

SENATE BILL NO. 515—COMMITTEE ON TAXATION

MAY 19, 2005

Referred to Committee on Taxation

SUMMARY—Revises various provisions governing sales and use taxes for clarification and consistency and to carry out Streamlined Sales and Use Tax Agreement. (BDR 32-1342)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; revising various provisions governing sales and use taxes for clarification and consistency and to carry out the Streamlined Sales and Use Tax Agreement; and providing other matters properly relating thereto.

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

1     **Section 1.** Chapter 360B of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 24, inclusive, of this  
3 act.

4     **Sec. 2.** *In administering the provisions of this chapter and*  
5 *chapters 372 and 374 of NRS, and in carrying out the provisions*  
6 *of the Agreement, the Department shall construe the terms defined*  
7 *in sections 3 to 21, inclusive, of this act, unless the context*  
8 *otherwise requires, in the manner prescribed by those sections.*

9     **Sec. 3.** *“Alcoholic beverages” means beverages that are*  
10 *suitable for human consumption and contain one-half of 1*  
11 *percent or more of alcohol by volume.*

12     **Sec. 4.** *“Computer” means an electronic device that accepts*  
13 *information in digital or similar form and manipulates it for a*  
14 *result based on a sequence of instructions.*



1     **Sec. 5.** *“Computer software” means a set of coded*  
2 *instructions designed to cause a computer or automatic data*  
3 *processing equipment to perform a task.*

4     **Sec. 6.** *“Delivered electronically” means delivered to a*  
5 *purchaser by means other than tangible storage media.*

6     **Sec. 7.** *“Delivery charges” means charges by a seller of*  
7 *personal property for the preparation and delivery of the property*  
8 *to a location designated by the purchaser of the property,*  
9 *including, but not limited to, charges for transportation, shipping,*  
10 *postage, handling, crating and packing.*

11     **Sec. 8.** *“Dietary supplement” means any product, other than*  
12 *tobacco, intended to supplement the diet that:*

13     1. *Contains one or more of the following dietary ingredients:*

14     (a) *A vitamin;*

15     (b) *A mineral;*

16     (c) *An herb or other botanical;*

17     (d) *An amino acid;*

18     (e) *A dietary substance for use by humans to supplement the*  
19 *diet by increasing the total dietary intake; or*

20     (f) *A concentrate, metabolite, constituent, extract or*  
21 *combination of any ingredient described in paragraphs (a) to (e),*  
22 *inclusive;*

23     2. *Is intended for ingestion in the form of a tablet, capsule,*  
24 *powder, softgel, gelcap or liquid or, if not intended for ingestion in*  
25 *such a form, is not represented as conventional food and is not*  
26 *represented for use as a sole item of a meal or of the diet; and*

27     3. *Is required to be labeled as a dietary supplement in*  
28 *accordance with 21 C.F.R. § 101.36.*

29     **Sec. 9.** *“Drug” means a compound, substance or*  
30 *preparation, and any component of a compound, substance or*  
31 *preparation, other than a food, a food ingredient, a dietary*  
32 *supplement and an alcoholic beverage, which is:*

33     1. *Recognized in the official United States Pharmacopoeia,*  
34 *official Homeopathic Pharmacopoeia of the United States, or*  
35 *official National Formulary, or in any supplement thereto;*

36     2. *Intended for use in the diagnosis, cure, mitigation,*  
37 *treatment or prevention of disease; or*

38     3. *Intended to affect the structure or any function of the*  
39 *body.*

40     **Sec. 10.** *“Electronic” means relating to technology having*  
41 *electrical, digital, magnetic, wireless, optical, electromagnetic or*  
42 *similar capabilities.*

43     **Sec. 11.** *“Food” and “food ingredients” means substances,*  
44 *whether in liquid, concentrated, solid, frozen, dried or dehydrated*  
45 *form, that are sold for ingestion or chewing by humans and are*



1 consumed for their taste or nutritional value, except alcoholic  
2 beverages and tobacco.

3 **Sec. 12.** 1. Except as otherwise provided in this section,  
4 "lease or rental" means any transfer of possession or control of  
5 tangible personal property for a fixed or indeterminate term for  
6 consideration. The term:

7 (a) Includes future options to purchase or extend; and

8 (b) Excludes:

9 (1) A transfer of possession or control under a security  
10 agreement or plan for deferred payment that requires the transfer  
11 of title upon completion of the required payments;

12 (2) A transfer of possession or control under an agreement  
13 that requires the transfer of title upon completion of required  
14 payments and payment of an option price that does not exceed the  
15 greater of \$100 or one percent of the total required payments;

16 (3) The provision of tangible personal property together  
17 with an operator for a fixed or indeterminate period, if the  
18 operator:

19 (I) Is necessary for the property to perform as designed;  
20 and

21 (II) Does anything more than maintain, inspect and set  
22 up the property; and

23 (4) Agreements covering motor vehicles and trailers  
24 pursuant to which the amount of consideration may be increased  
25 or decreased by reference to the amount realized upon sale or  
26 disposition of the property, as described in 26 U.S.C. § 7701(h)(1).

27 2. The provisions of subsection 1:

28 (a) Apply regardless of whether a transaction is characterized  
29 as a lease or rental under generally accepted accounting  
30 principles, the Internal Revenue Code, the Uniform Commercial  
31 Code or any other provisions of federal, state or local law.

32 (b) Do not apply to any leases or rentals existing on June 15,  
33 2005.

34 **Sec. 13.** "Medicine" includes any drug.

35 **Sec. 14.** "Prepared food" means:

36 1. Food sold in a heated state or heated by the seller;

37 2. Two or more food ingredients mixed or combined by the  
38 seller for sale as a single item, unless the food ingredients:

39 (a) Are only cut, repackaged or pasteurized by the seller; or

40 (b) Contain any raw eggs, fish, meat or poultry, or other such  
41 raw animal foods, for which cooking by the consumer is  
42 recommended pursuant to the Food Code published by the Food  
43 and Drug Administration of the United States Department of  
44 Health and Human Services; and



1       3. Food sold with eating utensils provided by the seller,  
2 including plates, knives, forks, spoons, glasses, cups, napkins or  
3 straws. For the purposes of this paragraph, "plates" does not  
4 include any containers or packaging used to transport food.

5       **Sec. 15.** "Prescription" means an order, formula or recipe  
6 issued in any form of oral, written, electronic or other means of  
7 transmission by a duly licensed practitioner authorized by the laws  
8 of this State.

9       **Sec. 16.** "Prewritten computer software" means computer  
10 software, including any prewritten upgrades, which is not  
11 designed and developed by the author or other creator to the  
12 specifications of a specific purchaser, and computer software  
13 designed and developed by the author or other creator to the  
14 specifications of a specific purchaser when it is sold to a person  
15 other than the specific purchaser. For the purposes of this section:

16       1. The combining of two or more prewritten computer  
17 software programs or prewritten portions thereof does not cause  
18 the combination to be other than prewritten computer software.

19       2. When a person modifies or enhances any computer  
20 software of which the person is not the author or creator, that  
21 person shall be deemed to be the author or creator only of those  
22 modifications or enhancements.

23       3. Any prewritten computer software or a prewritten portion  
24 thereof that is modified or enhanced to any degree remains  
25 prewritten computer software if that modification or enhancement  
26 is designed and developed to the specifications of a specific  
27 purchaser, except that the modification or enhancement does not  
28 constitute prewritten computer software if there is a reasonable,  
29 separately stated charge or an invoice or other statement of the  
30 price given to the purchaser for that modification or enhancement.

31       **Sec. 17.** "Prosthetic device" means a replacement, corrective  
32 or supportive device, including any repair and replacement parts  
33 therefor, worn on or in the body:

34       1. To replace artificially a missing portion of the body;

35       2. To prevent or correct a physical deformity or malfunction;  
36 or

37       3. To support a weak or deformed portion of the body,  
38 ↪ except that the term does not include any corrective eyeglasses,  
39 contact lenses or hearing aids.

40       **Sec. 18.** 1. "Sales price" means the total amount of  
41 consideration, including cash, credit, property and services, for  
42 which personal property is sold, leased or rented, valued in money,  
43 whether received in money or otherwise, and without any  
44 deduction for:

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



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

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

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

10    2. *The term does not include:*

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

13     (b) *The value of any exempt personal property given to the*  
14 *purchaser if:*

15       (1) *The exempt property and any taxable property are sold*  
16 *as a single product or piece of merchandise; and*

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

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

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

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

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

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

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

31    **Sec. 19.** *"Tangible personal property" includes, but is not*  
32 *limited to, electricity, water, gas, steam and prewritten computer*  
33 *software.*

34    **Sec. 20.** *"Tobacco" means cigarettes, cigars, chewing or pipe*  
35 *tobacco, or any other item that contains tobacco.*

36    **Sec. 21.** *"Tonics and vitamins" includes dietary supplements.*

37    **Sec. 22. 1.** *The Department shall provide public*  
38 *notification to consumers of tangible personal property, including*  
39 *purchasers who are exempt from any sales and use taxes, of the*  
40 *practices of this State relating to the collection, use and retention*  
41 *of any personally identifiable information.*

42    **2.** *The Department shall not retain any personally*  
43 *identifiable information if the information is no longer required to*  
44 *ensure the validity of exemptions from sales and use taxes.*



1       3. When any personally identifiable information that  
2 identifies a natural person is retained by or on behalf of the State,  
3 that person is entitled to reasonable access to that information to  
4 correct any portion thereof which has been inaccurately recorded.

5       4. If any person or other entity, except a state which is a  
6 member of the Agreement or any person or other entity who is  
7 entitled to such information pursuant to any state law or the  
8 Agreement, requests any personally identifiable information  
9 maintained by the Department, the Department shall make a  
10 reasonable and timely effort to notify any person who is identified  
11 by the requested information.

12       5. The Attorney General shall enforce the provisions of this  
13 section.

14       6. As used in this section, "personally identifiable  
15 information" means information that identifies:

16       (a) A participant in the system created pursuant to the  
17 Agreement; or

18       (b) A consumer of tangible personal property who deals with a  
19 registered seller that elects to use a certified service provider as its  
20 agent to perform all the functions of the seller relating to sales and  
21 use taxes, other than the obligation of the seller to remit the taxes  
22 on its own purchases.

23       Sec. 23. If a shipment of tangible personal property which is  
24 sold to a purchaser includes both taxable and exempt property, the  
25 seller of the property:

26       1. Shall allocate any delivery charges the seller imposes by  
27 using a percentage based on:

28       (a) The total sales price of the taxable property compared to  
29 the total sales price of all the property in the shipment; or

30       (b) The total weight of the taxable property compared to the  
31 total weight of all the property in the shipment;

32       2. Shall apply the applicable tax to the percentage of the  
33 delivery charges allocated to the taxable property; and

34       3. Shall not apply the tax to the percentage of the delivery  
35 charges allocated to the exempt property.

36       Sec. 24. 1. No purchaser may commence or maintain any  
37 cause of action against any seller for the refund of any sales or  
38 use tax erroneously or illegally collected by the seller unless:

39       (a) The purchaser provides the seller with written notice of his  
40 request for a refund, containing such information as is necessary  
41 to determine the validity of the request; and

42       (b) The seller:

43       (1) Denies the request; or



1       (2) *Fails to respond to the request within 60 days after*  
2 *receiving the notice of the request provided in accordance with*  
3 *paragraph (a).*

4       2. *For the purposes of any action brought by a purchaser*  
5 *against a seller for the refund of any sales or use tax erroneously*  
6 *or illegally collected by the seller, the seller is presumed to have a*  
7 *reasonable business practice regarding the collection of sales and*  
8 *use taxes if the seller:*

9       (a) *Uses a provider or system, including a proprietary system,*  
10 *that is certified by this State; and*

11       (b) *Has remitted to this State all sales and use taxes collected*  
12 *on behalf of this State and each local government in this State,*  
13 *less any deductions, credits and collection allowances to which the*  
14 *seller is entitled.*

15       **Sec. 25.** NRS 360B.010 is hereby amended to read as follows:

16       360B.010 NRS 360B.010 to 360B.375, inclusive, *and sections*  
17 *2 to 24, inclusive, of this act* shall be known as the Simplified Sales  
18 and Use Tax Administration Act.

19       **Sec. 26.** NRS 360B.200 is hereby amended to read as follows:


20       360B.200 1. The Department shall, in cooperation with any  
21 other states that are members of the Agreement, establish and  
22 maintain a central, electronic registration system that allows a seller  
23 to register to collect and remit the sales and use taxes imposed in  
24 this State and in the other states that are members of the Agreement.

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

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

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

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

43       (c) Under such conditions as the Department deems appropriate  
44  *in accordance with the Agreement*, elect to use its own





1 proprietary automated system to calculate the amount of sales or use  
2 taxes due on its sales transactions; or

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

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

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

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

16 (2) *Only one remittance of taxes for each tax return, except*  
17 *that the Department may require additional remittances of taxes*  
18 *if:*

19 (I) *The seller collects more than \$30,000 in sales and*  
20 *use taxes on behalf of this State and the local governments in this*  
21 *State during the preceding calendar year;*

22 (II) *The amount of the additional remittance is*  
23 *determined by a method of calculation instead of by the actual*  
24 *amount collected; and*

25 (III) *The seller is not required to file any tax returns in*  
26 *addition to those otherwise required in accordance with this*  
27 *subsection.*

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

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

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

43 (e) *Require any data that accompanies the remittance of a tax*  
44 *payment by or on behalf of a seller who registers pursuant to this*





1 *section to be formatted using uniform codes for the type of tax and*  
2 *payment in accordance with the Agreement.*

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

8 **Sec. 27.** NRS 360B.280 is hereby amended to read as follows:

9 360B.280 1. A purchaser of direct mail must provide to the  
10 seller at the time of the purchase:

11 (a) If the seller does not maintain a place of business in this  
12 State:

13 (1) A form for direct mail approved by the Department;

14 (2) An informational statement of the jurisdictions to which  
15 the direct mail will be delivered to recipients; or

16 (3) ~~[The]~~ *Documentation of the* direct pay permit of the  
17 purchaser issued pursuant to NRS 360B.260; or

18 (b) If the seller maintains a place of business in this State, an  
19 informational statement of the jurisdictions to which the direct mail  
20 will be delivered to recipients.

21 *➤ If a purchaser of direct mail provides documentation of a direct*  
22 *pay permit to a seller in accordance with subparagraph (3) of*  
23 *paragraph (a), the seller shall not require the purchaser to comply*  
24 *with any other provision of that paragraph.*

25 2. Notwithstanding the provisions of NRS 360B.350 to  
26 360B.375, inclusive:

27 (a) Upon the receipt pursuant to subsection 1 of:

28 (1) A form for direct mail by a seller who does not maintain  
29 a place of business in this State:

30 (I) The seller is relieved of any liability for the collection,  
31 payment or remission of any sales or use taxes applicable to the  
32 purchase of direct mail by that purchaser from that seller; and

33 (II) The purchaser is liable for any sales or use taxes  
34 applicable to the purchase of direct mail by that purchaser from that  
35 seller.

36 *➤* Any form for direct mail provided to a seller pursuant to this  
37 subparagraph applies to all future sales of direct mail made by that  
38 seller to that purchaser until the purchaser delivers a written notice  
39 of revocation to the seller.

40 (2) An informational statement by any seller, the seller shall  
41 collect, pay or remit any applicable sales and use taxes in  
42 accordance with the information contained in that statement. In the  
43 absence of bad faith, the seller is relieved of any liability to collect,  
44 pay or remit any sales and use taxes other than in accordance with  
45 that information received.



(b) If a purchaser of direct mail does not comply with subsection 1, the seller shall determine the location of the sale pursuant to subsection 5 of NRS 360B.360 and collect, pay or remit any applicable sales and use taxes. This paragraph does not limit the liability of the purchaser for the payment of any of those taxes.

3. As used in this section, "direct mail" means printed material delivered or distributed by the United States Postal Service or another delivery service to a mass audience or to addresses contained on a mailing list provided by a purchaser or at the direction of a purchaser when the cost of the items purchased is not billed directly to the recipients. The term includes tangible personal property supplied directly or indirectly by the purchaser to the seller of the direct mail for inclusion in the package containing the printed material. The term does not include multiple items of printed material delivered to a single address.

**Sec. 28.** NRS 360B.290 is hereby amended to read as follows:

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

1. ~~{Services that are necessary to complete the sale, including delivery and installation charges;}~~ *Any installation charges for the property;*

2. The value of *any* exempt property given to the purchaser if ~~{taxable and}~~ *the* exempt property *and any taxable property* are sold as a single product or piece of merchandise; ~~and~~

~~—3. Credit given to the purchaser.}~~

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

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

5. *Any taxes legally imposed directly on the consumer.*

**Sec. 29.** NRS 372.355 is hereby amended to read as follows:

372.355 Except as otherwise provided in NRS 372.380 or required by the Department pursuant to NRS 360B.200, the taxes imposed by this chapter are *due and* payable to the Department monthly on or before the last day of the month next succeeding each month.

**Sec. 30.** NRS 372.690 is hereby amended to read as follows:

372.690 1. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited as follows:

(a) If the judgment is for a refund of sales taxes, it must be credited on any *amount of* sales or use tax due from the plaintiff ~~{}~~ *pursuant to this chapter.*



(b) If the judgment is for a refund of use taxes, it must be credited on any *amount of* use tax due from the plaintiff ~~§~~ *pursuant to this chapter.*

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

**Sec. 31.** Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

*“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 does not include the United States, this State or any agency thereof, or any city, county, district or other political subdivision of this State.*

**Sec. 32.** NRS 374.020 is hereby amended to read as follows:

374.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 374.025 to 374.108, inclusive, *and section 31 of this act* have the meanings ascribed to them in those sections.

**Sec. 33.** NRS 374.085 is hereby amended to read as follows:

374.085 ~~“Storage, use or other consumption” does~~ *“Storage” and “use” do* not include:

1. The keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the State for use thereafter solely outside the State, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the State and thereafter used solely outside the State; or

2. The keeping, retaining or exercising any right or power over tangible property that:

(a) Meets the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 4 of NRS 374.291;

(b) Is made available for sale within 2 years after it is acquired; and

(c) Is made available for viewing by the public or prospective purchasers, or both, within 2 years after it is acquired, whether or not a fee is charged for viewing it and whether or not it is also used for purposes other than viewing.

**Sec. 34.** NRS 374.085 is hereby amended to read as follows:

374.085 ~~“Storage, use or other consumption” does~~ *“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,



1 fabricated or manufactured into, attached to, or incorporated into,  
2 other tangible personal property to be transported outside the State  
3 and thereafter used solely outside the State.

4 **Sec. 35.** NRS 374.321 is hereby amended to read as follows:

5 374.321 1. There are exempted from the taxes imposed by  
6 this chapter an amount equal to 40 percent of the gross receipts from  
7 the sales and storage, use or other consumption of new  
8 manufactured homes and new mobile homes.

9 2. There are exempted from the taxes imposed by this chapter  
10 the gross receipts from the sales and storage, use or other  
11 consumption of used manufactured homes and used mobile homes  
12 for which taxes under this chapter have been paid ~~§~~ *as a result of a*  
13 *previous sale, storage, use or consumption.*

14 3. As used in this section:

15 (a) "Manufactured home" has the meaning ascribed to it in NRS  
16 489.113; and

17 (b) "Mobile home" has the meaning ascribed to it in NRS  
18 489.120. The term does not include a motor home as defined in  
19 NRS 482.071.

20 **Sec. 36.** NRS 374.345 is hereby amended to read as follows:

21 374.345 The taxes imposed under this chapter apply to the sale  
22 *of tangible personal property* to and the storage, use or other  
23 consumption in this State of tangible personal property by a  
24 contractor for a governmental, religious or charitable entity which is  
25 otherwise exempted from the tax, unless the contractor is a  
26 constituent part of that entity.

27 **Sec. 37.** NRS 374.635 is hereby amended to read as follows:

28 374.635 1. If the Department determines that any amount,  
29 penalty or interest has been paid more than once or has been  
30 erroneously or illegally collected or computed, the Department shall  
31 set forth that fact in the records of the Department and shall certify  
32 to the board of county commissioners the amount collected in  
33 excess of the amount legally due and the person from whom it was  
34 collected or by whom paid. If approved by the board of county  
35 commissioners, the excess amount collected or paid must be  
36 credited on any amounts then due from the person pursuant to this  
37 chapter, and the balance must be refunded to the person, or his  
38 successors, administrators or executors.

39 2. Any overpayment of the use tax by a purchaser to a retailer  
40 who is required to collect the tax and who gives the purchaser a  
41 receipt therefor pursuant to NRS 374.190 to 374.260, inclusive, and  
42 374.727, must be credited or refunded by the county ~~§~~ *to the*  
43 *purchaser.*



**Sec. 38.** NRS 374.695 is hereby amended to read as follows:

374.695 1. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited as follows:

(a) If the judgment is for a refund of sales taxes, it must be credited on any *amount of* sales or use tax ~~for amount of use tax~~ due from the plaintiff *pursuant to this chapter.*

(b) If the judgment is for a refund of use taxes, it must be credited on any ~~use tax or~~ amount of use tax due from the plaintiff pursuant to ~~NRS 374.190 to 374.260, inclusive, and 374.727~~ *this chapter.*

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

**Sec. 39.** Section 24 of Chapter 364, Statutes of Nevada 2001, as amended by Chapter 400, Statutes of Nevada 2003, at page 2395, is hereby amended to read as follows:

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

2. Section 16 of this act becomes effective on the date this state becomes a member of the streamlined sales and use tax agreement.

3. Sections 14 and 15 of this act become effective on ~~January 1, 2006~~ *June 15, 2005.*

**Sec. 40.** Section 136 of Chapter 400, Statutes of Nevada 2003, at page 2408, is hereby amended to read as follows:

Sec. 136. 1. Except as otherwise provided in this section, the Department of Taxation shall waive the amount of any sales and use taxes, and any penalties and interest thereon, otherwise due in this state from a seller at the time the seller registers pursuant to section 9 of this act if the seller:

(a) During the ~~year 2005~~ *12 months immediately preceding the effective date of this State's participation in the Streamlined Sales and Use Tax Agreement;*

(1) Did not hold a seller's permit issued pursuant to chapter 372 or 374 of NRS; and

(2) Was not registered as a retailer pursuant to chapter 372 or 374 of NRS;

(b) Registers pursuant to section 9 of this act ~~no later than December 31, 2006~~ *within 12 months after the effective date of this State's participation in the Streamlined Sales and Use Tax Agreement;* and

(c) Remains registered pursuant to section 9 of this act for at least 36 months and collects and remits to this state all sales and use taxes due in this state for that period.



↪ Each statutory period of limitation applicable to any procedure or proceeding for the collection or enforcement of any sales or use tax due from a seller at the time the seller registers as provided in paragraph (b) is tolled for 36 months from the commencement of that registration.

2. The Department of Taxation shall not, pursuant to this section, waive any liability of a seller:

(a) Regarding any matter for which the seller received notice of the commencement of an audit which, including any related administrative and judicial procedures, has not been finally resolved before the registration of the seller pursuant to section 9 of this act.

(b) For any sales and use taxes collected by the seller or paid or remitted to the State before the registration of the seller pursuant to section 9 of this act.

(c) For any fraud or material misrepresentation of a material fact committed by the seller.

(d) For any sales or use taxes due from the seller in his capacity as a buyer and not as a seller.

3. For the purposes of this section, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, as amended by this act, have the meanings ascribed to them in those sections.

**Sec. 41.** Section 137 of Chapter 400, Statutes of Nevada 2003, at page 2409, is hereby amended to read as follows:

Sec. 137. The amendatory provisions of sections 83, 84, 85, 87 to 92, inclusive, and 94 to 101, inclusive, of this act do not apply to any ordinance enacted before ~~January 1, 2006.~~ *June 15, 2005.*

**Sec. 42.** Section 139 of Chapter 400, Statutes of Nevada 2003, at page 2409, is hereby amended to read as follows:

Sec. 139. 1. This section and section 102 of this act become effective upon passage and approval.

2. Sections 103 to 135, inclusive, of this act become effective on July 1, 2003.

3. Sections 1 to 29, inclusive, 32 to 38, inclusive, 40 to 50, inclusive, 52 to 57, inclusive, 66, 67, 69 to 72, inclusive, 74 to 80, inclusive, 83, 84, 85, 87 to 92, inclusive, 94 to 101, inclusive, 136 and 137 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On ~~January 1, 2006.~~ *June 15, 2005,* for all other purposes.



1           4. Sections 30 and 39 of this act become effective on  
2           January 1, 2006, only if the proposal submitted pursuant to  
3           sections 103 to 107, inclusive, of this act is approved by the  
4           voters at the general election on November 2, 2004.

5           5. Sections 31, 51, 58 to 65, inclusive, 68, 73, 81, 82, 86,  
6           93 and 138 of this act become effective on January 1, 2006,  
7           only if the proposal submitted pursuant to sections 103 to  
8           107, inclusive, of this act is not approved by the voters at the  
9           general election on November 2, 2004.

10       **Sec. 43.** 1. This section and sections 1 to 33, inclusive, and  
11       35 to 42, inclusive, of this act become effective on June 15, 2005.

12       2. Section 33 of this act expires by limitation on December 31,  
13       2005.

14       3. Section 34 of this act becomes effective on January 1, 2006.





