

CHAPTER.....

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

Legislative Counsel's Digest:

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

Existing law authorizes a person who obtains a direct pay permit to pay any applicable sales and use taxes due on certain purchases directly to this State and its local governments instead of to the seller. (NRS 360B.260) **Section 13** of this bill



additionally provides for the direct payment of any applicable sales and use taxes due on such a purchase to an Indian reservation or Indian colony in this State.

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

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

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

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

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

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



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

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

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

Sec. 3. *The Department shall:*

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

2. Except as otherwise provided in subsection 3:

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

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

(2) Any penalties and interest on that amount.

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

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

(2) Any penalties and interest on that amount.

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



service provider or registered seller pursuant to this subsection if the incorrect classification occurs more than 10 days after the receipt of that notice.

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

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

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

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

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

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

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

360B.090 “State” means any state of the United States , ~~[-and]~~ *and the Commonwealth of Puerto Rico.*

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

360B.110 The Nevada Tax Commission shall:

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

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

(a) Certification of a certified service provider;

(b) A certified automated system; *and*

(c) Performance of multistate sellers . ~~[-;and~~

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

360B.230 1. The Department shall post on a website or other Internet site that is operated or administered by or on behalf of the



Department ~~H~~ , in any format which may be required by the Agreement:

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

(b) Any change in those rates.

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

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

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

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

(g) Any other information the Department deems appropriate.

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

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

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

2. If a street address does not have a nine-digit zip code or if a registered seller *or certified service provider* is unable to determine the nine-digit zip code ~~{of a purchaser}~~ *applicable to a purchase* after exercising due diligence to determine that information, that seller *or certified service provider* may, except as otherwise



provided in subsection 3, apply the rate denoted for the five-digit zip code in the list maintained pursuant to this section. For the purposes of this subsection, there is a rebuttable presumption that a registered seller *or certified service provider* has exercised due diligence if the seller *or certified service provider* has attempted to determine the nine-digit zip code ~~{of a purchaser}~~ *applicable to a purchase* by using software approved by the Department which makes that determination from the street address and five-digit zip code ~~{of the purchaser}~~ *applicable to the purchase*.

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

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

360B.250 The Department shall ~~{waive any liability of}~~ :

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

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

~~{2.}~~ (b) Any penalties and interest on that amount.

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

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

(b) Any penalties and interest on that amount.

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

4. *If a purchaser fails to pay the correct amount of any sales or use tax imposed in this State as a result of his reasonable*



reliance on the information posted pursuant to NRS 360B.230, waive any liability of the purchaser for:

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

(b) Any penalties and interest on that amount.

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

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

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

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

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

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

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

3. The application must be signed by:

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

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

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

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

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

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

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



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

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

1. Any installation charges for the property;
2. ~~The value of any exempt property given to the purchaser if the exempt property and any taxable property are sold as a single product or piece of merchandise;~~
- ~~—3.1~~ 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;

~~4.1~~ 3. Any interest, financing and carrying charges from credit extended on the sale; and

~~5.1~~ 4. Any taxes legally imposed directly on the consumer.

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

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

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

360B.460 “Prepared food” means:

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

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

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

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



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

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

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

2. The term does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) *The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount,*



and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.

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

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

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

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

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

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

2. Every application for a permit must:

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

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

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

~~{3. —The application must be}~~

(d) **Be** signed by:

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

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

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

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

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

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

372.135 1. Except as otherwise provided in NRS 360.205 and 372.145, after compliance with NRS 372.125, 372.130 and



372.510 by ~~{the applicant,}~~ *an applicant for a permit*, the Department shall:

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

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

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

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

(II) The procedures for administering exemptions; and

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

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

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

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

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

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

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

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

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



(a) The third-party vendor:

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

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

(b) His customer:

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

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

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

372.165 ~~{1.}~~ A resale certificate must:

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

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

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

~~2. The certificate must be{~~

1. Be substantially in such form and include such information as the Department may prescribe {1.}; and

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

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

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

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

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

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



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

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

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

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

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

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

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

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

(a) The third-party vendor:

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

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

(b) His customer:

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

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

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

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

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

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



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

~~—2. The certificate must be~~

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

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

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

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

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

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

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

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

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

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

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

~~—1. Worth \$100 or less; and~~

~~—2. Acquired~~ :

1. *Does not have significant value; and*



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

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

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

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

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

2. Every application for a permit must:

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

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

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

~~{3.—The application must be}~~

(d) *Be* signed by:

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

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

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

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

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

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

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

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

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

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of



business conducted by the applicant, including, without limitation and when appropriate:

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

(II) The procedures for administering exemptions; and

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

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

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

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

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

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

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

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

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

(a) The third-party vendor:

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

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

(b) His customer:

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

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



Sec. 32. NRS 374.170 is hereby amended to read as follows:
374.170 ~~[1.]~~ A resale certificate must:

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

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

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

~~—2. The certificate must be]~~

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

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

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

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

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

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

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

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

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

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

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it ~~[shall be]~~ *is* presumed that tangible personal property sold by any person for delivery in a county is sold for



storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~and the purchaser:~~

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

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

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

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

(a) The third-party vendor:

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

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

(b) His customer:

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

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

Sec. 35. NRS 374.240 is hereby amended to read as follows:
374.240 ~~and~~ A resale certificate must:

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

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

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

~~2. The certificate must be~~

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

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

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

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such



identifying information from the purchaser at the time of sale as is required by the Department.

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

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

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

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

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

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

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

~~1. Worth \$100 or less; and~~

~~2. Acquired] :~~

1. Does not have significant value; and

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

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

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

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



County, including incorporated cities in the County, at a rate of:

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

(b) Up to an additional one-quarter of 1 percent if the date on which the increased rate must first be imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate,

→ the total rate not to exceed one-half of 1 percent.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

Sec. 153.5. The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act,



being chapter 397, Statutes of Nevada 1955, at page 762, whenever the Legislature determines that such legislation is necessary to carry out any federal statute or regulation or interstate agreement providing for the administration, collection or enforcement of sales and use taxes, unless such legislation would increase the rate of any tax imposed pursuant to this Act.

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

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

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

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

Yes ☐ No ☐

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

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would repeal an exemption from the taxes imposed by this Act for the sale of aircraft and major components of aircraft to a scheduled air carrier which is based in Nevada, and would authorize the Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval whenever that legislation is necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes. The proposed amendment would not



authorize any legislation that increases the rate of any tax imposed pursuant to this Act.

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

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

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

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

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

2. NRS 372.726 is hereby repealed.

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

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

