

ASSEMBLY BILL NO. 446—ASSEMBLYMEN BROOKS, CARRILLO,  
OHRENSCHALL, SEGERBLOM, PIERCE; DIAZ AND FRIERSON

MARCH 21, 2011

JOINT SPONSOR: SENATOR PARKS

Referred to Committee on Taxation

SUMMARY—Imposes excise tax on use of services in this State.  
(BDR 32-805)

FISCAL NOTE: Effect on Local Government: Increases or Newly  
Provides for Term of Imprisonment in County or City  
Jail or Detention Facility.  
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; providing for the imposition,  
administration, collection and enforcement of an excise  
tax on the use of services in this State; providing  
penalties; and providing other matters properly relating  
thereto.

**Legislative Counsel's Digest:**

1     **Section 14** of this bill imposes a tax on each person who uses services in this  
2 State at the rate of 1 percent of the total amount charged for those services by the  
3 service provider. **Section 15** of this bill requires the service provider to collect the  
4 tax on behalf of the State. **Sections 2-66** of this bill provide for the administration,  
5 collection and enforcement of the tax by the Department of Taxation in a manner  
6 similar to use taxes.



\* A B 4 4 6 \*

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

**Section 1.** Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 60, inclusive, of this act.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 13, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Business” includes any activity engaged in by any person with the object of gain, benefit or advantage, either direct or indirect, except employment for wages.*

**Sec. 4.** *“Commission” means the Nevada Tax Commission.*

**Sec. 5.** *“Exempted from the services tax” means exempted from the computation of the amount of the services tax.*

**Sec. 6.** *“Governmental entity” means:*

*1. The United States and any of its unincorporated agencies and instrumentalities.*

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

*3. The State of Nevada and any of its unincorporated agencies and instrumentalities.*

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

**Sec. 7.** *“In this State” means within the exterior limits of the State of Nevada and includes all the territory within these limits owned by or ceded to the United States of America.*

**Sec. 8. 1.** *“Purchase price” means the total amount charged by a service provider as consideration for the provision of any services, valued in money, whether received in money or otherwise, without any deduction for any cost, expense or loss incurred in providing those services, except that the term does not include:*

*(a) Any cash discounts allowed by the service provider and taken by the purchaser; and*

*(b) The amount of the services tax collected from the purchaser.*

*2. As used in this section, “the total amount charged” includes:*

*(a) All receipts, cash, credits and property of any kind; and*

*(b) Any amount for which credit is allowed by the service provider to the purchaser.*



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1     **Sec. 9.** *“Service provider” means any person engaged in a*  
2 *business that provides any taxable services.*

3     **Sec. 10.** *“Services” means any useful efforts that do not*  
4 *produce a tangible commodity.*

5     **Sec. 11.** *“Services tax” means the tax imposed by section 14*  
6 *of this act.*

7     **Sec. 12.** *“Taxable services” means any services that are not*  
8 *exempted from the services tax.*

9     **Sec. 13.** *“Taxpayer” means any person liable for the services*  
10 *tax.*

11     **Sec. 14. 1.** *An excise tax is hereby imposed upon the use in*  
12 *this State of any taxable services provided by a service provider on*  
13 *or after January 1, 2012, at the rate of 1 percent of the purchase*  
14 *price for those services.*

15     **2.** *Every person who uses in this State any taxable services*  
16 *provided by a service provider is liable for the tax. His or her*  
17 *liability is not extinguished until the tax has been paid to this*  
18 *State, except that a receipt from a service provider which is given*  
19 *to the person pursuant to section 15 of this act is sufficient to*  
20 *relieve the person from further liability for the tax to which the*  
21 *receipt refers.*

22     **Sec. 15.** *Every service provider who provides any taxable*  
23 *services for use in this State shall, at the time of providing the*  
24 *services or, if the use of the services is not then taxable under this*  
25 *chapter, at the time the use of the services becomes taxable, collect*  
26 *the services tax from the purchaser and give to the purchaser a*  
27 *receipt therefor in the manner and form prescribed by the*  
28 *Department.*

29     **Sec. 16.** *The tax required to be collected by a service provider*  
30 *pursuant to this chapter constitutes a debt owed by the service*  
31 *provider to this State.*

32     **Sec. 17.** *It is unlawful for any service provider to advertise or*  
33 *hold out or state to the public or to any customer, directly or*  
34 *indirectly, that the services tax or any part thereof will be assumed*  
35 *or absorbed by the service provider or that it will not be added to*  
36 *the purchase price for any taxable services provided or that if*  
37 *added it or any part thereof will be refunded.*

38     **Sec. 18.** *Any invoice, billing or other document given to a*  
39 *purchaser of any taxable services which indicates the amount*  
40 *charged by the service provider for the provision of those services*  
41 *must state separately the amount of the tax required to be collected*  
42 *by the service provider pursuant to this chapter.*

43     **Sec. 19.** *Any person who violates section 15, 17 or 18 of this*  
44 *act is guilty of a misdemeanor.*



**Sec. 20. 1.** *A person shall not engage in or conduct any business as a service provider in this State unless the person has obtained a permit issued by the Department.*

**2.** *Each application for a permit must:*

*(a) Be made upon a form prescribed by the Department;*

*(b) Set forth the name under which the applicant provides or intends to provide his or her taxable services and each location where the applicant offers his or her taxable services;*

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

*(d) Be accompanied by a fee of \$5; and*

*(e) Be signed by:*

*(1) The owner, if he or she is a natural person;*

*(2) A member or partner, if the service provider is an association or partnership; or*

*(3) An executive officer or some other person specifically authorized to sign the application, if the service provider is a corporation. If an application is signed pursuant to this subparagraph, written evidence of the signor's authority must be attached to the application.*

**Sec. 21. 1.** *If the holder of a permit issued pursuant to this chapter fails to comply with any provision of this chapter or any regulation adopted pursuant thereto, the Department may suspend or revoke his or her permit. Before doing so, the Department must hold a hearing after 10 days' written notice to the holder of the permit. The notice must specify the time and place of the hearing and require the holder of the permit to show cause why the permit should not be suspended or revoked.*

**2.** *If a permit is suspended or revoked, the Department shall give written notice of the action to the holder of the permit.*

**3.** *The notices required by this section may be served personally or by mail in the manner provided for service of notice of a deficiency determination.*

**4.** *The Department shall not issue a new permit to the former holder of a revoked permit unless it is satisfied that he or she will comply with the provisions of this chapter and the regulations of the Department adopted pursuant thereto.*

**5.** *A service provider whose permit has been suspended or revoked must pay the Department a fee of \$5 for the reinstatement of the permit or the issuance of a new permit.*

**Sec. 22.** *Every service provider who provides any taxable services for use in this State and who is not required to obtain a permit pursuant to section 20 of this act shall register with the Department and provide:*



1     1. The name under which the service provider provides or  
2     intends to provide his or her taxable services for use in this State;

3     2. Each location where the service provider offers his or her  
4     taxable services for use in this State; and

5     3. Such other information as the Department may require.

6     **Sec. 23.** There is exempted from the services tax the  
7     purchase price of:

8     1. Any services that this State is prohibited from taxing under  
9     the Constitution or laws of the United States or the Constitution of  
10    the State of Nevada.

11    2. Any services provided to a governmental entity.

12    3. Any services provided by or to a nonprofit organization  
13    created for religious, charitable or educational purposes.

14    4. Any services provided by one member of a group of  
15    affiliated enterprises to another member of the same group. For  
16    the purposes of this subsection, enterprises are affiliated if a  
17    majority interest in each enterprise is owned by the same person.

18    5. Any services for which the amount received for those  
19    services is included in the measure of any excise tax imposed in  
20    this State on the sale, storage, use or consumption of tangible  
21    personal property sold at retail, or stored, used or otherwise  
22    consumed in this State.

23    **Sec. 24.** 1. For the purposes of subsection 3 of section 23 of  
24    this act, an organization is created for religious, charitable or  
25    educational purposes if it complies with the provisions of this  
26    section.

27    2. An organization is created for religious purposes if:

28    (a) It complies with the requirements set forth in subsection 5;  
29    and

30    (b) The sole or primary purpose of the organization is the  
31    operation of a church, synagogue or other place of religious  
32    worship at which nonprofit religious services and activities are  
33    regularly conducted. Such an organization includes, without  
34    limitation, an integrated auxiliary or affiliate of the organization,  
35    men's, women's or youth groups established by the organization, a  
36    school or mission society operated by the organization, an  
37    organization of local units of a church and a convention or  
38    association of churches.

39    3. An organization is created for charitable purposes if:

40    (a) It complies with the requirements set forth in subsection 5;

41    (b) The sole or primary purpose of the organization is to:

42    (1) Advance a public purpose, donate or render gratuitously  
43    or at a reduced rate a substantial portion of its services to the  
44    persons who are the subjects of its charitable services, and benefit



1 *a substantial and indefinite class of persons who are the legitimate*  
2 *subjects of charity;*

3 *(2) Provide services that are otherwise required to be*  
4 *provided by a local government, this State or the Federal*  
5 *Government; or*

6 *(3) Operate a hospital or medical facility licensed pursuant*  
7 *to chapter 449 or 450 of NRS; and*

8 *(c) The organization is operating in this State.*

9 *4. An organization is created for educational purposes if:*

10 *(a) It complies with the requirements set forth in subsection 5;*  
11 *and*

12 *(b) The sole or primary purpose of the organization is to:*

13 *(1) Provide athletic, cultural or social activities for*  
14 *children;*

15 *(2) Provide displays or performances of the visual or*  
16 *performing arts to members of the general public;*

17 *(3) Provide instruction and disseminate information on*  
18 *subjects beneficial to the community;*

19 *(4) Operate a school, college or university located in this*  
20 *State that conducts regular classes and provides courses of study*  
21 *required for accreditation or licensing by the State Board of*  
22 *Education or the Commission on Postsecondary Education, or for*  
23 *membership in the Northwest Accreditation Commission;*

24 *(5) Serve as a local or state apprenticeship committee to*  
25 *advance programs of apprenticeship in this State; or*

26 *(6) Sponsor programs of apprenticeship in this State*  
27 *through a trust created pursuant to 29 U.S.C. § 186.*

28 *5. In addition to the requirements set forth in subsection 2, 3*  
29 *or 4, an organization is created for religious, charitable or*  
30 *educational purposes if:*

31 *(a) No part of the net earnings of any such organization inures*  
32 *to the benefit of a private shareholder, individual or entity;*

33 *(b) The business of the organization is not conducted for*  
34 *profit;*

35 *(c) No substantial part of the business of the organization is*  
36 *devoted to the advocacy of any political principle or the defeat or*  
37 *passage of any state or federal legislation;*

38 *(d) The organization does not participate or intervene in any*  
39 *political campaign on behalf of or in opposition to any candidate*  
40 *for public office; and*

41 *(e) Any services provided by or to the organization for which*  
42 *an exemption is claimed further the religious, charitable or*  
43 *educational purposes of the organization.*

44 **Sec. 25. 1. Any nonprofit organization created for**  
45 **religious, charitable or educational purposes that wishes to claim**



1 *an exemption pursuant to subsection 3 of section 23 of this act*  
2 *must file an application with the Department to obtain a letter of*  
3 *exemption. The application must be on a form and contain such*  
4 *information as is required by the Department.*

5 *2. If the Department determines that the organization is*  
6 *created for religious, charitable or educational purposes, it shall*  
7 *issue a letter of exemption to the organization. The letter of*  
8 *exemption expires 5 years after the date on which it is issued by*  
9 *the Department. At least 90 days before the expiration of the letter*  
10 *of exemption, the Department shall notify the organization to*  
11 *whom the letter was issued of the date on which the letter will*  
12 *expire. The organization may renew its letter of exemption for an*  
13 *additional 5 years by filing an application for renewal with the*  
14 *Department. The application for renewal must be on a form and*  
15 *contain such information as is required by the Department.*

16 *3. To claim an exemption pursuant to subsection 3 of section*  
17 *23 of this act for the provision of any services to such an*  
18 *organization:*

19 *(a) The organization must give a copy of its letter of exemption*  
20 *to the service provider who provides the services to the*  
21 *organization; and*

22 *(b) The service provider must retain and present upon request*  
23 *a copy of the letter of exemption.*

24 *4. The Department shall adopt such regulations as are*  
25 *necessary to carry out the provisions of this section.*

26 **Sec. 26.** *A service provider shall hold the amount of all the*  
27 *services tax for which he or she is liable in a separate account in*  
28 *trust for the State.*

29 **Sec. 27.** *Except as otherwise provided in section 32 of this*  
30 *act, the services tax is due and payable to the Department monthly*  
31 *on or before the last day of the month immediately following the*  
32 *month in which liability for the tax arose.*

33 **Sec. 28.** *1. On or before the last day of the month following*  
34 *each reporting period, a return for the preceding period,*  
35 *accompanied by a remittance of the services tax due, must be filed*  
36 *with the Department in such form as the Department may*  
37 *prescribe. The return must be filed by:*

38 *(a) Each service provider who provides any taxable services*  
39 *for use in this State; and*

40 *(b) Each person who uses in this State any taxable services*  
41 *provided by a service provider and who has not paid the services*  
42 *tax due.*

43 *2. Each return must:*

44 *(a) Include such information as the Department deems to be*  
45 *necessary for the proper administration of this chapter; and*





(b) *Be signed by the person required to file the return or by his or her authorized agent, but need not be verified by oath.*

**Sec. 29.** *In determining the amount of the services tax that is due from a taxpayer, the Department shall allow a credit toward the amount due to this State in an amount equal to any similar tax legitimately paid to a state or local government outside of Nevada for the same services, upon proof of payment deemed satisfactory to the Department.*

**Sec. 30.** *1. If a service provider is unable to collect all or part of the purchase price for the provision of any taxable services, the service provider is entitled to receive a deduction from the purchase price for that bad debt.*

*2. Any deduction that is claimed pursuant to this section may not include interest.*

*3. The amount of any deduction claimed must equal the amount of a deduction that may be claimed pursuant to 26 U.S.C. § 166 for the provision of those services minus:*

*(a) Any finance charge or interest charged on the provision of those services;*

*(b) Any services tax charged on the provision of those services; and*

*(c) Any expense incurred in attempting to collect the bad debt.*

*4. A bad debt may be claimed as a deduction on the return that covers the period during which the bad debt is written off in the business records of the service provider that are maintained in the ordinary course of the service provider's business and is eligible to be claimed as a deduction pursuant to 26 U.S.C. § 166 or, if the service provider is not required to file a federal income tax return, would be eligible to be claimed as a deduction pursuant to 26 U.S.C. § 166.*

*5. If a bad debt for which a deduction has been claimed is subsequently collected in whole or in part, the tax on the amount so collected must be reported on the return that covers the period in which the collection is made.*

*6. If the amount of the bad debt is greater than the total amount of the purchase price for taxable services reported for the period during which the bad debt is claimed as a deduction, a claim for a refund may be filed pursuant to sections 35 to 45, inclusive, of this act, except that the time within which the claim may be filed begins on the date on which the return that included the deduction was filed.*

*7. Except as otherwise provided in subsection 8, upon determining that a service provider has filed a return which contains one or more violations of the provisions of this section, the Department shall:*





(a) For the first return of any service provider which contains one or more violations, issue a letter of warning to the service provider which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the deduction claimed or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the deduction claimed or \$3,000, whichever is less.

8. For the purposes of subsection 7, if the first violation of this section by any service provider was determined by the Department through an audit which covered more than one return of the service provider, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 7.

9. As used in this section, "bad debt" means a debt that may be deducted pursuant to 26 U.S.C. § 166.

**Sec. 31.** If the services tax is paid in accordance with section 27 of this act, a taxpayer may deduct and withhold from the tax otherwise due from him or her 0.25 percent of the tax as reimbursement for administrative costs.

**Sec. 32.** 1. Except as otherwise provided in this section, the reporting and payment period of:

(a) A taxpayer whose purchase price for taxable services does not exceed a total amount of \$10,000 per month is a calendar quarter.

(b) A taxpayer who files reports on a quarterly basis in accordance with paragraph (a) and:

(1) From whom no services tax is due for the immediately preceding three quarterly reporting periods; or

(2) Whose purchase price for taxable services does not exceed a total amount of \$1,500 for the immediately preceding four quarterly reporting periods,

is 12 calendar months, unless the purchase price for taxable services provided to or by the taxpayer exceeds a total amount of \$1,500 for such a 12-month reporting and payment period or \$10,000 for a calendar month.

2. The Department, if it deems this action necessary to ensure payment to or facilitate the collection by the State of the amount of the services tax, may require returns and payment of the amount of the services tax for periods other than calendar months or



1 *quarters, depending upon the principal place of business of the*  
2 *service provider or purchaser of taxable services, or for other than*  
3 *monthly, quarterly or annual periods.*

4 **Sec. 33.** *The Department for good cause may extend for not*  
5 *to exceed 1 month the time for making any return or paying any*  
6 *amount required to be paid under this chapter.*

7 **Sec. 34.** 1. *The Department, whenever it deems it necessary*  
8 *to ensure compliance with this chapter, may require any person*  
9 *subject to this chapter to place with it such security as the*  
10 *Department may determine. The Department shall fix the amount*  
11 *of the security which, except as otherwise provided in subsection 2,*  
12 *may not be greater than twice the estimated average tax due*  
13 *quarterly of persons filing returns for quarterly periods, three*  
14 *times the estimated average tax due monthly of persons filing*  
15 *returns for monthly periods or four times the estimated average*  
16 *tax due annually of persons filing returns for annual periods,*  
17 *determined in such a manner as the Department deems proper.*

18 2. *In the case of persons who are habitually delinquent in*  
19 *their obligations under this chapter, the amount of the security*  
20 *may not be greater than three times the average actual tax due*  
21 *quarterly of persons filing returns for quarterly periods, five times*  
22 *the average actual tax due monthly of persons filing returns for*  
23 *monthly periods or seven times the average actual tax due*  
24 *annually of persons filing returns for annual periods.*

25 3. *The limitations provided in this section apply regardless of*  
26 *the type of security placed with the Department.*

27 4. *The amount of the security may be increased or decreased*  
28 *by the Department subject to the limitations provided in this*  
29 *section.*

30 5. *The Department may sell the security at public auction if it*  
31 *becomes necessary to recover any tax or any amount required to*  
32 *be collected, or interest or penalty due. Notice of the sale may be*  
33 *served, personally or by mail, upon the person who placed the*  
34 *security. If the notice is served by mail, service must be made in*  
35 *the manner prescribed for service of a notice of a deficiency*  
36 *determination and must be addressed to the person at his or her*  
37 *address as it appears in the records of the Department. Security in*  
38 *the form of a bearer bond issued by the United States or the State*  
39 *of Nevada which has a prevailing market price may be sold by the*  
40 *Department at a private sale at a price not lower than the*  
41 *prevailing market price.*

42 6. *Upon any sale, any surplus above the amounts due must be*  
43 *returned to the person who placed the security.*

44 **Sec. 35.** 1. *If the Department determines that any amount,*  
45 *penalty or interest has been paid more than once or has been*



1 *erroneously or illegally collected or computed, the Department*  
2 *shall set forth that fact in the records of the Department and*  
3 *certify to the State Board of Examiners the amount collected in*  
4 *excess of the amount legally due and the person from whom it was*  
5 *collected or by whom paid. If approved by the State Board of*  
6 *Examiners, the excess amount collected or paid must, after being*  
7 *credited against any amount then due from the person in*  
8 *accordance with NRS 360.236, be refunded to the person or his or*  
9 *her successors, administrators or executors.*

10 2. *Any overpayment of the services tax by a purchaser to a*  
11 *service provider who collects the tax and gives the purchaser a*  
12 *receipt therefor pursuant to section 15 of this act must be credited*  
13 *or refunded by the State to the purchaser, subject to the*  
14 *requirements of NRS 360.236.*

15 **Sec. 36.** 1. *Except as otherwise provided in NRS 360.235*  
16 *and 360.395 and section 30 of this act:*

17 (a) *No refund may be allowed unless a claim for it is filed with*  
18 *the Department within 3 years after the last day of the month*  
19 *following the close of the period for which the overpayment was*  
20 *made.*

21 (b) *No credit may be allowed after the expiration of the period*  
22 *specified for filing claims for a refund unless a claim for credit is*  
23 *filed with the Department within that period or unless the*  
24 *credit relates to a period for which a waiver is given pursuant to*  
25 *NRS 360.355.*

26 2. *Each claim must be in writing and must state the specific*  
27 *grounds upon which the claim is founded.*

28 3. *Failure to file a claim within the time prescribed in this*  
29 *section constitutes a waiver of any demand against the State on*  
30 *account of overpayment.*

31 4. *Within 30 days after disallowing any claim in whole or in*  
32 *part, the Department shall serve notice of its action on the*  
33 *claimant in the manner prescribed for service of notice of a*  
34 *deficiency determination.*

35 **Sec. 37.** 1. *Except as otherwise provided in this section,*  
36 *NRS 360.320 or any other specific statute, interest must be paid*  
37 *upon any overpayment of any amount of tax at the rate set forth*  
38 *in, and in accordance with the provisions of, NRS 360.2937.*

39 2. *If the Department determines that any overpayment has*  
40 *been made intentionally or by reason of carelessness, the*  
41 *Department shall not allow any interest on the overpayment.*

42 **Sec. 38.** *No injunction, writ of mandate or other legal or*  
43 *equitable process may issue in any suit, action or proceeding in*  
44 *any court against this State or against any officer of this State to*



1 *prevent or enjoin the collection under this chapter of any tax or*  
2 *any amount of tax required to be collected.*

3 **Sec. 39.** *No suit or proceeding may be maintained in any*  
4 *court for the recovery of any amount alleged to have been*  
5 *erroneously or illegally determined or collected unless a claim for*  
6 *refund or credit has been filed.*

7 **Sec. 40.** *1. Within 90 days after a final decision upon a*  
8 *claim filed pursuant to this chapter is rendered by the*  
9 *Commission, the claimant may bring an action against the*  
10 *Department on the grounds set forth in the claim in a court of*  
11 *competent jurisdiction in Carson City, the county of this State*  
12 *where the claimant resides or maintains his or her principal place*  
13 *of business, or a county in which any relevant proceedings were*  
14 *conducted by the Department, for the recovery of the whole or any*  
15 *part of the amount with respect to which the claim has been*  
16 *disallowed.*

17 *2. Failure to bring an action within the time specified*  
18 *constitutes a waiver of any demand against the State on account of*  
19 *alleged overpayments.*

20 **Sec. 41.** *1. If the Department fails to mail notice of action*  
21 *on a claim within 6 months after the claim is filed, the claimant*  
22 *may consider the claim disallowed and file an appeal with a*  
23 *hearing officer within the 45 days after the last day of the 6-month*  
24 *period. If the claimant is aggrieved by the decision of the hearing*  
25 *officer on appeal, the claimant may, pursuant to the provisions of*  
26 *NRS 360.245, appeal the decision to the Commission. If the*  
27 *claimant is aggrieved by the decision of the Commission rendered*  
28 *on appeal, the claimant may, within 45 days after the decision is*  
29 *rendered, bring an action against the Department on the grounds*  
30 *set forth in the claim for the recovery of the whole or any part of*  
31 *the amount claimed as an overpayment.*

32 *2. If judgment is rendered for the plaintiff:*

33 *(a) The amount of the judgment must first be credited towards*  
34 *any tax due under this chapter from the plaintiff; and*

35 *(b) The balance of the judgment must be refunded to the*  
36 *plaintiff.*

37 **Sec. 42.** *In any judgment, interest must be allowed at the rate*  
38 *of 6 percent per annum upon the amount found to have been*  
39 *illegally collected from the date of payment of the amount to the*  
40 *date of allowance of credit on account of the judgment, or to a*  
41 *date preceding the date of the refund warrant by not more than 30*  
42 *days. The date must be determined by the Department.*

43 **Sec. 43.** *A judgment may not be rendered in favor of the*  
44 *plaintiff in any action brought against the Department to recover*  
45 *any amount paid when the action is brought by or in the name of*



1 *an assignee of the person paying the amount or by any person*  
2 *other than the person who paid the amount.*

3 **Sec. 44.** 1. *The Department may recover any refund or any*  
4 *part thereof which is erroneously made and any credit or part*  
5 *thereof which is erroneously allowed in an action brought in a*  
6 *court of competent jurisdiction in Carson City or Clark County in*  
7 *the name of the State of Nevada.*

8 2. *The action must be tried in Carson City or Clark County*  
9 *unless the court, with the consent of the Attorney General, orders*  
10 *a change of place of trial.*

11 3. *The Attorney General shall prosecute the action, and the*  
12 *provisions of NRS, the Nevada Rules of Civil Procedure and the*  
13 *Nevada Rules of Appellate Procedure relating to service of*  
14 *summons, pleadings, proofs, trials and appeals are applicable to*  
15 *the proceedings.*

16 **Sec. 45.** 1. *If any amount in excess of \$25 has been*  
17 *illegally determined, either by the person filing the return or by the*  
18 *Department, the Department shall certify this fact to the State*  
19 *Board of Examiners, and the latter shall authorize the*  
20 *cancellation of the amount upon the records of the Department.*

21 2. *If an amount not exceeding \$25 has been illegally*  
22 *determined, either by the person filing a return or by the*  
23 *Department, the Department, without certifying this fact to*  
24 *the State Board of Examiners, shall authorize the cancellation of*  
25 *the amount upon the records of the Department.*

26 **Sec. 46.** *The Department shall administer and enforce the*  
27 *provisions of this chapter and may adopt regulations relating to*  
28 *the administration and enforcement of this chapter.*

29 **Sec. 47.** 1. *The provisions of this chapter relating to the*  
30 *collection and remittance of the services tax apply to every service*  
31 *provider whose activities have a sufficient nexus with this State to*  
32 *satisfy the requirements of the United States Constitution.*

33 2. *In administering the provisions of this chapter, the*  
34 *Department shall construe the term "service provider" in*  
35 *accordance with the provisions of subsection 1.*

36 **Sec. 48.** *The Department may employ accountants, auditors,*  
37 *investigators, assistants and clerks necessary for the efficient*  
38 *administration of this chapter, and may delegate authority to its*  
39 *representatives to conduct hearings, adopt regulations or perform*  
40 *any other duties imposed by this chapter.*

41 **Sec. 49.** 1. *Every service provider and every person who*  
42 *uses taxable services in this State shall keep records, receipts,*  
43 *invoices and other pertinent papers in such a form as the*  
44 *Department may require.*

45 2. *Every service provider or other person who:*



1 (a) Files the returns required under this chapter shall keep the  
2 records for not less than 4 years after their making unless the  
3 Department in writing sooner authorizes their destruction.

4 (b) Fails to file the returns required under this chapter shall  
5 keep the records for not less than 8 years after their making unless  
6 the Department in writing sooner authorizes their destruction.

7 **Sec. 50.** 1. To verify the accuracy of any return filed or, if  
8 no return is filed as required by section 28 of this act, to determine  
9 the amount required to be paid, the Department, or any person  
10 authorized in writing by the Department, may examine the books,  
11 papers, records and equipment of any person who may be liable  
12 for the services tax, and may investigate the character of the  
13 business of such a person.

14 2. Any person who may be liable for the services tax and who  
15 keeps outside of this State any records, receipts, invoices and other  
16 documents relating to the services tax due this State shall pay to  
17 the Department an amount equal to the allowance provided for  
18 state officers and employees generally while traveling outside of  
19 the State for each day or fraction thereof during which an  
20 employee of the Department is engaged in examining those  
21 documents, plus any other actual expenses incurred by the  
22 employee while he or she is absent from his or her regular place of  
23 employment to examine those documents.

24 **Sec. 51.** In its administration of the services tax, the  
25 Department may require the filing of reports by any person or  
26 class of persons having in their possession or custody information  
27 relating to any taxable services used in this State. The report must:

28 1. Be filed when the Department requires; and

29 2. Set forth the names and addresses of purchasers of taxable  
30 services, the purchase price of the taxable services, the date the  
31 taxable services were provided and such other information as the  
32 Department may require.

33 **Sec. 52.** 1. Except as otherwise provided in this section or  
34 NRS 360.247, it is a misdemeanor for any member of the  
35 Commission or officer, agent or employee of the Department to  
36 make known in any manner whatever the business affairs,  
37 operations or information obtained by an investigation of records  
38 and equipment of any service provider or any other person visited  
39 or examined in the discharge of official duty, or the amount or  
40 source of income, profits, losses, expenditures or any particular of  
41 them, set forth or disclosed in any return, or to permit any return  
42 or copy of a return, or any book containing any abstract or  
43 particulars of it to be seen or examined by any person not  
44 connected with the Department.



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1       2. The Commission may agree with any county fair and  
2 recreation board or the governing body of any county, city or town  
3 for the continuing exchange of information concerning taxpayers.

4       3. The Governor may, by general or special order, authorize  
5 the examination of the records maintained by the Department  
6 under this chapter by other state officers, by tax officers of  
7 another state, by the Federal Government, if a reciprocal  
8 arrangement exists, or by any other person. The information so  
9 obtained may not be made public except to the extent and in the  
10 manner that the order may authorize that it be made public.

11       4. Upon written request made by a public officer of a local  
12 government, the Executive Director shall furnish from the records  
13 of the Department, the name and address of the owner of any  
14 service provider who must file a return with the Department. The  
15 request must set forth the social security number of the owner of  
16 the service provider about whom the request is made and contain a  
17 statement signed by the proper authority of the local government  
18 certifying that the request is made to allow the proper authority to  
19 enforce a law to recover a debt or obligation owed to the local  
20 government. Except as otherwise provided in NRS 239.0115, the  
21 information obtained by the local government is confidential and  
22 may not be used or disclosed for any purpose other than the  
23 collection of a debt or obligation owed to that local government.  
24 The Executive Director may charge a reasonable fee for the cost  
25 of providing the requested information.

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

31       6. Relevant information that the Commission has determined  
32 is not proprietary or confidential information in a hearing  
33 conducted pursuant to NRS 360.247 may be disclosed as evidence  
34 in an appeal by the taxpayer from a determination of tax due.

35       7. At any time after a determination, decision or order of the  
36 Executive Director or other officer of the Department imposing  
37 upon a person a penalty for fraud or intent to evade the services  
38 tax becomes final or is affirmed by the Commission, any member  
39 of the Commission or officer, agent or employee of the  
40 Department may publicly disclose the identity of that person and  
41 the amount of tax assessed and penalties imposed against that  
42 person.

43       **Sec. 53.** Any service provider or other person who fails or  
44 refuses to furnish any return required to be made, or who fails or  
45 refuses to furnish a supplemental return or other data required by





1 *the Department, or who renders a false or fraudulent return shall*  
2 *be fined not more than \$500 for each offense.*

3 **Sec. 54.** *Any person required to make, render, sign or verify*  
4 *any report who makes any false or fraudulent return, with intent*  
5 *to defeat or evade the determination of an amount due required by*  
6 *law to be made, shall for each offense be fined not less than \$300*  
7 *or more than \$5,000, or be imprisoned for not more than 1 year in*  
8 *the county jail, or be punished by both fine and imprisonment.*

9 **Sec. 55.** *Any violation of this chapter, except as otherwise*  
10 *provided by specific statute, is a misdemeanor.*

11 **Sec. 56.** *Any prosecution for violation of any of the penal*  
12 *provisions of this chapter must be instituted within 3 years after*  
13 *the commission of the offense.*

14 **Sec. 57.** *In the determination of any case arising under this*  
15 *chapter, the rule of res judicata is applicable only if the liability*  
16 *involved is for the same period as was involved in another case*  
17 *previously determined.*

18 **Sec. 58.** 1. *All fees, taxes, interest and penalties imposed*  
19 *and all amounts of tax required to be paid to the State under this*  
20 *chapter must be paid to the Department in the form of remittances*  
21 *payable to the Department.*

22 2. *The Department shall deposit the payments in the State*  
23 *Treasury to the credit of the Services Tax Account in the State*  
24 *General Fund.*

25 3. *The money in the Services Tax Account may, upon order*  
26 *of the State Controller, be used for refunds under this chapter.*

27 **Sec. 59.** *The remedies of the State provided for in this*  
28 *chapter are cumulative, and no action taken by the Department or*  
29 *the Attorney General constitutes an election by the State to pursue*  
30 *any remedy to the exclusion of any other remedy for which*  
31 *provision is made in this chapter.*

32 **Sec. 60.** *In all proceedings under this chapter, the*  
33 *Department may act for and on behalf of the people of the State of*  
34 *Nevada.*

35 **Sec. 61.** NRS 360.2937 is hereby amended to read as follows:  
36 360.2937 1. Except as otherwise provided in this section,  
37 NRS 360.320 or any other specific statute, and notwithstanding the  
38 provisions of NRS 360.2935, interest must be paid upon an  
39 overpayment of any tax provided for in chapter 362, 363A, 363B,  
40 369, 370, 372, 374, 377 or 377A of NRS ~~§~~ *or sections 2 to 60,*  
41 *inclusive, of this act,* any fee provided for in NRS 444A.090 or  
42 482.313, or any assessment provided for in NRS 585.497, at the rate  
43 of 0.5 percent per month from the last day of the calendar month  
44 following the period for which the overpayment was made.



2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.

3. The interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

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

**Sec. 62.** NRS 360.297 is hereby amended to read as follows:

360.297 1. A responsible person who fails to collect or pay to the Department any tax or fee imposed by this chapter, chapter 363A, 363B, 368A, 369, 370, 372 or 374 of NRS, *sections 2 to 60, inclusive, of this act*, NRS 444A.090 or 482.313, or chapter 680B of NRS, or who attempts to evade the payment of any such tax or fee, is jointly and severally liable with any other person who is required to pay such a tax or fee for the tax or fee owed plus interest and all applicable penalties. The responsible person shall pay the tax or fee upon notice from the Department that it is due.

2. As used in this section, "responsible person" includes:

(a) An officer or employee of a corporation; and

(b) A member or employee of a partnership or limited-liability company,

➔ whose job or duty it is to collect, account for or pay to the Department any tax or fee imposed by this chapter, chapter 363A, 363B, 368A, 369, 370, 372 or 374 of NRS, *sections 2 to 60, inclusive, of this act*, NRS 444A.090 or 482.313, or chapter 680B of NRS.

**Sec. 63.** NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, *sections 2 to 60, inclusive, of this act*, NRS 482.313, or chapter 585 or 680B of NRS as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

(a) The facts contained in the return;

(b) Any information within its possession or that may come into its possession; or



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(c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.

3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.

4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

**Sec. 64.** NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, *or sections 2 to 60, inclusive, of this act*, or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

**Sec. 65.** NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of a tax imposed pursuant to NRS 361.320 or chapter 361A, 362, 363A, 363B, 369, 370, 372, 372A, 374, 375A, 375B, 376A, 377 or 377A of NRS, *or sections 2 to 60, inclusive, of this act* is the result of circumstances beyond his or her control and occurred despite the exercise of ordinary care and without intent, the Department may relieve the person of all or part of any interest or penalty, or both.



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2. A person seeking relief must file with the Department a statement under oath setting forth the facts upon which the person bases his or her claim.

3. The Department shall disclose, upon the request of any person:

(a) The name of the person to whom relief was granted; and

(b) The amount of the relief.

4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.

**Sec. 66.** NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against the person which remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed,

➤ give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his or her possession or under his or her control at the time the person received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his or her possession, under his or her control or owing by that person within the time and in the manner requested by the Department. Except as otherwise provided in



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1 subsection 5, no further notice is required to be served to that  
2 person.

3 5. If the property of the delinquent taxpayer consists of a series  
4 of payments owed to him or her, the person who owes or controls  
5 the payments shall transmit the payments to the Department until  
6 otherwise notified by the Department. If the debt of the delinquent  
7 taxpayer is not paid within 1 year after the Department issued the  
8 original demand to transmit, the Department shall issue another  
9 demand to transmit to the person responsible for making the  
10 payments informing him or her to continue to transmit payments to  
11 the Department or that his or her duty to transmit the payments to  
12 the Department has ceased.

13 6. If the notice of the delinquency seeks to prevent the transfer  
14 or other disposition of a deposit in a bank or credit union or other  
15 credits or personal property in the possession or under the control of  
16 a bank, credit union or other depository institution, the notice must  
17 be delivered or mailed to any branch or office of the bank, credit  
18 union or other depository institution at which the deposit is carried  
19 or at which the credits or personal property is held.

20 7. If any person notified by the notice of the delinquency  
21 makes any transfer or other disposition of the property or debts  
22 required to be withheld or transmitted, to the extent of the value of  
23 the property or the amount of the debts thus transferred or paid, that  
24 person is liable to the State for any indebtedness due pursuant to this  
25 chapter, or chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A,  
26 374, 377, 377A or 444A of NRS, *sections 2 to 60, inclusive, of this*  
27 *act*, NRS 482.313, or chapter 585 or 680B of NRS from the person  
28 with respect to whose obligation the notice was given if solely by  
29 reason of the transfer or other disposition the State is unable to  
30 recover the indebtedness of the person with respect to whose  
31 obligation the notice was given.

32 **Sec. 67.** The Department of Taxation shall adopt the  
33 regulations required to implement the provisions of this act on or  
34 before December 31, 2011.

35 **Sec. 68.** This act becomes effective:

36 1. Upon passage and approval for the purpose of adopting  
37 regulations and performing any other preparatory administrative  
38 tasks that are necessary to carry out the provisions of this act; and

39 2. On January 1, 2012, for all other purposes.

