

STATE FINANCIAL SUPPORT FOR PUBLIC SCHOOLS

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PART I

Assembly Concurrent
Resolution No. 25--52nd Session
of the Nevada Legislature (1963)

Assembly Concurrent Resolution No. 25--Committee on Education

ASSEMBLY CONCURRENT RESOLUTION--Directing the legislative commission to conduct a study of the present law concerning state support for public schools in Nevada, and to report the results of such study and make recommendations for corrective legislation to the 53rd session of the legislature of the State of Nevada.

WHEREAS, It is necessary that a study of the system of apportionment and allowance of moneys in the state treasury subject to distribution to the several school districts of this state be conducted in order to ascertain whether such system embodies any inequities; and

WHEREAS, Legislation will be required to correct any inequities which may be revealed by such a study; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the legislative commission is hereby directed to conduct a study of the present law concerning state support for public schools in Nevada to determine whether any inequities exist in such law because of the Peabody formula, which is set forth in NRS 387.120 to 387.127, inclusive, and report the results of such study and make recommendations for specific corrective legislation to the 53rd session of the legislature of the State of Nevada.

* * *

Senate Concurrent
Resolution No. 8 - 53rd Session
of the Nevada Legislature (1965)

Senate Concurrent Resolution No. 8--Senator Dodge

SENATE CONCURRENT RESOLUTION--Directing the legislative commission to continue the study of the present law concerning state support for public schools in Nevada, and to report the results of such study and make recommendations for corrective legislation to the 54th session of the legislature of the State of Nevada.

WHEREAS, It is necessary that the study of the system of apportionment and allowance of moneys in the state treasury subject to distribution to the several school districts of this state be continued in order to ascertain whether such system embodies any inequities; and

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legislation to the 54th session of the legislature of the State of
Nevada.

* * *

PART II

Report of the Legislative Commission

TO THE MEMBERS OF THE 54TH SESSION OF THE NEVADA LEGISLATURE:

Assembly Concurrent Resolution No. 25 of the 1963 session of the legislature directed the legislative commission "to conduct a study of the present law concerning state support for public schools in Nevada to determine whether any inequities exist in such law because of the Peabody formula * * * and make recommendations for specific corrective legislation to the 53rd session of the legislature of the State of Nevada."

Subsequent to the 1963 session, the legislative commission, in response to the mandate of the resolution, determined that it would conduct its study through a subcommittee. Appointed to serve on the subcommittee were Senator Carl F. Dodge of Churchill County as chairman, and four assemblymen as members: James C. Bailey of Washoe County, James I. Gibson and R. Guild Gray of Clark County, and Archie Pozzi, Jr. of Ormsby County.

This subcommittee did determine that inequities in the law existed but that corrective legislation would not marshal support until such time as additional funds were made available. The legislative commission so reported in 1965 to the 53rd session of the legislature, which by Senate Concurrent Resolution No. 8 directed the legislative commission to continue its study and make recommendations for specific corrective legislation to the 1967 legislative session. The legislative commission thereafter directed the subcommittee to continue its labors during the period 1965-1967.

New formula suggestions were received by the subcommittee from several people either interested in or identified in various capacities with Nevada education. The approaches of several other states were studied. The 1960 recommendations of the University of Wyoming team were reviewed. Some ideas did not sufficiently neutralize the inadequacies. Some were not sufficiently self-executing and would have entailed continual legislative review. Some, which appeared good in theory, failed to meet Nevada's situation when specifically applied to our school districts.

The proposed formula is purely the result of the efforts of Nevada people. No outsiders were involved or consulted. It was not spun in an ivory tower. It is not perfection, but it does seek to recognize the diverse realities of Nevada's school districts. If the formula is adopted, future experience may dictate necessary changes not indicated by today's conditions. The subcommittee has had the temerity to label it the "Nevada Plan."

The inadequacies of the Peabody formula are remedied by the Nevada Plan as follows:

1. Inadequacy. The Peabody formula is an averaging method not tailored to school district situations varying widely from the norm. It was based on average costs for the year 1953-1954 and made a uniform grant in aid to all school districts without sufficient regard to variations in ability to finance at the local level. As a result, with rising costs, school districts below the average in assessed valuations per pupil are experiencing difficulty. They have long since used up

their optional tax leeway. Their only recourse has been to appeal to the legislature for additional moneys above those allotted by the Peabody formula.

Remedy. The Nevada Plan is not an averaging method. It is designed to meet the basic needs of each school district on an individual basis by recognizing variations in ability to finance at the local level. Local leeway is restored to each of the school districts.

2. Inadequacy. The penalty clause against school districts below the average assessment ratio is not valid because the school district can in no way control the level of assessment.

Remedy. The Nevada Plan assumes continuing equalization of assessment at 35 percent of value and does away with the concept of penalty in state aid because of minus variance from the state assessment ratio.

3. Inadequacy. The Peabody formula is too complicated. For this reason it has not been fully understood by the legislature and the public generally, and it is too cumbersome of administration by the state department of education.

Remedy. While not the soul of simplicity, the Nevada Plan formula is relatively easy to understand. The mechanics of apportioning the state distributive school fund will be greatly simplified. Apportionments are based upon pupils, and the present cumbersome system of counting and classifying teachers will be eliminated.

4. Inadequacy. There are inequities in the accountability of federal impact funds granted under Public Law 874.

Remedy. Public Law 874 funds accruing to school districts as a result of federal impact will be taken into account in the Nevada Plan formula with a flat 25 percent of such receipts being considered as local contribution instead of the present sliding scale which contains some inequities. This action increases the equity in regard to this particular category of public school financing, but does not erase completely the inequities which exist.

5. Inadequacy. There is difficulty in balancing fairly the relative amounts of teacher apportionment and pupil apportionment, which difficulty has repeatedly created an area of legislative controversy.

Remedy. Because apportionment is based upon pupils, the present legislative problem of where to set the relative dollar amounts on teacher apportionment and on pupil apportionment is obviated.

6. Inadequacy. There is no room for local ingenuity in developing economies through a broader utilization of plant facilities and personnel and experimentation with new teaching methods and devices.

Remedy. Presently any departure from certain prescribed standards is entirely at school district expense. Therefore departure and ingenuity are discouraged. The Nevada Plan is elastic enough to permit and financially aid in innovation and cost-saving experimentation sought by school districts and desired by taxpayers.

The subcommittee selected the county-of-origin sales tax as the source of additional revenue for the following reasons:

1. Public education is our largest and most important public service and is entitled to support from the broadest based taxes.
2. A local source of revenue will restore a better balance between state and local support of public education.
3. The sales tax is most responsive to increases in school population and begins returning revenue immediately as the costs of educating additional children are incurred.
4. The objections of many of the school districts to the local option sales tax are removed.
5. A universally imposed revenue source was needed to equalize local effort in support of education so that the Nevada Plan of state aid could be equitably implemented.

Part III of this report contains a suggested bill for legislative enactment. The question of the constitutionality of the proposal, imposing a county-of-origin sales tax, has been examined by the legislative counsel. He has concluded that such a bill, if enacted, would be constitutional. If the legislature would prefer not to enact the suggested legislation it could refer the question of the imposition of an additional sales tax for the support of the public schools to a direct vote of the people.

The legislative commission wishes to acknowledge the constructive assistance given to the subcommittee by Mr. Donald K. Perry, first as an assistant superintendent of public instruction and later as a special consultant to the subcommittee, and by Mr. Russell W. McDonald, legislative counsel. The contributions of these men greatly aided the subcommittee and the legislative commission in their endeavors.

Pertinent statistical information is contained in Part IV of this report.

Respectfully submitted,

Legislative Commission
State of Nevada

Carson City, Nevada
January, 1967

PART III

SUGGESTED LEGISLATION

SUMMARY--Provides financial support for school districts by revising state aid formula, requiring uniform assessment of property and imposing sales tax. (BDR 34-343)

AN ACT relating to the support of public schools; to amend chapters 387 and 388 of NRS by revising the method of apportioning the state distributive school fund; to amend chapter 361 of NRS by requiring the equalization among the several counties of the assessment of property for taxation; to amend Title 32 of NRS by adding a new chapter imposing a local sales tax; to repeal certain sections of NRS which would conflict with such amendments; providing penalties; and providing other matters properly relating thereto.

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

Section 1. Chapter 387 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. The legislature declares that the proper objective of state financial aid to public education is to insure each Nevada child a reasonably equal educational opportunity. Recognizing wide local variations in wealth and costs per pupil, the state should supplement local financial ability to whatever extent necessary in each school district to provide a minimum program of education. Therefore the quintessence of the state's financial obligation for such a program can be expressed in a formula on a per pupil basis as: State financial aid equals school district basic support guarantee for a minimum program minus local available funds produced by mandatory taxes. This formula is designated the Nevada plan.

Sec. 3. For making the apportionments of the state distributive school fund authorized and directed to be made under the provisions of Title 34 of NRS, the basic support guarantee per pupil is established for each of the several school districts in the state as follows:

<u>Churchill County School District.....</u>	<u>\$499</u>
<u>Clark County School District.....</u>	<u>448</u>
<u>Douglas County School District.....</u>	<u>491</u>
<u>Elko County School District.....</u>	<u>477</u>
<u>Esmeralda County School District.....</u>	<u>888</u>
<u>Eureka County School District.....</u>	<u>692</u>
<u>Humboldt County School District.....</u>	<u>469</u>
<u>Lander County School District.....</u>	<u>473</u>
<u>Lincoln County School District.....</u>	<u>548</u>
<u>Lyon County School District.....</u>	<u>492</u>
<u>Mineral County School District.....</u>	<u>485</u>
<u>Nye County School District.....</u>	<u>498</u>
<u>Ormsby County School District.....</u>	<u>527</u>
<u>Pershing County School District.....</u>	<u>492</u>
<u>Storey County School District.....</u>	<u>551</u>
<u>Washoe County School District.....</u>	<u>467</u>
<u>White Pine County School District.....</u>	<u>503</u>

Sec. 4. 1. For making the apportionments of the state distributive school fund authorized and directed to be made under the provisions of Title 34 of NRS, "average daily attendance" means the 6 months of highest average daily attendance for the current school year of:

(a) Pupils in the kindergarten department and in grades 1 to 12, inclusive, of the public schools.

(b) Physically or mentally handicapped minors receiving special education pursuant to the provisions of NRS 388.440 to 388.540, inclusive.

(c) Children detained in detention homes and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550 to 388.580, inclusive.

2. The state board of education shall establish uniform rules to be used in calculating the average daily attendance of pupils.

In calculating average daily attendance of pupils, no pupil specified in paragraphs (a), (b) and (c) of subsection 1 shall be counted more than once.

3. The state board of education shall establish by regulation the maximum pupil-teacher ratio in each grade, and for each subject matter wherever different subjects are taught in separate classes, for each school district of the state which is consistent with:

- (a) The maintenance of an acceptable standard of instruction;
- (b) The conditions prevailing in such school district with respect to the number and distribution of pupils in each grade; and
- (c) Methods of instruction used, which may include educational television, team teaching or new teaching systems or techniques.

If the superintendent of public instruction finds that any school district is maintaining one or more classes whose pupil-teacher ratio exceeds the applicable maximum, and unless he finds that the board of trustees of the school district has made every reasonable effort in good faith to comply with the applicable standard, the state board of education shall reduce the average daily attendance for apportionment purposes by the percentage which the number of pupils attending such classes is of the total number of pupils in the district, and may withhold the quarterly apportionment entirely.

Sec. 5. 1. On or before August 1, November 1, February 1 and April 1 of each year, the state controller shall render to the superintendent of public instruction a statement of the moneys in the state treasury subject to distribution to the several school districts of the state as provided in this section.

2. Immediately after the state controller has made his quarterly report, the state board of education shall apportion the state distributive school fund among the several county school districts and joint school districts in the following manner:

- (a) Basic support of each school district shall be computed

by multiplying the average daily attendance by the basic support guarantee per pupil established in section 3 of this act.

(b) The availability of local funds shall be determined, which local funds shall be the sum of:

(1) The proceeds of the 70-cent local tax computed as provided in NRS 387.195 or 387.250;

(2) Twenty-five percent of all moneys received by the school district under the provisions of Public Law 874, 81st Congress, approved September 30, 1950, as amended, during the previous year;

(3) The proceeds of the vehicle privilege tax; and

(4) The proceeds of the local sales tax imposed by sections 16 to 171, inclusive, of this act.

(c) Apportionment computed on a yearly basis shall consist of the difference between the basic support as computed in paragraph (a) of this subsection and the local funds available as computed in paragraph (b) of this subsection.

(d) Apportionments shall be paid quarterly at the times provided in subsection 1, each quarterly payment to consist of approximately one-fourth of the yearly apportionment as computed in paragraph (c) of this subsection. The first quarterly apportionment based on an estimated number of pupils in average daily attendance and succeeding quarterly apportionments shall be subject to adjustment from time to time as the need therefor may appear. A final adjustment shall be made in the August apportionment of the succeeding year by adding or subtracting the difference between the amount paid in the previous year and the amount computed on the actual average daily attendance of the highest 6 months of the previous year, so that for any school year the adjusted amount paid shall be equal to, but shall not exceed, the sum computed for the highest 6 months of average daily attendance.

3. Pupils who are excused from attendance at examinations or

have completed their work in accordance with the rules of the board of trustees shall be credited with attendance during that period.

Sec. 6. The superintendent of public instruction may in his discretion and shall when so directed by the state board of education verify by independent audit or other suitable examination:

1. The reports of daily attendance submitted by any school district for the purpose of computing its average daily attendance; and

2. The number of pupils attending each class in any school district.

Sec. 7. NRS 387.175 is hereby amended to read as follows:

387.175 The county school district fund shall be composed of:

1. All local taxes for the maintenance and operation of kindergartens, elementary schools and high schools.

2. All moneys received from the Federal Government for the maintenance and operation of public schools.

3. Apportionments by the state as provided in [NRS 387.125.] section 5 of this act.

4. All moneys transferred in compliance with the provisions of NRS 387.170.

5. Any other receipts, including gifts, for the operation and maintenance of the public schools in the county school district.

Sec. 8. NRS 387.185 is hereby amended to read as follows:

387.185 1. All school moneys due each county school district shall be paid over by the state treasurer to the county treasurer on August 1, November 1, February 1 and April 1 of each year or as soon thereafter as the county treasurer may apply for the same, upon the warrant of the state controller drawn in conformity with the apportionment of the state board of education as provided in [NRS 387.125.] section 5 of this act.

2. No county school district shall receive any portion of the public school moneys unless that school district shall have complied with the provisions of this Title of NRS and the rules and regulations of the state board of education.

Sec. 9. NRS 387.235 is hereby amended to read as follows:

387.235 The joint school district fund shall be composed of:

1. All local taxes for the maintenance and operation of kindergartens, elementary schools and high schools.

2. All moneys received from the Federal Government for the maintenance and operation of public schools.

3. Apportionments by the state as provided in [NRS 387.125.] section 5 of this act.

4. All moneys transferred in compliance with the provisions of NRS 387.230.

5. Any other receipts, including gifts, for the operation and maintenance of the public schools in the joint school district.

Sec. 10. NRS 387.245 is hereby amended to read as follows:

387.245 1. All school moneys due each joint school district shall be paid over by the state treasurer to the county treasurer holding the joint school district fund on August 1, November 1, February 1 and April 1 of each year, or as soon thereafter as the county treasurer may apply for the same, upon the warrant of the state controller drawn in conformity with the apportionment of the state board of education as provided in [NRS 387.125.] section 5 of this act.

2. No joint school district shall receive any portion of the public school moneys unless that school district shall have complied with the provisions of this Title of NRS and the rules and regulations of the state board of education.

Sec. 11. NRS 388.530 is hereby amended to read as follows:

388.530 [The] As required by subsection 2 of section 4 of this act, the state board of education shall establish rules and regulations for the computation of average daily attendance of pupils enrolled under the provisions of NRS 388.440 to 388.540, inclusive.

Sec. 12. NRS 388.570 is hereby amended to read as follows:

388.570 [At the time of making the regular quarterly apportionments, the superintendent of public instruction shall apportion from the state distributive school fund to school districts which have employed teachers in accordance with the provisions of NRS 388.550 such an amount as is shown, by reports from the school districts, to be necessary under this section. In no case shall the total amount so apportioned in any 1 year exceed the amount set aside for this purpose in the general appropriation act and budgeted for this purpose. Apportionment to any school district

under the provisions of this section shall be made in accordance with regulations made by the state board of education.] As required by subsection 2 of section 4 of this act, the state board of education shall establish rules and regulations for the computation of average daily attendance of children detained in detention homes and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550 to 388.580, inclusive.

Sec. 13. Chapter 361 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. The legislature finds that:

(a) Taxation of property is an important element of school district local financing; and

(b) An exterior equalization force is required, notwithstanding apparent obedience to the legislative mandate declared in NRS 361.225, to effect some measure of uniformity in the quality of educational programs in the public schools.

2. Not later than April 1, 1967, and not later than April 1 of each year thereafter, the Nevada tax commission shall:

(a) Determine for each county each year the average ratio, expressed as a percentage, of assessed valuation of property to a true valuation of property by means of a sampling of the assessment practices or other proper method.

(b) Publish and certify to the county assessors and the boards of county commissioners of the counties of this state the average ratio of assessed valuation to true valuation of property in each county and the state.

3. During the month of May 1967, and during the month of May of each year thereafter, the Nevada tax commission shall meet with the board of county commissioners and the county assessor of each county in Carson City, Nevada. The board of county commissioners and the county assessor shall:

(a) Present evidence to the Nevada tax commission of the steps taken to insure that all property subject to taxation within the county has been assessed at 35 percent of its full cash value as required by law.

(b) Demonstrate to the Nevada tax commission that any adjustments in assessments ordered in the preceding year as a result of the appraisal procedure provided in paragraph (c) of subsection 4 hereof have been complied with.

4. At the conclusion of each meeting with the board of county commissioners and the county assessor, the Nevada tax commission shall: -

(a) If it finds that all property subject to taxation within the county has been assessed at 35 percent of its full cash value, take no further action.

(b) If it finds that any class of property, as designated in the segregation of the tax roll filed with the secretary of the state board of equalization pursuant to NRS 361.390, is assessed at less or more than 35 percent of its full cash value, and if the board of county commissioners approves, order a specified percentage increase or decrease in the assessed valuation of such class on the succeeding tax list and assessment roll.

(c) If it finds the existence of underassessment or overassessment which in the aggregate amounts to more than 5 percent of the total assessed valuation of the county, or if the board of county commissioners does not agree to an increase or decrease in assessed value as provided in paragraph (b), order the board of county commissioners to employ forthwith one or more qualified appraisers approved by the Nevada tax commission. The payment of such appraisers' fees shall be a proper charge against the funds of the county notwithstanding that the amount of such fees has not been budgeted in accordance with law. The appraisers shall determine whether or not the county assessor has assessed

all real and personal property in the county subject to taxation at 35 percent of its full cash value as required by law. The appraisers may cooperate with the division of assessment standards of the Nevada tax commission in making their determination if so agreed by the appraisers and the division, and shall cooperate with the division in preparing a report to the Nevada tax commission. The report to the Nevada tax commission shall be made on or before October 1 following the date of the order. If the report indicates that any real or personal property in the county subject to taxation has not been assessed at 35 percent of its full cash value, a copy of the report shall be transmitted to the board of county commissioners by the Nevada tax commission prior to November 1. The board of county commissioners shall then order the county assessor to raise or lower the assessment of such property to 35 percent of its full cash value on the succeeding tax list and assessment roll.

5. The Nevada tax commission may promulgate regulations reasonably necessary to carry out the provisions of this section.

6. Any county assessor who refuses to increase or decrease the assessment of any property pursuant to an order of the Nevada tax commission or the board of county commissioners as provided in this section is guilty of malfeasance in office.

Sec. 14. NRS 361.405 is hereby amended to read as follows:

361.405 1. The secretary of the state board of equalization forthwith shall certify any change in the assessed valuation of any piece or class of property in whole or in part made by the state board of equalization to the county auditor of the county wherein such property is assessed, and whenever the valuation of any piece or class of property shall have been raised, the secretary of the state board of equalization shall forward by mail to the property owner or owners affected thereby due notice of such increased valuation.

2. As soon as all changes have been certified to him by the secretary of the state board of equalization, the county auditor shall:

(a) Enter all such changes on the assessment roll prior to the delivery thereof to the ex officio tax receiver.

(b) Add up the valuations and enter the total valuation of each kind of property and the total valuation of all property on the assessment roll.

(c) Certify the results to the board of county commissioners and the Nevada tax commission on or before March 15 of each year.

Sec. 15. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth in sections 16 to 171, inclusive, of this act.

Sec. 16. This chapter shall be known and may be cited as the County of Origin Sales and Use Tax Law.

Sec. 17. Except where the context otherwise requires, the definitions given in sections 18 to 34, inclusive, govern the construction of this chapter.

Sec. 18. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

Sec. 19. 1. "Gross receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the tax commission may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the county or has paid the use tax with respect to the property, and has resold the property

prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.

(c) The cost of transportation of the property prior to its sale to the purchaser.

2. The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale.

(b) All receipts, cash, credits and property of any kind.

(c) Any amount for which credit is allowed by the seller to the purchaser.

3. "Gross receipts" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The price received for labor or services used in installing or applying the property sold.

(d) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

4. For purposes of the sales tax, if the retailers establish to the satisfaction of the tax commission that the sales tax has been added to the total amount of the sale price and has not been

absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Sec. 20. "In a county" means within the exterior limits of a county, and includes all territory within such limits owned by or ceded to the United States of America.

Sec. 21. 1. "Occasional sale" includes:

(a) A sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller's permit, provided such sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit.

(b) Any transfer of all or substantially all the property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.

2. For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity.

Sec. 22. "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit, but shall not include the United States, this state or any agency thereof, or any city, county, district or other political subdivision of this state.

Sec. 23. 1. "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

2. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price is a purchase.

3. A transfer for a consideration of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication, is also a purchase.

Sec. 24. 1. "Retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business of tangible personal property.

2. The delivery in a county of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in the county, is a retail sale in the county by the person making the delivery. He shall include the retail selling price of the property in his gross receipts.

Sec. 25. 1. "Retailer" includes:

(a) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

(c) Every person making more than two retail sales of tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

2. When the tax commission determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the tax commission may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

3. A licensed optometrist or physician and surgeon is a consumer of, and shall not be considered, a retailer within the provisions of this chapter, with respect to the ophthalmic materials used or furnished by him in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.

Sec. 26. 1. "Sale" means and includes any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

2. "Transfer of possession," "lease," or "rental" includes only transactions found by the tax commission to be in lieu of a transfer of title, exchange or barter.

3. "Sale" includes;

(a) The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing or imprinting.

(b) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(c) The furnishing, preparing, or serving for a consideration of food, meals or drinks.

(d) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(e) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication.

Sec. 27. 1. "Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold.

(b) The cost of the materials used, labor or service cost, interest charged, losses, or any other expenses.

(c) The cost of transportation of the property prior to its purchase.

2. The total amount for which property is sold includes all of the following:

(a) Any services that are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

3. "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

(d) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any tax imposed by the State of Nevada upon or with respect to the storage, use or other consumption of tangible personal property purchased from any retailer.

Sec. 28. "Seller" includes every person engaged in the business of selling tangible personal property of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax.

Sec. 29. "Storage" includes any keeping or retention in a county for any purpose except sale in the regular course of business or subsequent use solely outside the county of tangible personal property purchased from a retailer.

Sec. 30. "Storage" and "use" do not include the keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

Sec. 31. "Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

Sec. 32. "Tax commission" means the Nevada tax commission.

Sec. 33. "Taxpayer" means any person liable for tax under this chapter.

Sec. 34. "Use" includes the exercise of any right or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of that property in the regular course of business.

Sec. 35. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in a county on or after July 1, 1967.

Sec. 36. The tax hereby imposed shall be collected by the retailer from the consumer insofar as it can be done.

Sec. 37. 1. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.

2. Any person violating any provision of this section is guilty of a misdemeanor.

Sec. 38. The tax commission may by regulation provide that the amount collected by the retailer from the consumer in reimbursement of the tax be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sale.

Sec. 39. 1. Every person desiring to engage in or conduct business as a seller within a county shall file with the tax

commission an application for a permit for each place of business.

2. Every application for a permit shall:

(a) Be made upon a form prescribed by the tax commission.

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

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

3. The application shall be signed by the owner if he is a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority.

Sec. 40. At the time of making an application, the applicant shall pay to the tax commission a permit fee of \$1 for each permit.

Sec. 41. After compliance with sections 39, 40 and 116 by the applicant, the tax commission shall grant and issue to each applicant a separate permit for each place of business within the county. A permit shall not be assignable, and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

Sec. 42. A seller whose permit has been previously suspended or revoked shall pay the tax commission a fee of \$1 for the renewal or issuance of a permit.

Sec. 43. 1. Whenever any person fails to comply with any provision of this chapter relating to the sales tax or any rule or regulation of the tax commission relating to the sales tax prescribed and adopted under this chapter, the tax commission, upon hearing, after giving the person 10 days' notice in writing

specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person.

2. The tax commission shall give to the person written notice of the suspension or revocation of any of his permits.

3. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

4. The tax commission shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this chapter relating to the sales tax and the regulations of the tax commission.

Sec. 44. A person who engages in business as a seller in a county without a permit or permits or after a permit has been suspended, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

Sec. 45. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale.

Sec. 46. The certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the permit provided for in sections 39 to 50, inclusive, and who, at the time of purchasing the tangible personal property, intends to sell it in the regular course of business or is unable

to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

Sec. 47. 1. The certificate shall:

- (a) Be signed by and bear the name and address of the purchaser.
- (b) Indicate the number of the permit issued to the purchaser.
- (c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.

2. The certificate shall be substantially in such form as the tax commission may prescribe.

Sec. 48. If a purchaser who gives a certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the use shall be taxable to the purchaser as of the time the property is first used by him, and the sales price of the property to him shall be deemed the measure of the tax. Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser. If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the sales price of the property to him.

Sec. 49. Any person who gives a resale certificate for property which he knows at the time of purchase is not to be resold by him in the regular course of business for the purpose of evading payment to the seller of the amount of the tax applicable to the transaction is guilty of a misdemeanor.

Sec. 50. If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such

similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

Sec. 51. An excise tax is hereby imposed on the storage, use or other consumption in a county of tangible personal property purchased from any retailer on or after July 1, 1967, for storage, use or other consumption in the county at the rate of 1 percent of the sales price of the property.

Sec. 52. Every person storing, using or otherwise consuming in a county tangible personal property purchased from a retailer is liable for the tax. His liability is not extinguished until the tax has been paid to the county, except that a receipt from a retailer maintaining a place of business in the county or from a retailer who is authorized by the tax commission under such rules and regulations as it may prescribe, to collect the tax and who is, for the purposes of this chapter relating to the use tax, regarded as a retailer maintaining a place of business in the county, given to the purchaser pursuant to section 53 is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Sec. 53. Every retailer maintaining a place of business in a county and making sales of tangible personal property for storage, use or other consumption in the county, not exempted under sections 66 to 84, inclusive, shall, at the time of making the sales or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the tax commission.

Sec. 54. The tax required to be collected by the retailer constitutes a debt owed by the retailer to the county.

Sec. 55. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.

Sec. 56. The tax required to be collected by the retailer from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales.

Sec. 57. Any person violating sections 53, 55 or 56 is guilty of a misdemeanor.

Sec. 58. Every retailer selling tangible personal property for storage, use or other consumption in a county shall register with the tax commission and give:

1. The name and address of all agents operating in the county.
2. The location of all distribution or sales houses or offices or other places of business in the county.
3. Such other information as the tax commission may require.

Sec. 59. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale.

Sec. 60. The certificate relieves the person selling the property from the burden of proof only if taken in good faith

from a person who is engaged in the business of selling tangible personal property and who holds the permit provided for by sections 39 to 50, inclusive, and who, at the time of purchasing the tangible personal property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

Sec. 61. 1. The certificate shall:

- (a) Be signed and bear the name and address of the purchaser.
- (b) Indicate the number of the permit issued to the purchaser.
- (c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.

2. The certificate shall be substantially in such form as the tax commission may prescribe.

Sec. 62. If a purchaser who gives a certificate makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used. If the sole use of the property, other than retention, demonstration or display in the regular course of business, is the rental of the property while holding it for sale, the purchaser may elect to pay the tax on the use measured by the amount of the rental charged rather than the sales price of the property to him.

Sec. 63. If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

Sec. 64. It shall be further presumed that tangible personal property shipped or brought to a county by the purchaser after July 1, 1967, was purchased from a retailer on or after July 1, 1967, for storage, use or other consumption in the county.

Sec. 65. 1. On and after July 1, 1967, it shall be further presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of the county was purchased from a retailer for storage, use or other consumption in the county and stored, used or otherwise consumed in the county.

2. This presumption may be controverted by:

(a) A statement in writing, signed by the purchaser or his authorized representative, and retained by the vendor, that the property was purchased for use at a designated point or points outside this state.

(b) Other evidence satisfactory to the tax commission that the property was not purchased for storage, use or other consumption in this state.

Sec. 66. "Exempted from the taxes imposed by this chapter," as used in sections 66 to 84, inclusive, means exempted from the computation of the amount of taxes imposed.

Sec. 67. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property the gross receipts from the sale of which, or the storage, use or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States or under the constitution of this state.

Sec. 68. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, the proceeds of mines which are subject to taxes levied pursuant to chapter 362 of NRS.

Sec. 69. There are exempted from the taxes imposed by this chapter the gross receipts from the sale and distribution of, and the storage, use or other consumption in a county of, any combustible gas, liquid or material of a kind used in an internal-combustion or diesel engine for the generation of power to propel a motor vehicle on the highways.

Sec. 70. There are exempted from the taxes imposed by this chapter the gross receipts from sales of, and the storage, use or other consumption of:

1. Any form of animal life of a kind the products of which ordinarily constitute food for human consumption.

2. Feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

3. Seeds and annual plants the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

4. Fertilizer to be applied to land the products of which are to be used as food for human consumption or sold in the regular course of business.

Sec. 71. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, meals and food products for human consumption served by public or private schools, school districts, student organizations and parent-teacher associations to the students or teachers of a school.

Sec. 72. 1. There are exempted from the taxes imposed by this chapter the gross receipts from sales of, and the storage, use or other consumption in a county of:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(b) Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this chapter.

(c) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

2. As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers."

Sec. 73. There are exempted from the taxes imposed by this chapter the gross receipts from the sales, furnishing or service of, and the storage, use or other consumption in a county of, gas, electricity and water when delivered to consumers through mains, lines or pipes.

Sec. 74. There are exempted from the taxes imposed by this chapter the gross receipts from the sale, furnishing or service of, and the storage, use or other consumption in a county of, any matter used to produce domestic heat by burning, including, without limitation, wood, coal, petroleum and gas.

Sec. 75. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a contract on public works executed prior to July 1, 1967.

Sec. 76. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property used for the performance of a written contract entered into prior to the effective date of this act.

Sec. 77. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in a county of, tangible personal property which becomes an ingredient or component part of any newspaper or periodical regularly issued at average intervals not exceeding 3 months and any such newspaper or periodical.

Sec. 78. There are exempted from the taxes imposed by this chapter the gross receipts from occasional sales of tangible

personal property and the storage, use or other consumption in a county of tangible personal property, the transfer of which to the purchaser is an occasional sale.

Sec. 79. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any tangible personal property to:

1. The United States, its unincorporated agencies and instrumentalities.

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

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

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

5. Any organization created for religious, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

Sec. 80. There are exempted from the computation of the amount of the sales tax the gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

Sec. 81. There are exempted from the computation of the amount of the sales tax the gross receipts from any sale of tangible personal property which is shipped to a point outside

this state pursuant to the contract of sale by delivery by the vendor to such point by means of:

1. Facilities operated by the vendor;
2. Delivery by the vendor to a carrier for shipment to a consignee at such point; or
3. Delivery by the vendor to a customs broker or forwarding agent for shipment outside this state.

Sec. 82. Notwithstanding any other provision of law the tax imposed under this chapter shall apply to the gross receipts from the sale of any tangible personal property to contractors purchasing such property either as the agents of the United States or for their own account and subsequent resale to the United States for use in the performance of contracts with the United States for the construction of improvements on or to real property, not including, however, contractors qualified to issue and who do issue resale certificates to vendors for tangible personal property for subsequent incorporation into real property outside this state in the performance of a contract to improve the out-of-state realty.

Sec. 83. The storage, use or other consumption in a county of property, the gross receipts from the sale of which are required to be included in the measure of the sales tax, is exempted from the use tax.

Sec. 84. If a purchaser certifies in writing to a seller that the property purchased will be used in a manner or for a purpose entitling the seller to regard the gross receipts from the sale as exempted by this chapter from the computation of the amount of the sales tax, and uses the property in some other manner or for some other purpose, the purchaser shall be liable for payment of sales tax as if he were a retailer making a retail sale of the property at the time of such use, and the cost

of the property to him shall be deemed the gross receipts from such retail sale.

Sec. 85. The taxes imposed by this chapter are due and payable to the tax commission quarterly on or before the last day of the month next succeeding each quarterly period.

Sec. 86. 1. On or before the last day of the month following each quarterly period of 3 months, a return for the preceding quarterly period shall be filed with the tax commission in such form as the tax commission may prescribe.

2. For purposes of the sales tax a return shall be filed by every seller. For purposes of the use tax a return shall be filed by every retailer maintaining a place of business in the county and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax.

3. Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.

Sec. 87. 1. For the purposes of the sales tax, the return shall show the gross receipts of the seller during the preceding reporting period. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

2. In case of a return filed by a purchaser, the return shall show the total sales price of the property purchased by him, the storage, use or consumption of which became subject to the use tax during the preceding reporting period.

3. The return shall also show the amount of the taxes for the

period covered by the return and such other information as the tax commission deems necessary for the proper administration of this chapter.

Sec. 88. The taxpayer shall deduct and withhold from the taxes otherwise due from him 0.5 percent thereof to reimburse himself for the cost of collecting the tax.

Sec. 89. The person required to file the return shall deliver the return together with a remittance of the amount of the tax due to the office of the tax commission.

Sec. 90. The tax commission, if it deems it necessary in order to insure payment to or facilitate the collection by the county of the amount of taxes, may require returns and payment of the amount of taxes for quarterly periods other than calendar quarters, depending upon the principal place of business of the seller, retailer or purchaser as the case may be, or for other than quarterly periods.

Sec. 91. For the purposes of the sales tax, gross receipts from rentals or leases of tangible personal property shall be reported and the tax paid in accordance with such rules and regulations as the tax commission may prescribe.

Sec. 92. The tax commission, if it deems it necessary to insure the collection of the taxes, may provide by rule and regulation for the collection of the taxes by the affixing and canceling of revenue stamps and may prescribe the form and method of the affixing and canceling.

Sec. 93. 1. The tax commission for good cause may extend for not to exceed 1 month the time for making any return or paying any amount required to be paid under this chapter.

2. Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the rate of 6

percent per annum from the date on which the tax would have been due without the extension until the date of payment.

Sec. 94. 1. If the tax commission is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the county by any person, it may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount due for one or for more than one period.

2. When a business is discontinued, a determination may be made at any time thereafter within the periods specified in section 100 as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this chapter.

Sec. 95. The amount of the determination, exclusive of penalties, shall bear interest at the rate of one-half of 1 percent per month, or fraction thereof, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

Sec. 96. 1. In making a determination the tax commission may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

2. The interest on underpayments and overpayments shall be computed in the manner set forth in sections 115 and 146.

Sec. 97. If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of this chapter or authorized rules and regulations,

a penalty of 10 percent of the amount of the determination shall be added thereto.

Sec. 98. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade this chapter or authorized rules and regulations, a penalty of 25 percent of the amount of the determination shall be added thereto.

Sec. 99. 1. The tax commission shall give to the retailer or person storing, using or consuming tangible personal property written notice of its determination.

2. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the retailer or person storing, using or consuming tangible personal property at his address as it appears in the records of the tax commission.

3. In case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States post office.

Sec. 100. 1. Except in the case of fraud, intent to evade this chapter or authorized rules and regulations issued thereunder, failure to make a return, or claim for additional amount pursuant to section 111, every notice of a deficiency determination shall be personally served or mailed within 3 years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined or within 3 years after the return is filed, whichever period expires the later. In the case of failure to make a return, or claim for additional amount pursuant to section 111, every notice of determination shall be mailed or personally served within 8 years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined.

2. The limitation specified in this section does not apply

in case of a sales tax proposed to be determined with respect to sales of property for the storage, use or other consumption of which notice of a deficiency determination has been or is given pursuant to sections 99, 105 and 107, and to subsection 1 of this section. The limitation specified in this section does not apply in case of an amount of use tax proposed to be determined with respect to storage, use or other consumption of property for the sale of which notice of a deficiency determination has been or is given pursuant to sections 99, 105 and 107, and to subsection 1 of this section.

3. If, before the expiration of the time prescribed in this section for the mailing of a notice of deficiency determination, the taxpayer has consented in writing to the mailing of the notice after such time, the notice may be mailed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Sec. 101. 1. If any person fails to make a return, the tax commission shall make an estimate of the amount of the gross receipts of the person, or, as the case may be, of the amount of the total sales price of tangible personal property sold or purchased by the person, the storage, use or other consumption of which in the county is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the tax commission's possession or may come into its possession. Upon the basis of this estimate, the tax commission shall compute and determine the amount required to be paid to the county, adding to the sum thus arrived at a penalty equal to 10 percent thereof. One or more determinations may be made for one or for more than one period.

2. When a business is discontinued, a determination may be made at any time thereafter within the periods specified in section 100 as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this chapter.

Sec. 102. 1. In making a determination, the tax commission may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

2. The interest on underpayments and overpayments shall be computed in the manner set forth in sections 115 and 146.

Sec. 103. The amount of the determination, exclusive of penalties, shall bear interest at the rate of one-half of 1 percent per month, or fraction thereof, from the last day of the month following the quarterly period for which the amount, or any portion thereof, should have been returned until the date of payment.

Sec. 104. If the failure of any person to file a return is due to fraud or intent to evade this chapter or rules and regulations, a penalty of 25 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 10 percent penalty provided in section 101.

Sec. 105. Promptly after making its determination the tax commission shall give to the person written notice of the estimate, determination and penalty, the notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Sec. 106. If the tax commission believes that the collection

of any tax or any amount of tax required to be collected and paid to the county or of any determination will be jeopardized by delay, it shall thereupon make a determination of the tax or amount of tax required to be collected, noting that fact upon the determination. The amount determined is due and payable immediately.

Sec. 107. If the amount specified in the determination is not paid within 10 days after service of notice thereof upon the person against whom the determination is made, the amount becomes final at the expiration of the 10 days, unless a petition for redetermination is filed within the 10 days, and the delinquency penalty and the interest provided in section 115 shall attach to the amount of the tax or the amount of the tax required to be collected.

Sec. 108. The person against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to sections 109 to 115, inclusive. He shall, however, file the petition for redetermination with the tax commission within 10 days after the service upon him of notice of determination. The person shall also within the 10-day period deposit with the tax commission such security as it may deem necessary to insure compliance with this chapter. The security may be sold by the tax commission in the manner prescribed by section 116.

Sec. 109. 1. Any person against whom a determination is made, under sections 94 to 105, inclusive, or any person directly interested, may petition for a redetermination within 30 days after service upon the person of notice thereof.

2. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period.

Sec. 110. 1. If a petition for redetermination is filed within the 30-day period, the tax commission shall reconsider

the determination and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him 10 days' notice of the time and place of the hearing.

2. The tax commission may continue the hearing from time to time as may be necessary.

Sec. 111. The tax commission may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the tax commission at or before the hearing.

Sec. 112. The order or decision of the tax commission upon a petition for redetermination becomes final 30 days after service upon the petitioner of notice thereof.

Sec. 113. All determinations made by the tax commission under sections 94 to 105, inclusive, are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10 percent of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

Sec. 114. Any notice required by sections 109 to 113, inclusive, shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Sec. 115. Any person who fails to pay any tax to the county or any amount of tax required to be collected and paid to the county, except amounts of determinations made by the tax commission under sections 94 to 105, inclusive, within the time required shall pay a penalty of 10 percent of the tax or amount of the tax, in addition to the tax or amount of tax, plus interest at the rate of one-half of 1 percent per month, or fraction thereof, from the date on which the tax or the amount of tax required to be collected became due and payable to the county until the date of payment.

Sec. 116. 1. The tax commission, whenever it deems it necessary to insure compliance with this chapter, may require any person subject thereto to place with it such security as the tax commission may determine. The amount of the security shall be fixed by the tax commission but, except as noted below, shall not be greater than twice the estimated average liability of persons filing returns for quarterly periods or three times the estimated average liability of persons required to file returns for monthly periods, determined in such manner as the tax commission deems proper, or \$5,000, whichever amount is the lesser.

2. In case of persons habitually delinquent in their obligations under this chapter, the amount of the security shall not be greater than three times the average liability of persons filing returns for quarterly periods or five times the average liability of persons required to file returns for monthly periods, or \$5,000, whichever amount is the lesser.

3. The limitations herein provided apply regardless of the type of security placed with the tax commission.

4. The amount of the security may be increased or decreased by the tax commission subject to the limitations herein provided.

5. The tax commission may sell the security at public auction if it becomes necessary so to do in order to recover any tax or any amount required to be collected, interest or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his address as it appears in the records of the tax commission. Security in the form of a bearer bond issued by the United States or the State of Nevada which has a prevailing

market price may, however, be sold by the tax commission at a private sale at a price not lower than the prevailing market price thereof.

6. Upon any sale any surplus above the amounts due shall be returned to the person who placed the security.

Sec. 117. 1. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the tax commission may, not later than 3 years after the payment became delinquent, or within 3 years after the last recording of an abstract under section 125, or of a certificate under section 128, give notice thereof personally or by registered mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person. In the case of any state officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the state controller.

2. After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they received the notice until the tax commission consents to a transfer or disposition, or until 60 days elapse after the receipt of the notice, whichever period expires earlier.

3. All persons so notified shall, within 10 days after receipt of the notice, advise the tax commission of all such

credits, other personal property, or debts in their possession, under their control, or owing by them.

4. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective shall be delivered or mailed to the branch or office of such bank at which such deposit is carried or at which such credits or personal property is held.

5. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, to the extent of the value of the property or the amount of the debts thus transferred or paid, he shall be liable to the county for any indebtedness due under this chapter from the person with respect to whose obligation the notice was given if solely by reason of such transfer or disposition the county is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 118. At any time within 3 years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within 3 years after the delinquency of any tax or any amount of tax required to be collected, or within 3 years after the last recording of an abstract under section 125, or of a certificate under section 128, the tax commission may bring an action in the courts of this state, or any other state, or of the United States, in the name of the county to which the tax is due and payable to collect the amount delinquent together with penalties and interest.

Sec. 119. The district attorney of the county to which a part of the tax is due and payable, on behalf of the county, shall prosecute the action, and the provisions of NRS and the Nevada Rules of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings.

Sec. 120. In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment is required.

Sec. 121. In the action a certificate by the tax commission showing the delinquency shall be prima facie evidence of the determination of the tax or the amount of the tax, of the delinquency of the amounts set forth, and of the compliance by the tax commission with all the provisions of this chapter in relation to the computation and determination of the amounts.

Sec. 122. In any action relating to the use tax brought under this chapter, process may be served according to the Nevada Rules of Civil Procedure or may be served upon any agent or clerk in this state employed by any retailer in a place of business maintained by the retailer in this state. In the latter case a copy of the process shall forthwith be sent by registered mail to the retailer at his principal or home office.

Sec. 123. If any amount required to be paid to a county under this chapter is not paid when due, the tax commission may, within 3 years after the amount is due, file in the office of the county clerk of such county a certificate specifying the amount required to be paid, interest and penalty due, the name and address as it appears on the records of the tax commission of the person liable, the compliance of the tax commission with this chapter in relation to the determination of the amount required to be paid, and a request that judgment be entered against the person in the amount required to be paid, together with interest and penalty as set forth in the certificate.

Sec. 124. The county clerk immediately upon the filing of the certificate shall enter a judgment for the county to which the tax is due and payable against the person in the amount required to be paid, together with interest and penalty as set forth in the certificate.

Sec. 125. 1. An abstract of the judgment or a copy may be filed for record with the county recorder of any county.

2. From the time of the filing, the amount required to be paid, together with interest and penalty set forth, constitutes a lien upon all the real property in the county owned by the person liable or afterwards and before the lien expires acquired by him. The lien has the force, effect and priority of a judgment lien and shall continue for 5 years from the date of the judgment so entered by the county clerk unless sooner released or otherwise discharged.

3. The lien may, within 5 years from the date of the judgment or within 5 years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record in the office of the county recorder of any county, an abstract or copy of the judgment, and from the time of such filing, the lien shall be extended to the real property in such county for 5 years, unless sooner released or otherwise discharged.

Sec. 126. Execution shall issue upon the judgment upon request of the tax commission in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in NRS.

Sec. 127. 1. The amounts required to be paid by any person under this chapter together with interest and penalties shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his assets.

(c) Whenever the estate of the person in the hands of executors, administrators or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed

or absent person required to pay any amount under this chapter are levied upon by process of law.

2. This section does not give the county a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien; or preference over costs of administration, funeral expenses, expenses of last illness, family allowances, debts preferred by the laws of the United States or wages as provided in NRS 150.220.

Sec. 128. 1. If any amount required to be paid to a county under this chapter is not paid when due, the tax commission may, within 3 years after the amount is due, file for record in the office of the county recorder of such county or of any other county a certificate specifying the amount, interest and penalty due, the name and address as it appears on the records of the tax commission of the person liable for the same, and the fact that the tax commission has complied with all provisions of this chapter in the determination of the amount required to be paid.

2. From the time of the filing for record, the amount required to be paid, together with interest and penalty, constitutes a lien upon all real property in the county owned by the person or afterwards and before the lien expires acquired by him. The lien has the force, effect and priority of a judgment lien and shall continue for 5 years from the time of the filing of the certificate unless sooner released or otherwise discharged.

3. The lien may, within 5 years from the date of the filing of the certificate or within 5 years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record a new certificate in the office of the county recorder of any such county, and from the time of such filing, the lien shall be extended to the real property in such

county for 5 years, unless sooner released or otherwise discharged.

Sec. 129. The tax commission may at any time release all or any portion of the property subject to any lien provided for in this chapter from the lien or subordinate the lien to other liens and encumbrances if it determines that the amount, interest and penalties are secured sufficiently by a lien on other property or that the release or subordination of the lien will not jeopardize the collection of the amount, interest and penalties.

Sec. 130. A certificate by the tax commission to the effect that any property has been released from the lien, or that the lien has been subordinated to other liens and encumbrances, shall be conclusive evidence that the property has been released, or that the lien has been subordinated as provided in the certificate.

Sec. 131. 1. At any time within 3 years after any person is delinquent in the payment of any amount herein required to be paid, or within 3 years after the last recording of an abstract under section 125, or of a certificate under section 128, the tax commission or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to a county under this chapter.

2. The warrant shall be directed to any sheriff or constable and shall have the same effect as a writ of execution.

3. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

Sec. 132. The tax commission may pay or advance to the sheriff or constable the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The tax commission, and not the court, shall approve the fees for publication in a newspaper.

Sec. 133. The fees, commissions and expenses are the obligation of the person required to pay any amount under this chapter and may be collected from him by virtue of the warrant or in any other manner provided in this chapter for the collection of the tax.

Sec. 134. 1. At any time within 3 years after any person is delinquent in the payment of any amount, the tax commission forthwith may collect the amount in the following manner: The tax commission shall seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public-auction to pay the amount due, together with any interest or penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

2. Any seizure made to collect a sales tax due shall be only of the property of the retailer not exempt from execution under the provisions of NRS.

Sec. 135. 1. Notice of the sale and the time and place thereof shall be given to the delinquent person in writing at least 10 days before the date set for the sale in the following manner: The notice shall be enclosed in an envelope addressed to the person, in case of a sale for use taxes due, at his last-known address or place of business, and, in case of a sale for sales taxes due, at his last-known residence or place of business in this state. It shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county 10 days prior to the date set for the sale.

2. The notice shall contain a description of the property to be sold, a statement of the amount due, including interest,

penalties and costs, the name of the delinquent, and the further statement that unless the amount due, interest, penalties and costs are paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

Sec. 136. 1. At the sale the tax commission shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests the interest or title of the person liable for the amount in the purchaser.

2. The unsold portion of any property seized may be left at the place of sale at the risk of the person liable for the amount.

Sec. 137. 1. If, upon the sale, the moneys received exceed the total of all amounts, including interest, penalties and costs due the county, the tax commission shall return the excess to the person liable for the amounts and obtain his receipt.

2. If any person having an interest in or lien upon the property files with the tax commission, prior to the sale, notice of his interest or lien, the tax commission shall withhold any excess, pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction.

3. If for any reason the receipt of the person liable for the amount is not available, the tax commission shall deposit the excess moneys with the county treasurer, as trustee for the owner, subject to the order of the person liable for the amount, his heirs, successors or assigns.

Sec. 138. If any retailer liable for any amount under this chapter sells out his business or stock of goods, or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the tax commission showing that it has been paid or a certificate stating that no amount is due.

Sec. 139. 1. If the purchaser of a business or stock of goods fails to withhold the purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, or within 60 days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than 90 days after receiving the request, the tax commission shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the tax commission, of the amount that must be paid as a condition of issuing the certificate.

2. Failure of the tax commission to mail the notice will release the purchaser from any further obligation to withhold the purchase price as above provided.

3. The time within which the obligation of a successor may be enforced shall start to run at the time the retailer sells out his business or stock of goods or at the time that the determination against the retailer becomes final, whichever event occurs the later.

Sec. 140. 1. If the tax commission determines that any amount, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the tax commission shall set forth that fact in the records of the tax commission and shall certify to the board of county commissioners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the board of county commissioners, the excess amount collected or paid shall be credited on any amounts then due and payable from the person under this chapter, and the balance shall be

refunded to the person, or his successors, administrators or executors.

2. Any overpayment of the use tax by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to sections 51 to 65, inclusive, shall be credited or refunded by the county.

Sec. 141. 1. No refund shall be allowed unless a claim therefor is filed with the tax commission within 3 years from the last day of the month following the close of the quarterly period for which the overpayment was made, or, with respect to determinations made under sections 94 to 105, inclusive, within 6 months after the determinations become final, or within 6 months from the date of overpayment, whichever period expires the later.

2. No credit shall be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the tax commission within such period, or unless the credit relates to a period for which a waiver is given pursuant to section 100.

Sec. 142. No credit or refund of any amount paid pursuant to sections 51 to 65, inclusive, shall be allowed on the ground that the storage, use or other consumption of the property is exempted under section 83, unless the person who paid the amount reimburses his vendor for the amount of the sales tax imposed upon his vendor with respect to the sale of the property and paid by the vendor to the county.

Sec. 143. Every claim shall be in writing and shall state the specific grounds upon which the claim is founded.

Sec. 144. Failure to file a claim within the time prescribed in section 141 constitutes a waiver of any demand against the county on account of overpayment.

Sec. 145. Within 30 days after disallowing any claim in whole or in part, the tax commission shall serve notice of its action

on the claimant in the manner prescribed for service of notice of a deficiency determination.

Sec. 146. 1. Interest shall be paid upon any overpayment of any amount of tax at the rate of one-half of 1 percent per month from the last day of the calendar month following the quarterly period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

2. The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the tax commission that a claim may be filed or the date upon which the claim is certified to the board of county commissioners, whichever date is the earlier.

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

Sec. 147. If the tax commission determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

Sec. 148. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state, a county, any officer thereof to prevent or enjoin the collection under this chapter of any tax or any amount of tax required to be collected.

Sec. 149. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed.

Sec. 150. 1. Within 90 days after the mailing of the notice of the tax commission's action upon a claim filed pursuant to this chapter, the claimant may bring an action against the tax commission on the grounds set forth in the claim in a court of competent jurisdiction in Ormsby County for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

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

Sec. 151. If the tax commission fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may, prior to the mailing of notice by the tax commission of its action on the claim, consider the claim disallowed and bring an action against the tax commission on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Sec. 152. 1. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited as follows:

(a) If the judgment is for a refund of sales taxes, it shall be credited on any sales or use tax or amount of use tax due from the plaintiff.

(b) If the judgment is for a refund of use taxes, it shall be credited on any use tax or amount of use tax due from the plaintiff under sections 51 to 65, inclusive.

2. The balance of the judgment shall be refunded to the plaintiff.

Sec. 153. In any judgment, interest shall be allowed at the rate of 6 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to

a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the tax commission.

Sec. 154. A judgment shall not be rendered in favor of the plaintiff in any action brought against the tax commission to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

Sec. 155. The tax commission may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in the county to which the refund is owed, in the name of such county.

Sec. 156. The district attorney of the county to which the refund is owed, on behalf of the county, shall prosecute the action, and the provisions of NRS and the Nevada Rules of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings.

Sec. 157. 1. If any amount in excess of \$25 has been illegally determined, either by the person filing the return or by the tax commission, the tax commission shall certify this fact to the board of county commissioners, and such board shall authorize the cancellation of the amount upon the records of the tax commission.

2. If an amount not exceeding \$25 has been illegally determined, either by the person filing a return or by the tax commission, the tax commission, without certifying this fact to such board, shall authorize the cancellation of the amount upon the records of the tax commission.

Sec. 158. 1. The tax commission shall enforce the provisions of this chapter and may prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of this chapter.

2. The tax commission may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Sec. 159. The tax commission may employ accountants, auditors, investigators, assistants and clerks necessary for the efficient administration of this chapter, and may delegate authority to its representatives to conduct hearings, prescribe regulations or perform any other duties imposed by this chapter.

Sec. 160. 1. Every seller, every retailer, and every person storing, using or otherwise consuming in a county tangible personal property purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers in such form as the tax commission may require.

2. Every such seller, retailer or person who files the returns required under this chapter shall keep such records for not less than 4 years from the making of such records unless the tax commission in writing sooner authorizes their destruction.

3. Every such seller, retailer or person who fails to file the returns required under this chapter shall keep such records for not less than 8 years from the making of such records unless the tax commission in writing sooner authorizes their destruction.

Sec. 161. The tax commission, or any person authorized in writing by it, may examine the books, papers, records and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

Sec. 162. In administration of the use tax, the tax commission may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property, the storage,

use or other consumption of which is subject to the tax. The report shall:

1. Be filed when the tax commission requires.
2. Set forth the names and addresses of purchasers of the tangible personal property, the sales price of the property, the date of sale, and such other information as the tax commission may require.

Sec. 163. 1. It shall be a misdemeanor for any member or official or employee of the tax commission to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the tax commission.

2. The governor may, however, by general or special order, authorize examination of the records maintained by the tax commission under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

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

Sec. 164. Any retailer or other person who fails or refuses

to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax commission, or who renders a false or fraudulent return, shall be guilty of a misdemeanor and subject to a fine of not exceeding \$500 for each offense.

Sec. 165. Any person required to make, render, sign or verify any report who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due required by law to be made, shall for each offense be fined not less than \$300 nor more than \$5,000, or be imprisoned for not exceeding 1 year in the county jail, or be subject to both fine and imprisonment.

Sec. 166. Any violation of this chapter, except as otherwise provided, is a misdemeanor.

Sec. 167. Any prosecution for violation of any of the penal provisions of this chapter shall be instituted within 3 years after the commission of the offense.

Sec. 168. In the determination of any case arising under this chapter, the rule of res judicata is applicable only if the liability involved is for the same quarterly period as was involved in another case previously determined.

Sec. 169. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to counties under this chapter shall be paid to the tax commission in the form of remittances payable to the Nevada tax commission.

2. The tax commission shall transmit the payments to the state treasurer to be deposited in the state treasury to the credit of the county of origin sales tax fund hereby created.

3. The state treasurer shall, quarterly, from the county of origin sales tax fund:

(a) Transfer 1 percent of all fees, taxes, interest and penalties collected in each county to the general fund in the state treasury as compensation to the state for the costs of collecting the tax for the counties.

(b) Remit to each county treasurer:

(1) An amount of money equal to one-seventeenth of the total taxes collected pursuant to this chapter from out-of-state businesses not maintaining a fixed place of business within this state; and

(2) An amount of money equal to the fees, taxes, interest and penalties collected in the county pursuant to this chapter less the amount transferred to the general fund of the state pursuant to paragraph (a) of this subsection.

4. Upon receipt of the moneys remitted pursuant to paragraph (b) of subsection 3, the county treasurer shall:

(a) If the county constitutes a county school district, deposit such moneys to the credit of the county school district fund.

(b) If the county forms part of a joint school district, deposit or remit such moneys to the proper county treasurer for deposit in the joint school district fund.

Sec. 170. The remedies of a county provided for in this chapter are cumulative, and no action taken by the tax commission, the

attorney general or a district attorney constitutes an election by the county to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.

Sec. 171. In all proceedings under this chapter the tax commission may act for and on behalf of the counties of the State of Nevada.

Sec. 172. If any section, paragraph, clause or provision of sections 16 to 171, inclusive, of this act shall for any reason be held to be invalid or unenforcible, the invalidity or unenforcibility of such section, paragraph, clause or provision shall not affect any of the remaining provisions of sections 16 to 171, inclusive, of this act.

Sec. 173. NRS 387.120, 387.125, 387.127, 387.130, 387.135, 387.140, 387.200, 387.255, 388.590, 388.600 and 388.610 are hereby repealed.

Sec. 174. 1. Sections 13 and 14 of this act shall become effective upon passage and approval of this act.

2. Sections 1 to 12, inclusive, and 15 to 173, inclusive, of this act shall become effective on July 1, 1967.

3. Nothing in this act shall be construed to prevent the state board of education from making a final adjustment in August 1967 of the apportionments for the fiscal year ending June 30, 1967, pursuant to the provisions of NRS 387.125 and 387.127 as those sections read prior to their repeal by this act.

PART IV

Statistical Data

Basically, the object of the county-of-origin sales tax proposal is to improve the financial condition of Nevada school districts through:

1. Broadening the local tax base for support of public schools by imposing an additional mandatory 1-cent sales tax which is counted as local revenue.
2. Raising the statewide level of support per pupil to a higher level than now exists.

Exhibit "A" - Summary of County-of-Origin
Sales Tax Proposal

Exhibit "A" indicates the method by which it is proposed that each of the above-stated points will be accomplished:

1. The local tax base for support of public schools will be more than doubled in each of the counties through the imposition of the 1-cent county-of-origin sales tax. In 1965-1966 such a tax would have resulted in a total local income of \$10,893,570 as compared to a total local income of \$8,939,778 from the mandatory 70-cent property tax which has been the main base of our public school support system.
2. It is proposed that the level of basic support per pupil be raised in the amount of \$83 per pupil. To accomplish this, the level of support, as it existed under the Peabody formula in 1965-1966, was accepted as a beginning base. Adding the \$83 to the basic support per pupil in each of the several counties which existed in 1965-1966 results in the proposed per-pupil basic support guarantee for each of the several counties.

From Exhibit "A," it is apparent that the following results would also be accomplished under the proposal:

1. The statewide level of support per pupil would be increased by \$8,257,753. (\$83 x 99,941 pupils) This action would increase the equity in the formula to some extent and would serve to level out some of the disparities which now exist between counties.
2. The school districts would experience a net gain on a statewide basis of \$5,963,035. This amount would be available to the school districts to improve programs, meet rising costs or reduce the local optional tax levy, according to the will of the people of the district.
3. The amount of the state appropriation necessary to meet the requirements of the state distributive school fund would be reduced in the amount of \$4,930,535. This could serve to some extent to alleviate the problem of where to obtain additional revenue to support state functions and institutions other than education. It is also conceivable that this amount could serve as a reservoir to meet possible increased financial needs of school districts in future years.

In connection with Exhibit "A," it should be noted that one county school district, Esmeralda, would have experienced a deficit rather than a gain in 1965-1966 under the proposal. However, this is not considered a serious problem. In 1965-1966, sales tax collections more than doubled in Esmeralda County over previous years' collections while the school A.D.A. dropped to an all-time low of 46 pupils. It is believed that this combination of events is unusual and is unlikely to happen again in the immediate future. Therefore, if sales tax collections in Esmeralda County return to the normal pattern, Esmeralda County School District would experience a gain rather than a loss.

SUMMARY OF COUNTY-OF-ORIGIN SALES TAX PROPOSAL

Counties	1 65-66 Income Per Pupil From D.S.F.	2 65-66 Income Per Pupil 70c Local Tax	3 Proposed Increase Per Pupil Basic Support	4 (1+2+3) Proposed Per Pupil Basic Support Guarantee	5 Pupils In A.D.A. 65-66	6 (4x5) Total Proposed Basic Support Guarantee	7 Total Proposed Local Contri- bution	8 (6-7) Total Proposed State Contri- bution	9 Actual from D.S.F. 65-66	10 (9-8) Difference	11 County-of- Origin Sales Tax	12 (11-10) Net Gain
Churchill	\$350	\$ 66	\$83	\$499	2,300	\$ 1,147,700	\$ 368,444	\$ 779,256	\$ 805,089	-\$ 25,833	\$ 158,848	\$ 133,015
X Clark	287	78	83	448	54,407	24,374,336	11,145,238	13,229,098	15,591,781	- 2,362,683	5,661,345	3,297,662
X Douglas	189	219	83	491	1,259	618,169	618,169	--	238,368	- 238,368	292,944	54,576
Elko	268	126	83	477	3,574	1,704,798	855,435	849,363	956,542	- 107,179	322,368	215,189
Esmeralda	425	380	83	888	46	40,848	31,540	9,308	19,554	- 10,246	9,203	1,043
Eureka	279	330	83	692	199	137,708	84,174	53,534	55,616	- 2,082	10,729	8,647
X Humboldt	256	130	83	469	1,643	770,567	399,349	371,218	419,908	- 48,690	140,345	91,655
Lander	270	120	83	473	509	240,757	113,993	126,764	137,261	- 10,497	38,295	27,798
X Lincoln	377	88	83	548	701	384,148	111,970	272,178	263,022	+ 9,156	34,589	43,745
Lyon	278	131	83	492	1,926	947,592	407,365	540,227	536,144	+ 4,083	123,845	127,928
Mineral	372	30	83	485	1,706	827,410	203,098	624,312	634,802	- 10,490	84,577	74,087
Nye	290	125	83	498	1,008	501,984	236,673	265,311	292,705	- 27,394	69,538	42,144
Ormsby	386	58	83	527	3,219	1,696,413	474,934	1,221,479	1,240,942	- 19,463	245,085	225,662
Pershing	207	202	83	492	676	332,592	219,347	113,245	140,268	- 27,023	59,234	32,211
Storey	244	224	83	551	115	63,365	42,034	21,331	28,901	- 6,760	13,388	6,628
X Washoe	283	101	83	467	23,708	11,071,636	6,350,980	4,720,656	6,703,680	- 1,983,024	3,398,006	1,414,982
White Pine	338	82	83	503	2,495	1,254,985	475,758	779,227	843,269	- 64,042	231,231	167,189
					99,491	\$46,115,008	\$22,138,501	\$23,976,507	\$28,907,042	-\$4,930,535	\$10,893,570	\$5,963,035

SHEET 1

Exhibit "B" - Apportionment of Funds From State
Distributive School Fund if Nevada Plan
Had Been In Effect in 1965-1966

Exhibit "B" indicates how the apportionment of funds from the state distributive school fund would have worked out had the Nevada Plan been in effect in 1965-1966. As shown in the exhibit, the formula provides a total basic support guarantee in each of the several counties. The basic support guarantee minus the local contribution equals the state contribution from the state distributive school fund. The local contribution is made up of the proceeds of:

1. The 70-cent mandatory local property tax;
2. The motor vehicle privilege tax;
3. Twenty-five percent of P.L. 874 funds received; and
4. The 1-cent county-of-origin sales tax.

In order that greater equalization may be achieved concerning the local contribution, it is proposed that:

1. The 70-cent mandatory property tax remain at its present level.
2. The motor vehicle privilege tax be counted as local contribution.
3. The percentage of P.L. 874 funds considered as local contribution be a flat 25 percent instead of the present sliding scale which ranges from 0 to 35 percent.
4. The 1-cent county-of-origin sales tax be instituted as a local contribution.

Counties	PROPOSAL--APPORTIONMENT 1965-1966									
	1	2	3	4 LOCAL CONTRIBUTION		6	7	8	9	10
	Pupils in A.D.A.	Basic support Guarantee	(1X2) Total Basic Support Guarantee	70c Local	5 M.V.	25% 874 Funds	1c County-of-Origin	(4+5+6+7) Total Local Contribution	Pro State Contribution	Over Matched
Churchill	2,300	499	\$ 1,147,700	\$ 151,868	\$ 34,782	\$ 22,946	\$ 158,848	\$ 368,444	\$ 779,256	\$
Clark	54,407	448	24,374,336	4,262,624	829,662	391,607	5,661,345	11,145,238	13,229,098	
Douglas	1,259	491	618,169	276,143	60,106	513	292,944	618,169	--	11,537
Elko	3,574	477	1,704,798	451,522	59,677	21,868	322,368	855,435	849,363	
Esmeralda	46	888	40,848	17,640	4,697	0	9,203	31,540	9,308	
Eureka	199	692	137,708	65,699	7,746	0	10,729	84,174	53,534	
Humboldt	1,643	469	770,567	213,703	34,492	10,809	140,345	399,349	371,218	
Lander	509	473	240,757	60,969	14,729	0	38,295	113,993	126,764	
Lincoln	701	548	384,148	61,561	11,919	3,901	34,589	111,970	272,178	
Lyon	1,926	492	947,592	251,634	29,224	2,662	123,845	407,365	540,227	
Mineral	1,706	485	827,410	51,379	13,787	53,355	84,577	203,098	624,312	
Nye	1,008	498	501,984	126,369	30,803	9,963	69,538	236,673	265,311	
Ormsby	3,219	527	1,696,413	185,975	35,641	8,233	245,085	474,934	1,221,479	
Pershing	676	492	332,592	136,609	20,902	2,602	59,234	219,347	113,245	
Storey	115	551	63,365	25,788	2,858	0	13,388	42,034	21,331	
Washoe	23,708	467	11,071,636	2,396,950	460,765	95,259	3,398,006	6,350,980	4,720,656	
White Pine	2,495	503	1,254,985	203,345	41,182	0	231,231	475,758	779,227	
	99,491		\$46,115,008	\$8,939,778	\$1,692,972	\$623,718	\$10,893,570	\$22,138,501	\$23,976,507	\$11,537

SHEET 2

Exhibit "C" - Projections of State Distributive School
Fund Appropriations Under Proposed County of
Origin Sales Tax

Exhibit "C" indicates the amount of funds which must be appropriated in the next biennium under the proposal. Also indicated is the percentage of support provided by the state and by the school district. The proposal provides for a 50-50 sharing of school costs.

Projections of D.S.F. Appropriations
Under Proposal-1¢ County-of-Origin

<u>1967-1968</u>	<u>Total Basic Support</u>
107,421 Pupils x \$464	\$49,843,344
Less local funds	
(1) 70¢ tax on 35% true value	\$10,392,552
(2) 25% of 874 funds	537,105
(3) Motor Vehicle Tax	1,718,736
(4) 1¢ County-of-Origin	12,515,758
	\$25,164,151
 STATE DISTRIBUTIVE SCHOOL FUND	 <u>\$24,679,193</u>
 %State	 49.51
%County	50.49
 <u>1968-1969</u>	
112,792 Pupils x \$464	\$52,335,488
Less local funds	
(1) 70¢ tax on 35% true value	\$11,223,956
(2) 25% of 874 funds	563,960
(3) Motor Vehicle Tax	1,804,672
(4) 1¢ County-of-Origin	13,016,388
	\$26,608,796
 STATE DISTRIBUTIVE SCHOOL FUND	 <u>\$25,726,512</u>
 %State	 49.16
%County	50.84