ No ☐

Sec. 16. 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 authorize the Legislature to enact legislation amending or
repealing any provision of this Act without obtaining additional
voter approval only if that legislation is necessary to resolve a
conflict with any federal law or interstate agreement for the
administration, collection or enforcement of sales and use taxes, that
legislation does not increase the rate of any tax imposed pursuant to
this Act, and that legislation does not narrow the scope of a tax
exemption approved by the direct vote of the people.}~~ The
proposed amendment to the Sales and Use Tax Act of 1955
would authorize the Legislature to enact legislation
amending a provision of this Act only if that legislation is
necessary to resolve a conflict with any federal law or
interstate agreement for the administration, collection or
enforcement of sales and use taxes, that legislation does not
increase the rate of any tax imposed pursuant to this Act,
and that legislation does not narrow the scope of a tax
exemption approved by the direct vote of the people.

Sec. 17. 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, 2011. 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.

1 **Sec. 18.** All general election laws not inconsistent with this act are
2 applicable.


3 **Sec. 19.** Any informalities, omissions or defects in the content or
4 making of the publications, proclamations or notices provided for in this
5 act and by the general election laws under which this election is held must
6 be so construed as not to invalidate the adoption of the act by a majority of
7 the registered voters voting on the question if it can be ascertained with
8 reasonable certainty from the official returns transmitted to the Office of
9 the Secretary of State whether the proposed amendment was adopted by a
10 majority of those registered voters.


11 **Sec. 20.** The amendatory provisions of section 10 of this act do not
12 apply to any ordinance enacted before the effective date of this act.

13 **Sec. 21.** This act becomes effective upon passage and approval.

H

14





Amnesty

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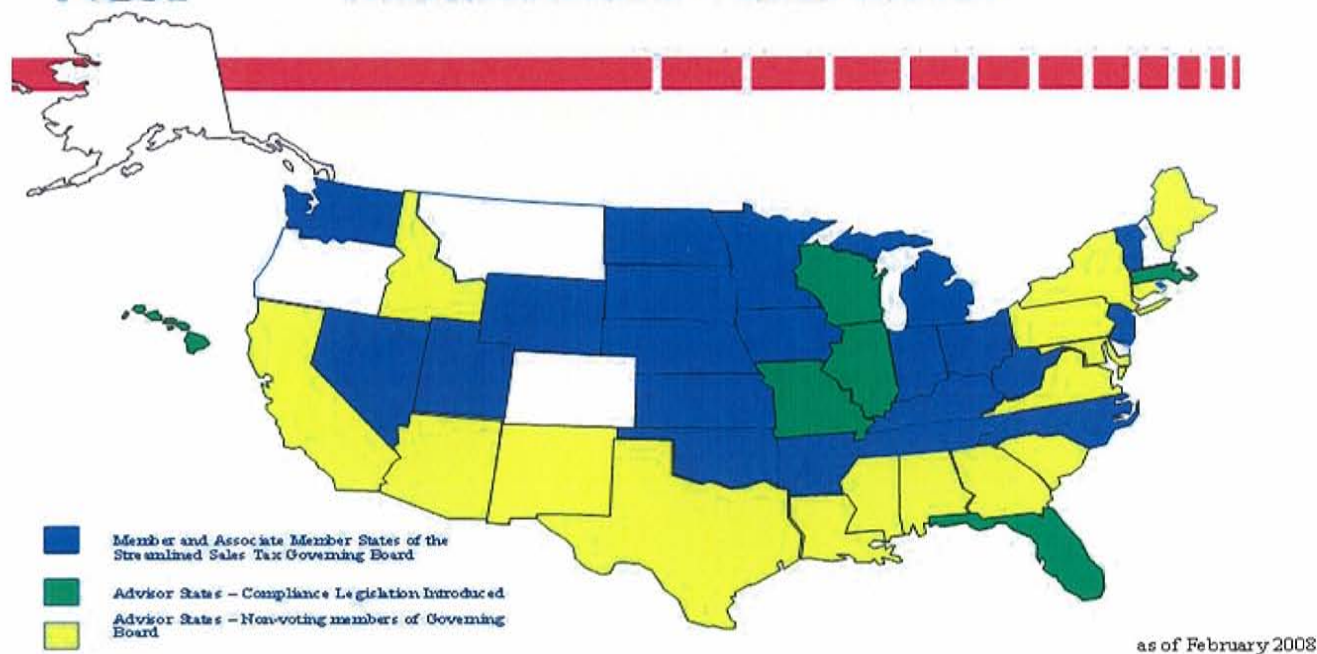
Governing Board States

SST State Status Map

States	Membership
<u>Full Members</u> Arkansas - 1/1/2008 Indiana - 10/1/2005 Iowa - 10/1/2005 Kansas - 10/1/2005 Kentucky - 10/1/2005 Michigan - 10/1/2005 Minnesota - 10/1/2005 Nebraska - 10/1/2005 Nevada - 4/1/2008 New Jersey 10/1/2005 North Carolina - 10/1/2005 North Dakota - 10/1/2005 Oklahoma - 10/1/2005 Rhode Island - 1/1/2007 South Dakota - 10/1/2005 Vermont - 1/1/2007 Washington - 7/1/2007 West Virginia - 10/1/2005 Wyoming - 1/1/2008	A full member state is a state that is in compliance with the Streamlined Sales and Use Tax Agreement through its laws, rules, regulations, and policies.
<u>Associate Members</u> Ohio 10/1/2005 Tennessee - 10/1/2005 Utah 10/1/2005	An associate member state is either (a) a state that is in compliance with the Streamlined Sales and Use Tax Agreement except that its laws, rules regulations and policies to bring the state into compliance are not in effect but are scheduled to take effect on or before July 1, 2009, or (b) a State that has achieved substantial compliance with the terms of the Streamlined Sales and Use Tax Agreement taken as a whole, but not necessarily each provision, and there is an expectation that the state will achieve compliance by July 1, 2009.



STREAMLINED SALES & USE TAX AGREEMENT – 2008 Status



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Denver Office: Tel: 303-364-7700 | Fax: 303-364-7800 | 7700 East First Place | Denver, CO 80230 | [Map](#)

Washington Office: Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol Street, N.W., Suite 515 | Washington, D.C. 20001

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-fifth Session
April 30, 2009**

The Senate Committee on Taxation was called to order by Chair Bob Coffin at 1:38 p.m. on Thursday, April 30, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Bob Coffin, Chair
Senator Terry Care, Vice Chair
Senator Michael A. Schneider
Senator Maggie Carlton
Senator Mike McGinness
Senator Maurice E. Washington

COMMITTEE MEMBERS ABSENT:

Senator Randolph Townsend (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Paul Aizley, Assembly District No. 41
Assemblyman James Settlemeyer, Assembly District No. 39

STAFF MEMBERS PRESENT:

Joe Reel, Deputy Fiscal Analyst
Mike Wiley, Committee Secretary

OTHERS PRESENT:

Sabra Smith-Newby, Director, Department of Administrative Services,
Clark County
Lisa Gianoli, Washoe County
Doug Sonnemann, Assessor, Douglas County
Josh Wilson, Assessor, Washoe County

CHAIR COFFIN:

I find that reading the tax rolls on the Internet is easier than reading them in the newspaper. They are published by parcel number in the newspaper, and it makes it impossible to find out your neighbor's property tax.

CHAIR COFFIN:

What is the cost of a full-page ad?

MR. SMITH:

I can supply it to you, but they vary greatly.

CHAIR COFFIN:

Poll your members and ask them what they would charge and their insertion rate for repeated advertising. We will close the hearing on A.B. 307 and open the hearing on A.B. 403.

ASSEMBLY BILL 403 (1st Reprint): Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement. (BDR 32-752)

ASSEMBLYMAN JAMES SETTELMAYER (Assembly District No. 39):

In 2001, the Legislature found and declared it should simplify and modernize the sales and use tax to reduce the burden of tax compliance for all sellers and types of commerce. It originally started out as A.B. No. 455 of the 71st Session. We need to bring the State into compliance. We have been taking this to the voters, asking the voters to allow the simplification of the sales and use tax. Thirty-three states, including Nevada, have agreed to collect sales and use tax from remote sellers that have no physical presence in the State to which they deliver. Because of electronic commerce or e-commerce, our tax base has been eroding significantly.

This bill will help protect Main Street businesses put at a disadvantage because of Internet sales. The amendment I brought to the Assembly, which has been incorporated into the bill, is to make the ballot question language more realistic. We are not asking the voters to increase taxes, we are trying to collect taxes. Anyone in this room buying merchandise online is supposed to go on the Department of Taxation Website to file and pay the sales tax. That is why we are missing \$100 million in taxes for the State. We are asking the voters to modify our laws to bring the State into compliance with existing law.

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CHAIR COFFIN:

Does this bill create any new exemptions or any other kind of changes to the statutes?

ASSEMBLYMAN SETTELMAYER:

To my knowledge it does not.

CHAIR COFFIN:

We cast our first vote on this in 1987, which is how long we have been trying to help collect transaction taxes.

SENATOR MCGINNESS:

Did we have a question on the ballot in the last election regarding the Streamlined Sales Tax?

ASSEMBLYMAN SETTELMAYER:

Yes, and it failed. That is why we are trying to make the bill more realistic by changing the wording for the ballot question.

SENATOR MCGINNESS:

I asked Mr. DiCianno what we could do to make this bill more readable.

ASSEMBLYMAN SETTELMAYER:

Many parties have agreed in the next election to do more in terms of educating the voters. The State of Nevada is in financial crisis, and we should collect all the taxes that are on the books.

SENATOR MCGINNESS:

I am not sure the election results will change next time.

ASSEMBLYMAN SETTELMAYER:

I have eliminated the word Internet within the language of the ballot. I tried to make the language more readable so an individual who does not want tax increases would understand that this would not raise taxes. The change would bring us into compliance with an established system. We need to educate voters

SENATOR SCHNEIDER:

Does this include the Internet?

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ASSEMBLYMAN SETTELMAYER:

Most of it is e-commerce, but it includes other situations as well.

SENATOR SCHNEIDER:

It would collect all the sales over the telephone and Internet. If you are buying on eBay, this covers eBay sales?

ASSEMBLYMAN SETTELMAYER:

By law you are supposed to be paying the tax.

SENATOR SCHNEIDER:

We should enact this because any tax you take to the people will fail.

ASSEMBLYMAN SETTELMAYER:

We have to create an amendment to the 1955 Sales and Use Tax Act. It is my understanding we have to do this because the State originally wanted to implement a 2-percent sales tax for education, which was enacted. The voters objected. The Legislature went to the Nevada Parent Teacher Association, said you had better cover us, and put it on the ballot in 1955. The only way to reverse it—because it was passed by the voters—is to go back to the voters for approval.

CHAIR COFFIN:

In 1955, the Legislature passed the bill with no exemptions. After input from constituents, they came back and exempted newspapers from the payment of the sales tax.

SENATOR MCGINNESS:

The Legislature passed it, and there was an initiative petition to remove it, which failed. The courts have interpreted that, by the act of the petition failing, the voters approved the 2-percent sale tax. We can exempt anything except the 2-percent sales tax.

DINO DICIANNO (Executive Director, Department of Taxation):

I have furnished a packet (Exhibit F) which I would like to cover. I will also show what the purpose of this bill is with respect to the Streamlined Sales and Use Tax Agreement. Page 1 shows all the states in blue that are part of the Streamlined Sales Tax Governing Board. Page 2 shows the list of all the Governing Board States, of which Nevada became a member on April 1, 2008. I

have corresponded with United States Senator Harry Reid, and his response back was "please know that I will keep your support for this legislation in mind." A new bill submitted to Congress will be called The Main Street Fairness Act.

Assembly Bill 403 brings the language within our current sales and use tax statutes in line with the Streamlined Sales and Use Tax Agreement. It provides clarification as to when the tax rate can go into effect, the process of notification and definitions of digital products as compared to computer software. Section 14 of the bill provides a ballot question on November 2, 2010, which, upon passage, would allow this body to make changes to the sales tax law so as to be in compliance with the Streamlined Sales and Use Tax Agreement. It has no additional exemptions, no additional increase in tax and no change to the administration of sales tax in this State. I have support from the Nevada Taxpayers Association, Retail Association of Nevada, Nevada Manufacturers Association, Chambers of Commerce, and it has broad-based support from across the industry. I am here as the voting member for the State of Nevada to the Streamlined Sales Tax Governing Board.

I would like to quote from William Fox in an "Executive Summary": "The development of new technologies and digital processes has had a profound effect on the U. S. economy as e-commerce sales have grown from \$995 billion in 1999 to \$2.4 trillion by 2006." Within this study, they attempt to determine the loss or estimated losses by each state based upon the inability to collect sales tax from remote sellers on purchases over the Internet. In 2007, Nevada lost an estimated \$107.4 million, and over the next five years, Nevada is estimated to lose \$836 million. Purchases over the Internet are subject to use tax. We are required to file a Consumer Use Tax return; unfortunately, not many people do it. The other hindrance is the 1992 U.S. Supreme Court ruling, *Quill Corp. v. North Dakota* (91-0194), 504 U.S. 298 (1992), which has to do with the National Nexus Program.

It is the reason why Congress needs to pass the legislation that will be introduced this year in order to allow the states to collect this tax based on purchases over the Internet. If Congress passes the bill, it would allow the state the ability to collect sales tax on transactions over the Internet. There is a condition: if the state is not a member and does not comply with the Streamlined Sales and Use Tax Agreement, the state cannot share in the revenues. It is important to have this bill so that Nevada maintains its

membership in the Streamlined Governing Board. If the voters agree, the Legislature will be able to amend the sales tax rules to be in compliance with the Agreement. Our membership could be in jeopardy if this legislation is not passed.

CHAIR COFFIN:

What was the press support the last time this was on the ballot?

MR. DiCIANNO:

The *Las Vegas Sun* was in support. I am not sure about the other newspapers.

CHAIR COFFIN:

I just bought 14 books from Amazon, and I thought I would be paying tax because Amazon has a distribution center in Nevada. The law says the wholesale distribution is not taxed; it is not a nexus in the sense we think of in this situation. My books came from Kentucky, Texas and Utah, and I did not pay any sales tax. Why do we not tax companies that have distribution centers in our State?

MR. DiCIANNO:

Amazon has a distribution center but does not have a retail center. When you place an order over the Internet, it could come from any of the distribution centers across the United States. Since they do not have nexus from a retail standpoint, they would not be required, given the *Quill* decision, to collect the tax.

CHAIR COFFIN:

Does that put Barnes and Noble at a disadvantage because they have a distribution and retail presence?

MR. DiCIANNO:

Barnes and Noble does collect and pay on purchases in the State.

SENATOR SCHNEIDER:

I have a friend who owns a high-end camera shop in Las Vegas, and he sells camera equipment to professional photographers. He loses a lot of business because people go online to order so they do not have to pay the 7.5-percent sales tax. If you are selling a \$10,000 to \$12,000 camera or lens, that is a lot

of savings. Companies are advertising the camera equipment and promoting that tax savings. It is hurting our businesses, and I will support this bill.

CAROLE VILARDO (President, Nevada Taxpayers Association):

One of the contributing factors for the failure on the question in 2008 was the Committee had added a provision on the ballot question that asked the voters to approve an exemption for aircraft parts and equipment. Every time we add to questions, especially if taxes are involved, the voters will vote no. The next issue is that the National Conference of State Legislatures has requested the states adopt a resolution supporting the Streamlined Sales and Use Tax Agreement. This issue is not well understood, and the more exposure we can get will help with the education of the taxpayer. We also need to notify our Congressional Delegation to let them know we need this legislation. It really benefits Nevada because we rely on sales tax, and it allows us to catch up on how business is being done today. The use tax tends to be collected by businesses because they are audited. It is the consumer who does not know he is supposed to fill out the form and pay the use tax.

CHAIR COFFIN:

Are you aware this legislation is to be reworked and have a name change?

MS. VILARDO:

I am aware of the changes. One of things I testified to in 1989 was a resolution to support Main Street legislation for catalog sales. There was a test case to see if the U. S. Supreme Court would uphold the definition of nexus as physical, but the Court decided that Congress could change the definition of nexus as a physical presence to an economic presence.

CHAIR COFFIN:

It is my understanding that every transaction will be taxed under the Streamlined Sales and Use Tax Agreement. The eBay transaction would escape.

MS. VILARDO:

The eBay transaction should not escape so long as it is an existing transaction that we do tax. If we do not tax something, under the Streamlined Sales Tax definitions, we do not impose the tax thereafter. In fact, eBay would have taxable transactions.

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April 30, 2009
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CHAIR COFFIN:

I thought there was an exemption for casual sales.

MS. VILARDO:

My understanding is there will be a de minimus amount if you are a small business.

MR. DICIANNO:

Mr. Chair, you and Ms. Vilardo are correct. There was a discussion the Governing Board had with the Small Seller and Vendor Compensation Task Force. They were going to put a de minimus amount for individuals who were sellers on eBay, which was about \$5 million a year. That is still under discussion. It was done to protect small sellers.

CHAIR COFFIN:

They are not competitors with the typical brick-and-mortar retailers.

BRYAN WACHTER (Retail Association of Nevada):

All of our members support A.B. 403. The Retail Association represents the larger brick-and-mortar stores as well as the smaller independent stores. Every time a new technology or a new trend develops, you know it is big when it catches a name. Cyber Monday—the Monday following Thanksgiving—was given the name because of the amount of Internet sales conducted after Black Friday's big sales.

RAY BACON (Executive Director, Nevada Manufacturers Association):

We support A.B. 403.

DANIEL MARKELS (Nevada National Federation of Independent Business):

We support A.B. 403, all 1,500 small businesses.

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CHAIR COFFIN:

We will close the hearing on A.B. 403 and adjourn the Senate Committee on Taxation at 2:48 p.m.

RESPECTFULLY SUBMITTED:

Mike Wiley,
Committee Secretary

APPROVED BY:

Senator Bob Coffin, Chair

DATE: _____



STREAMLINED SALES & USE TAX AGREEMENT – 2008 Status

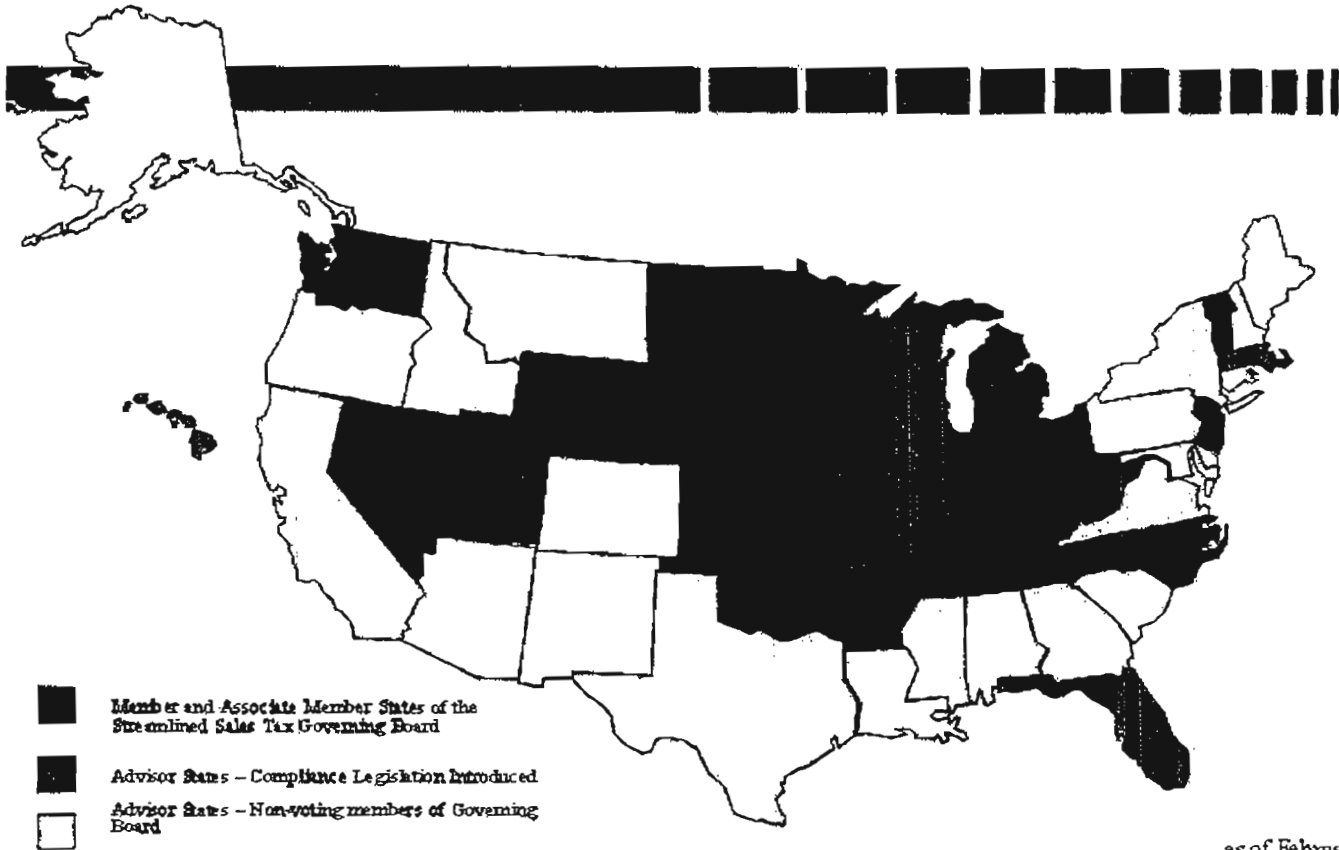


EXHIBIT F Senate Committee on Taxation

Date: 4/30/09 Page 1 of 5

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Streamlined Sales Tax Governing Board, Inc.

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States	Membership
<u>Full Members</u> Arkansas - 1/1/2008 Indiana - 10/1/2005 Iowa - 10/1/2005 Kansas - 10/1/2005 Kentucky - 10/1/2005 Michigan - 10/1/2005 Minnesota - 10/1/2005 Nebraska - 10/1/2005 Nevada - 4/1/2008 New Jersey 10/1/2005 North Carolina - 10/1/2005 North Dakota - 10/1/2005 Oklahoma - 10/1/2005 Rhode Island - 1/1/2007 South Dakota - 10/1/2005 Vermont - 1/1/2007 Washington - 7/1/2007 West Virginia - 10/1/2005 Wyoming - 1/1/2008	A full member state is a state that is in compliance with the Streamlined Sales and Use Tax Agreement through its laws, rules, regulations, and policies.
<u>Associate Members</u> Ohio 10/1/2005 Tennessee - 10/1/2005 Utah 10/1/2005	An associate member state is either (a) a state that is in compliance with the Streamlined Sales and Use Tax Agreement except that its laws, rules regulations and policies to bring the state into compliance are not in effect but are scheduled to take effect on or before July 1, 2009, or (b) a State that has achieved substantial compliance with the terms of the Streamlined Sales and Use Tax Agreement taken as a whole, but not necessarily each provision, and there is an expectation that the state will achieve compliance by July 1, 2009.

RECEIVED

HARRY REID
NEVADA

APR 17 2008

MAJORITY LEADER

United States Senate
STATE OF NEVADA
DEPARTMENT OF TAXATION
WASHINGTON, DC 20510-7012

April 11, 2008

Mr. Dino DiCianno
Executive Director
Nevada Department of Taxation
1550 College Parkway Suite 115
Carson City, Nevada 89706

Dear Mr. DiCianno:

Thank you for contacting me to express your support for the Sales Tax Fairness and Simplification Act (S. 34; H.R. 3396). I appreciate hearing from you on behalf of the State of Nevada.

In 1992, the Supreme Court ruled that states may not require out-of-state vendors to collect their sales tax, as they require in-state vendors to do, unless the vendor has a significant physical presence in that state. Critics of this ruling claim that it gives catalogue companies and Internet retailers a competitive advantage over traditional storefront retailers.

The Supreme Court also ruled that Congress has the authority to impose sales tax collection requirements on remote sellers. Congress was reluctant to do that, however, because of the burden of having to follow the rules for some 7,200 sales tax jurisdictions across the country. Realizing this, forty states embarked on the Streamlined Sales Tax Project, a process to create uniform tax definitions, a single tax rate per zip code, and other sales tax simplifications. The product of this effort is the Streamlined Sales and Use Tax Simplification Agreement (SSUTA). So far, twenty one states have signed the SSUTA provisions into their laws. As you know, the Nevada legislature adopted the SSUTA in 2003 (A.B. 514) and 2005 (S.B. 515).

Before states can require out-of-state vendors to collect sales tax, Congress must pass legislation on this issue. Senator Mike Enzi (R-WY) introduced the Sales Tax Fairness and Simplification Act (S. 34) on May 22, 2007. This bill would grant those states that have implemented the SSUTA the authority to require sales tax collection. The Senate Finance Committee is currently considering S. 34.

Please be assured that I understand the importance of Internet commerce in our economy. Should I have the opportunity to consider S. 34 before the full Senate, please know that I will keep your support for this legislation in mind. Again, thank you for taking the time to share your thoughts with me. I look forward to hearing from you in the near future.

My best wishes to you.

Sincerely,



HARRY REID
United States Senator
Nevada



Jim Gibbons
Governor

THOMAS R. SHEETS
Chair, Nevada Tax Commission

DINO DICIANNO
Executive Director

STATE OF NEVADA
DEPARTMENT OF TAXATION

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March 21, 2008

Senator Harry Reid
Senate Majority Leader
528 Hart Senate Office Building
Washington, DC 20510

RE: Sales Tax Fairness and Simplification Act (S. 34 and H.R. 3396)

The Honorable Senator Reid:

On behalf of the State of Nevada, I am writing to ask for your help on Legislation that would authorize states that have simplified their sales tax systems to require remote sellers to collect and remit tax on sales into the state. As the voting member for the State of Nevada to the Streamlined Sales Tax Governing Board, I would respectfully request that you express your support for Legislation that has already been introduced at the national level on this subject (S.34 and H.R. 3396).

Under current law, a state may not require a seller that does not have a physical presence in the state to collect tax on sales into the state, even though the tax is still owed by individual consumers. As a result, state and local sales taxes are not collected on billions of dollars in Internet and mail order sales, Main Street retailers that are required to collect tax face an unfair competitive disadvantage, and state and local revenue bases are eroded.

It is now time for congressional authorization allowing states that have simplified their sales taxes; which Nevada has, to require remote sellers to collect and remit. Requiring remote sellers to collect and remit tax will remove a competitive disadvantage faced by those Main Street businesses that are now required to collect and remit tax and help Nevada continue to provide the services our citizens deserve.

Twenty two states, representing over 35 percent of the country's population, have already been certified as being in compliance with the Streamlined Sales and Use Tax Agreement, which simplifies state sales tax systems and removes the burdens and costs of the current system imposed on sellers. The Agreement is operational in the following States: Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, NEVADA, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia and Wyoming.

The legislation has broad based support by the National Conference of State Legislatures; Federation of Tax Administrators; of brick-and-mortar and online retailers; retail and real estate associations; public and privately owned shopping centers; state government groups; manufacturing groups and organizations representing small business groups.

I believe both bills (S.34 and H.R. 3396) offer a solid basis for proceeding through the Legislative Process to enact legislation that will authorize states; including the State of Nevada, to require remote sellers to collect and remit sales and use taxes on goods and services sold to customers. The legislation affirms the accomplishments that states have made in simplifying the administration of sales and use taxes for multistate sellers and builds on the structure we have put in place.

Thank you in advance for your help and look forward in working with you. For additional information, please do not hesitate to contact me at 775-684-2060.

Sincerely,

Dino DiCianno, Executive Director
Nevada Department of Taxation

CC: Governor Jim Gibbons - Nevada
Senator John Ensign - Nevada
Representative Shelley Berkley - Nevada
Representative Dean Heller - Nevada
Representative Jon C. Porter - Nevada
Joan Wagnon, President - Streamlined Sales Tax Governing Board
Scott Peterson, Executive Director - Streamlined Sales Tax Governing Board
Harley T. Duncan, Executive Director - Federation of Tax Administrators

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-fifth Session
May 12, 2009**

The Senate Committee on Taxation was called to order by Chair Bob Coffin at 1:42 p.m. on Tuesday, May 12, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Bob Coffin, Chair
Senator Michael A. Schneider
Senator Maggie Carlton
Senator Randolph Townsend
Senator Mike McGinness
Senator Maurice E. Washington

COMMITTEE MEMBERS ABSENT:

Senator Terry Care, Vice Chair (Excused)

STAFF MEMBERS PRESENT:

Joe Reel, Deputy Fiscal Analyst
Mike Wiley, Committee Secretary

OTHERS PRESENT:

Carole Vilardo, President, Nevada Taxpayers Association
Ray Bacon, Nevada Manufacturers Association
Barbara Smith Campbell, Consensus
Dino DiCianno, Executive Director, Department of Taxation
Gail Tuzzolo, Nevada State AFL-CIO
Barry Smith, Executive Director, Nevada Press Association, Inc.
Alfredo Alonso, Nevada Beer Wholesalers Association; Southern Wine and Spirits

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SENATOR SCHNEIDER:

Las Vegas does a tremendous amount of business, and a good operator knows the big products and what time of year they sell. Las Vegas should be exporting to California or Arizona. One of the facilities sold more G.H. Mumm Cordon Rouge champagne in Las Vegas than anywhere in the United States. Southern Wines and Spirits carries such a huge inventory that they should be the exporter. I understand the large wineries, but what about the smaller ones?

MR. ALONSO:

In 90 percent of the cases with the small wineries, this does not apply because the wholesaler relationship has no good-cause language, and they can pull out anytime. The problem is the larger organizations that apply too much pressure. While they have tremendous inventories, they continue to run out frequently. That is why we are willing to cap it, so it is understood this is not about large numbers but unique circumstances where we need to satisfy customers.

CHAIR COFFIN:

Do we have a motion?

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED A.B. 378 WITH AMENDMENT NO. 679.

SENATOR MCGINNESS SECONDED THE MOTION.

SENATOR SCHNEIDER:

Would the maker of the motion consider eliminating wine?

THE MOTION PASSED. (SENATOR SCHNEIDER VOTED NO.)

* * * * *

CHAIR COFFIN:

I will close the work session on A.B. 378 and open the work session on Assembly Bill 403. This is an essential ballot question to streamline the Streamlined Sales and Use Tax Agreement, and it has no amendments.

ASSEMBLY BILL 403 (1st Reprint): Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement. (BDR 32-752)

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SENATOR TOWNSEND MOVED TO DO PASS A.B. 403.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR COFFIN:

I will close the work session on A.B. 403 and open the work session on Assembly Bill 492.

ASSEMBLY BILL 492 (1st Reprint): Imposes certain requirements on the enactment of legislation and the provision of notice regarding certain tax abatements and exemptions. (BDR 32-602)

MR. REEL:

This bill carries out the provisions of section 6 of Article 10 of the *Constitution of the State of Nevada*. It puts into statute the requirements of the constitutional provisions. It would limit any legislation passed which includes abatement or an exemption granted by the Commission on Economic Development. It would require that after ten years the legislation expire.

CHAIR COFFIN:

Who testified on behalf of the bill?

MR. REEL:

Assemblywoman Kirkpatrick.

CHAIR COFFIN:

Did we have any opposition?

MR. REEL:

There was none.

SENATOR WASHINGTON:

I talked to Assemblywoman Kirkpatrick and Carole Vilardo about amending the bill to allow an expiration date on certain taxes, and Ms. Vilardo said I was

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/75TH2009/JOURNAL/](http://www.leg.state.nv.us/session/75th2009/journal/)),
WHICH ARE NOT THE OFFICIAL FINALIZED VERSIONS OF THE *JOURNALS*.
CONSULT THE PRINT VERSION FOR THE OFFICIAL RECORD.

THE SIXTY-FOURTH DAY

CARSON CITY (Monday), April 6, 2009

Assembly called to order at 11:14 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Rajan Zed.

Om

bhur bhuvah svah

tat Savitur varenyam

bhargo devasya dhimahi

dhiyo you nah prachodayat

We meditate on the transcendental Glory of the Deity Supreme, who is inside the heart of the earth, inside the life of the sky, and inside the soul of the Heaven. May He stimulate and illuminate our minds.

Asato ma sad gamaya

Tamaso ma jyotir gamaya

Mrityor mamrtam gamaya

Lead me from the unreal to the Real.

Lead me from darkness to Light.

Lead me from death to immortality.

niyatam kuru karma tvam karma jyayo hyakarmanah

sarirayatrapa ca te na prasiddhyedakarmanah

yajnarthatkarmano'nyatra loko'yam karmabandhanah

tadartham karma kaunteya muktasangah samacara

Fulfill all your duties; action is better than inaction. Even to maintain your body, you are obliged to act. Selfish action imprisons the world. Act selflessly, without any thought of personal profit.

tasmadasaktah satatam karyam karma samacara

asakto hyacarankarma paramapnoti purusah

karmanaiva hi samsiddhimasthita janakadayah

lokasangrahamevapi sampasyankartumarhasi

Strive constantly to serve the welfare of the world; by devotion to selflessness one attains the supreme goal of life. Do your work with the welfare of others always in mind.

Om saha naavavatu

Saha nau bhunaktu

Saha viiryan karavaavahai

Tejasvi naavadhiitamastu

Maa vidhvishhaavahai

May we be protected together.

May we be nourished together.

May we work together with great vigor.

May our study be enlightening.

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

3. *A person who is discharged from employment or who is demoted, suspended or otherwise discriminated against in violation of subsection 1 may ~~commence a civil action against his employer within 1 year after the date of the alleged violation and obtain:~~*

~~(a) Wages and benefits lost as a result of the violation;~~

~~(b) An order of reinstatement without loss of position, seniority or benefits;~~

~~(c) Damages equal to the amount of the lost wages and benefits; and~~

~~(d) Reasonable attorney's fees fixed by the court.]~~ **request a hearing before the Labor Commissioner. The employer shall provide the person who is discharged from employment or who is demoted, suspended or otherwise discriminated against with all the forms necessary to request such a hearing. The hearing must be conducted in the manner prescribed in NRS 607.205 to 607.215, inclusive.**

Sec. 6. NRS 394.201 is hereby amended to read as follows:

394.201 NRS 394.201 to 394.351, inclusive, ***and sections 4 and 5 of this act*** may be cited as the Private Elementary and Secondary Education Authorization Act.

Sec. 7. This act becomes effective on ~~July 1,~~ **August 15,** 2009.

Assemblywoman Parnell moved the adoption of the amendment.

Remarks by Assemblywoman Parnell.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 253.

Bill read second time and ordered to third reading.

Assembly Bill No. 329.

Bill read second time and ordered to third reading.

Assembly Bill No. 372.

Bill read second time and ordered to third reading.

Assembly Bill No. 403.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 164.

AN ACT relating to taxes on retail sales; revising various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to authorize the Legislature to amend ~~for repeal~~ a provision of that Act ~~[without additional voter approval]~~ **only** when necessary to resolve a

conflict with a federal law or interstate agreement for the administration of sales and use taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110) **Sections 1-9** of this bill carry out recent amendments to the Agreement regarding the exclusion of electronically transferred products from certain required definitions, the certification by the State of the software of certain computer programs that calculate the taxes due on a sale, a limited waiver of liability for sellers who fail to collect a tax increase that becomes effective within 30 days after the enactment of a statute which provides for that increase, and the exclusion of certain delivery charges from the calculation of sales and use taxes.

Existing law authorizes the adoption of an ordinance for the imposition of a sales and use tax in Nye County to support public safety services. (Nye County Sales and Use Tax Act of 2007) **Section 10** of this bill revises the requirements for such an ordinance in accordance with the provisions of the Streamlined Sales and Use Tax Agreement imposing restrictions on the date of implementation of changes in tax rates.

Existing law includes various provisions of the Sales and Use Tax Act of 1955. (NRS 372.010-372.115, 372.185-372.205, 372.260-372.284, 372.285-372.326, 372.327-372.345, 372.350) Under existing law, the provisions of that Act, which was submitted to and approved by the voters at the 1956 General Election, cannot be amended or repealed without additional voter approval. (Nev. Const. Art. 19, § 1) **Sections 11-19** of this bill provide for the submission to the voters of an amendment to that Act to authorize the Legislature to amend that Act ~~without any additional voter approval~~ **only** if such a legislative amendment is necessary to resolve a conflict with any federal law or interstate agreement for the administration of sales and use taxes, and the legislative amendment does not increase the rate of a tax imposed pursuant to that Act or narrow the scope of a tax exemption approved by the voters.

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

Section 1. Chapter 360B of NRS is hereby amended by adding thereto a new section to read as follows:

1. *"Specified digital products" means electronically transferred digital audio works, digital audiovisual works and digital books.*

2. *As used in this section:*

(a) *"Digital audio works" means works that result from the fixation of a series of musical, spoken or other sounds, including ringtones.*

(b) *"Digital audiovisual works" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.*

(c) *"Digital books" means works that are generally recognized in the ordinary and usual sense as books.*

(d) *"Electronically transferred" means obtained by a purchaser by means other than tangible storage media.*

(e) *"Ringtones" means digitized sound files that are downloaded onto a device and may be used to alert the customer with respect to a communication.*

Sec. 2. NRS 360B.225 is hereby amended to read as follows:

360B.225 The Department shall:

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

2. Except as otherwise provided in subsection 3:

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

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

(2) Any penalties and interest on that amount.

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

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

(2) Any penalties and interest on that amount.

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

Sec. 3. NRS 360B.250 is hereby amended to read as follows:

360B.250 The Department shall:

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

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

(b) Any penalties and interest on that amount.

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

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

(b) Any penalties and interest on that amount.

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

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

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

(b) Any penalties and interest on that amount.

5. *If an increase in the rate of any sales or use tax imposed in this State becomes effective within 30 days after the enactment of a statute providing for that increase, waive any liability of a registered seller for:*

(a) *The amount of the sales or use tax which the registered seller fails to collect at the increased rate; and*

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

↪ unless the registered seller fails to collect the tax at the rate in effect immediately preceding that increase, the registered seller's failure to collect the tax at the increased rate extends beyond the first 30 days after the enactment of the statute providing for that increase, the registered seller fraudulently fails to collect the tax at the increased rate or the registered seller solicits purchasers based on the rate in effect immediately preceding that increase.

Sec. 4. NRS 360B.290 is hereby amended to read as follows:

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

1. ***Any transportation, shipping or postage charges for the delivery of the property to a location designated by the purchaser.***

2. Any installation charges for the property;

~~{2.}~~ 3. Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;

~~{3.}~~ 4. Any interest, financing and carrying charges from credit extended on the sale; and

~~{4.}~~ 5. Any taxes legally imposed directly on the consumer.

Sec. 5. NRS 360B.400 is hereby amended to read as follows:

360B.400 In administering the provisions of this chapter and chapters 372 and 374 of NRS, and in carrying out the provisions of the Agreement, the Department shall construe the terms defined in NRS 360B.405 to 360B.495, inclusive, ***and section 1 of this act***, unless the context otherwise requires, in the manner prescribed by those sections.

Sec. 6. NRS 360B.415 is hereby amended to read as follows:

360B.415 "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. ***The term does not include any specified digital products.***

Sec. 7. NRS 360B.425 is hereby amended to read as follows:

360B.425 "Delivery charges" means charges by a seller of personal property for the preparation and delivery of the property to a location designated by the purchaser of the property, including, but not limited to, charges for transportation, shipping, postage, handling, crating and packing ~~{ }~~, ***except that the term does not include any charges for transportation, shipping or postage which are stated separately pursuant to NRS 360B.290.***

Sec. 8. NRS 360B.480 is hereby amended to read as follows:

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

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

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

(c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges *which are not stated separately pursuant to NRS 360B.290* and excluding any installation charges which are stated separately pursuant to NRS 360B.290; and

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

2. The term does not include:

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

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

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

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

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

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

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

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

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

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

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

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

(d) Any of the following criteria is satisfied:

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

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

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

Sec. 9. NRS 360B.485 is hereby amended to read as follows:

360B.485 "Tangible personal property" includes, but is not limited to, electricity, water, gas, steam and prewritten computer software. ***The term does not include any products that are transferred electronically to a purchaser.***

Sec. 10. Section 15 of the Nye County Sales and Use Tax Act of 2007, being chapter 545, Statutes of Nevada 2007, at page 3425, is hereby amended to read as follows:

Sec. 15. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate that does not exceed one-half of 1 percent.

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

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

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

5. A provision that 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 on the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

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

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

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

Sec. 11. The Legislature hereby finds and declares that:

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

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

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

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

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

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

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

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

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

Sec. 12. At the General Election on November 2, 2010, 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. 13. 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. 14. 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, 2010, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

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

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

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

Sec. 153.5. ~~[The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, only if such legislation:~~

~~1. Is necessary to resolve a conflict with any federal statute or regulation or interstate agreement for the administration, collection or enforcement of sales and use taxes;~~

~~2. Does not increase the rate of any tax imposed pursuant to this Act;~~
and

~~3. Does not narrow the scope of any tax exemption provided pursuant to the provisions of sections 48 to 67.1, inclusive, of this Act, as amended by the direct vote of the people.]~~ ***The people of the State of Nevada hereby authorize the Legislature to enact legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, only if such legislation meets all of the following criteria:***

1. It is necessary to resolve a conflict with any federal statute or regulation or interstate agreement for the administration, collection or enforcement of sales and use taxes;

2. It does not increase the rate of any tax imposed pursuant to this Act;
and

3. It does not narrow the scope of any tax exemption provided pursuant to the provisions of sections 48 to 67.1, inclusive, of this Act, as amended by the direct vote of the people.

Sec. 2. This act becomes effective on January 1, 2011.

Sec. 15. 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 authorize the Legislature to amend or repeal any provision of this Act without an additional direct vote of the people if necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?}~~ **Shall the Sales and Use Tax Act of 1955 be amended to authorize the Legislature to amend a provision of this Act only if necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?**

Yes ☐ No ☐

Sec. 16. 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 authorize the Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval only if that legislation is necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes, that legislation does not increase the rate of any tax imposed pursuant to this Act, and that legislation does not narrow the scope of a tax exemption approved by the direct vote of the people.}~~ **The proposed amendment to the Sales and Use Tax Act of 1955 would authorize the Legislature to enact legislation amending a provision of this Act only if that legislation is necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes, that legislation does not increase the rate of any tax imposed pursuant to this Act, and that legislation does not narrow the scope of a tax exemption approved by the direct vote of the people.**

Sec. 17. 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, 2011. 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. 18. All general election laws not inconsistent with this act are applicable.

Sec. 19. 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. 20. The amendatory provisions of section 10 of this act do not apply to any ordinance enacted before the effective date of this act.

Sec. 21. This act becomes effective upon passage and approval.

Assemblywoman McClain moved the adoption of the amendment.

Remarks by Assemblywoman McClain.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 417.

Bill read second time and ordered to third reading.

Assembly Bill No. 518.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Assembly Bill No. 88 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that upon return from the printer Assembly Bill No. 193 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Ocegüera moved that Assembly Bill No. 301 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Ocegüera moved that Assembly Joint Resolution No. 7 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 16.

Bill read third time.

Remarks by Assemblyman Ocegüera.

Roll call on Assembly Bill No. 16:

YEAS—42.

NAYS—None.

Assembly Bill No. 16 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

NEVADA LEGISLATURE

Seventy-Fifth Session, 2009

ASSEMBLY DAILY JOURNAL

THE SEVENTY-FIRST DAY

CARSON CITY (Monday), April 13, 2009

Assembly called to order at 11:15 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Arberry and Carpenter, who were excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

Our Gracious Lord, we have sought You, but not diligently. We have seen, but not perceived. We have heard, but not understood. We have desired things heavenly, but clung to things on earth. Strengthen the members of this body to do Your will. As they learn to love, seek, perceive, desire, and understand Your will, give them the peace that comes from trusting You. We pray in the only One we can trust.

AMEN.

Presentation of the Colors by Troop 100 of the Boy Scouts of America.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 274, 313, 378, 381, 410, 490, 509, 511, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 151, 152, 389, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Assembly Bill No. 360 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 362.

Bill read third time.

Remarks by Assemblyman Claborn.

Roll call on Assembly Bill No. 362:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 362 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 393.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 393:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 393 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 403.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 403:

YEAS—40.

NAYS—None.

EXCUSED—Arberry, Carpenter—2.

Assembly Bill No. 403 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 407.

Bill read third time.

THE ONE HUNDRED AND SIXTH DAY

CARSON CITY (Monday), May 18, 2009

Senate called to order at 11:20 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Patrick Propster.

Matthews 6:25, 26 New King James Version:

"Therefore, I say to you, do not worry about your life, what you will eat or what you will drink; nor about your body, what you will put on. Is not life more than food and the body more than clothing? Look at the birds of the air, for they neither sow nor reap nor gather into barns; yet your heavenly Father feeds them. Are you not of more value than they?"

Gracious Heavenly Father, Lord of all, we stand before You this day seeking first Your Kingdom, Your righteousness, that we might be guided by You in the matters of decision before us.

Lord, may our lives reflect the heart of You in all that we think, do, and say. May Your direction, Oh Lord, not only be with us throughout this day but each and every day. This we pray in Thy Holy Name, Jesus.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 124, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 84, 370, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Energy, Infrastructure and Transportation, to which were referred Assembly Bills Nos. 186, 296, 387, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Energy, Infrastructure and Transportation, to which were rereferred Senate Bills Nos. 358, 395, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 423, 424, 425, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Assembly Bill No. 333 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 348.

Bill read third time.

Roll call on Assembly Bill No. 348:

YEAS—21.

NAYS—None.

Assembly Bill No. 348 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 369.

Bill read third time.

Roll call on Assembly Bill No. 369:

YEAS—21.

NAYS—None.

Assembly Bill No. 369 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 380.

Bill read third time.

Roll call on Assembly Bill No. 380:

YEAS—21.

NAYS—None.

Assembly Bill No. 380 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 393.

Bill read third time.

Roll call on Assembly Bill No. 393:

YEAS—21.

NAYS—None.

Assembly Bill No. 393 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 403.

Bill read third time.

Roll call on Assembly Bill No. 403:

YEAS—21.

NAYS—None.

Assembly Bill No. 403 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 416.

Bill read third time.

Roll call on Assembly Bill No. 416:

YEAS—21.

NAYS—None.

Assembly Bill No. 416 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senator Care moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 4:46 p.m.

SENATE IN SESSION

At 4:48 p.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 471.

Bill read third time.

Senator Schneider disclosed that he is on the board of directors of a credit union.

Senator Woodhouse disclosed that she is on the board of directors of a credit union.

Remarks by Senators Amodei and Care.

Senator Amodei requested that the following remarks be entered in the Journal.

SENATOR AMODEI:

I would like to ask the Chair of Judiciary if we have an answer as to whether we have excluded credit unions in this legislation.

SENATOR CARE:

We did. If you look at the statutory definition of a financial institution, under NRS 363A.050 it specifically does not include a credit union.

Roll call on Assembly Bill No. 471:

YEAS—21.

NAYS—None.

Assembly Bill No. 471 having received a constitutional majority, Mr. 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

BALLOT QUESTION TEXT AND VOTES FROM THE 2010 GENERAL ELECTION

State of Nevada

Statewide

Ballot Questions

2010

To Appear on the November 2, 2010
General Election Ballot

QUESTION NO. 3

Amendment to the Sales and Use Tax Act of 1955

Assembly Bill 403 of the 75th Session

CONDENSATION (Ballot Question)

Shall the Sales and Use Tax Act of 1955 be amended to authorize the Legislature to amend or repeal any provision of this Act only if necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection, or enforcement of sales and use taxes?

213,759 Votes (32.15%) Yes ☐ No ☒ 451,186 Votes (67.85%)

EXPLANATION

This proposed amendment to the Sales and Use Tax Act of 1955 would authorize the Nevada Legislature to enact legislation amending or repealing any provision of this Act without obtaining voter approval whenever such legislation is necessary to resolve a conflict with any federal law or interstate agreement for the administration, collection, or enforcement of sales and use taxes. The proposed amendment would not authorize the Legislature, without obtaining voter approval, to enact any legislation that increases the rate of any tax imposed pursuant to this Act, or to narrow the scope of any exemption under the Act.

Nevada has enacted laws providing for the administration of sales and use taxes in accordance with the interstate Streamlined Sales and Use Tax Agreement to which Nevada is a member. The purpose of this Agreement is to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and types of commerce within and across state lines. To avoid a conflict with the provisions of the Agreement, the Legislature may be required to enact legislation amending the Sales and Use Tax Act of 1955 in response to federal legislation approved by Congress affecting the Agreement or in response to interstate actions amending the Agreement. The Legislature has the authority to amend local sales taxes without voter approval, but the Sales and Use Tax Act, which was enacted by referendum, cannot be amended without voter approval. Passage of this question would grant limited authority to amend the Sales and Use Tax Act to resolve certain conflicts.

A “Yes” vote would authorize the Legislature to amend or repeal any provision of the Sales and Use Tax Act of 1955 without voter approval in order to resolve a conflict with federal law or interstate agreements for the administration, collection, or enforcement of the sales and use tax, except for legislation that would increase the rate of tax imposed pursuant to the Act or narrow the scope of any exemption under the Act.

A “No” vote would continue to require the Legislature to obtain voter approval before enacting any legislation amending or repealing any provision of the Sales and Use Tax Act of 1955.

ARGUMENTS FOR PASSAGE

To remain in compliance with the Streamlined Sales and Use Tax Agreement, Nevada must act in a timely manner regarding federal legislation or amendments to the Agreement that affect the Sales and Use Tax Act of 1955. Authorizing the Legislature to amend or repeal provisions of the Act without voter approval, under certain limited conditions, would allow the Legislature to respond flexibly and efficiently to such legislation and amendments. Because the Legislature only meets regularly in odd-numbered years and general elections only occur in even-numbered years, there is already a potential 2-year delay in maintaining compliance with the Agreement. The additional delay of requiring approval of a ballot question to make technical and administrative changes relating to sales and use taxes increases the risk of falling out of compliance with the Agreement, which would jeopardize Nevada's membership status under the Agreement.

This amendment does not authorize the Legislature, without voter approval, to increase the State's portion of the tax rate (2 percent) or to take away or narrow the scope of any tax exemption under the Act.

ARGUMENTS AGAINST PASSAGE

Amendments to the Sales and Use Tax Act of 1955 have required voter approval since 1956 when Nevada voters approved the Act through the constitutional referendum process. Since that time, the Department of Taxation has been able to administer sales and use taxes and the Nevada Legislature has been able to enact appropriate legislation to amend the State's portion of the sales and use tax and obtain voter approval when required. With respect to federal law and the Streamlined Sales and Use Tax Agreement, the State was able to become a member to the Agreement and has been able to maintain compliance with the Agreement up to this point under the current process that requires voter approval. The citizens of Nevada should not give up the right to approve even minor legislation that changes the administration, collection, and enforcement of the State's portion of the sales and use tax.

FISCAL NOTE

Financial Impact – Cannot Be Determined

If this proposal to amend the Sales and Use Tax Act of 1955 is approved by voters, the Nevada Legislature would be authorized to make changes to the Sales and Use Tax Act of 1955 without voter approval under certain conditions. It cannot be determined with any degree of certainty the number or types of legislative actions that would be required by the Legislature which would meet all of the conditions specified within the question. Thus, the financial impact on the sales and use taxes collected in the State or upon individual taxpayers cannot be determined with any reasonable degree of certainty.