REQUIRES TWO-THIRDS MAJORITY VOTE
(§§ 13, 19)

A.B. 279

ASSEMBLY BILL NO. 279–ASSEMBLYMAN LEAVITT

MARCH 15, 2021

Referred to Committee on Revenue

SUMMARY—Revises provisions governing taxes imposed on certain heavy equipment. (BDR 32-26)

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

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

AN ACT relating to taxation; providing for the imposition, administration, collection and enforcement of a tax on the rental of certain heavy equipment; excluding certain heavy equipment from the tax on personal property; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, all property of every kind and nature in this State is subject to property taxes unless the property is exempt from such taxation. (NRS 361.045) Article 10, Section 1 of the Nevada Constitution authorizes the Legislature to exempt any personal property from taxation. **Section 42** of this bill exempts from personal property taxes certain qualified heavy equipment that is customarily designed and used for construction purposes and is held in the inventory of a business that is primarily engaged in the sale or rental of such equipment. Instead, **section 13** of this bill imposes a tax at the rate of 1.25 percent of the gross receipts from the rental of such qualified heavy equipment. **Sections 15 and 16** of this bill require a heavy equipment rental company to collect the tax from a person who rents qualified heavy equipment and to hold the tax in a separate account. **Section 21** of this bill authorizes a heavy equipment rental company to retain a percentage of the tax collected as reimbursement for the cost of collecting the tax.

Sections 2-9 of this bill define certain terms relating to the imposition of the tax on the rental of qualified heavy equipment. **Section 10** of this bill requires the Department of Taxation to administer the provisions of this bill establishing the tax and authorizes the Department to adopt necessary regulations. **Section 20** of this bill provides for the distribution of the proceeds of the tax. **Sections 11 and 12** of this bill establish provisions governing the retention and examination of records relevant to the tax.

Section 14 of this bill exempts from the tax the gross receipts from the rental of qualified heavy equipment to certain governmental entities.

Section 17 of this bill requires a person who intends to operate as a heavy equipment rental company to register with the Department and submit an annual statement containing certain information relating to the qualified heavy equipment held in its inventory and the rental of that equipment. **Section 18** of this bill requires a heavy equipment rental company to submit a return and remit to the Department the collected tax on a quarterly basis.

Section 19 of this bill requires the Department to estimate the amount of property tax which would have been due on the qualified heavy equipment held in inventory by a heavy equipment rental company if such equipment was not exempted from the property tax by **section 42**. If the amount of the tax on the rental of qualified heavy equipment is less than the estimated amount of property tax, the Department is required to collect the difference from the heavy equipment rental company. If the amount of the tax on the rental of qualified heavy equipment is greater than the estimated property tax, the excess amount is credited to the State General Fund.

Section 22 of this bill authorizes the Department to extend the time for paying the tax by 30 days under certain circumstances.

Sections 23-32 of this bill establish the procedure for handling overpayments of the tax.

Sections 33-37 of this bill establish criminal penalties and provide for the enforcement of the tax.

Sections 38-41 of this bill make conforming changes to subject the tax created by this bill to the same provisions governing interest, computation of tax and delinquent payments as other taxes in this State.

Section 43 of this bill provides that the exemption from the property tax for qualified heavy equipment does not apply to any tax period ending before July 1, 2022.

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 37, 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 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Commission" means the Nevada Tax Commission.***

Sec. 4. ***"Fiscal year" means that period of time from July 1 of one year to and including June 30 of the following year.***

Sec. 5. ***1. "Gross receipts" means the total amount of consideration, including cash, credit, property and services, for which a heavy equipment rental company rents qualified heavy equipment, valued in money, whether received in money or otherwise, and without any deduction for:***

(a) The cost of the qualified heavy equipment to the heavy equipment rental company;

(b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the heavy equipment rental

company, all taxes imposed on the heavy equipment rental company, and any other expense of the heavy equipment rental company; and

(c) Any charges by the heavy equipment rental company for any services necessary to complete the rental, including any delivery charges which are not stated separately and excluding any installation charges which are stated separately.

2. The term does not include:

(a) Any delivery charges which are stated separately;

(b) Any installation charges which are stated separately;

(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 the heavy equipment rental company and taken by the renter on a rental;

(d) Any interest, financing and carrying charges from credit extended on the rental of qualified heavy equipment, if stated separately; and

(e) Any taxes legally imposed directly on the renter which are stated separately.

Sec. 6. ***"Heavy equipment rental company" means a business that is primarily engaged in the sale or rental of machinery or equipment described in subsection 1 of section 7 of this act.***

Sec. 7. ***"Qualified heavy equipment" means machinery and equipment that is:***

1. Customarily used and designed for construction purposes, including, without limitation, earthmoving equipment, cranes, lift equipment, material handling equipment, pumps, generators, compressors, portable power equipment, heating, ventilation and air conditioning equipment and self-propelled equipment used in construction; and

2. Held in the inventory of a heavy equipment rental company for sale or rental in the regular course of business.

Sec. 8. ***"Rent," "rental" or "renting" means entering into an agreement for the use of qualified heavy equipment without an operator in exchange for consideration for a period:***

1. Not to exceed 365 days; or

2. That is open-ended under the terms of the rental contract with no specified end date.

Sec. 9. ***"Renter" means a person who rents qualified heavy equipment without an operator from a heavy equipment rental company.***

Sec. 10. ***The Department shall administer and enforce the provisions of this chapter, and may adopt such regulations as it deems appropriate for those purposes.***

Sec. 11. *1. Each person responsible for maintaining the records of a heavy equipment rental company shall:*

(a) Keep such records as may be necessary to determine the amount of the liability of the heavy equipment rental company pursuant to the provisions of this chapter;

(b) Preserve those records for 5 years or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and

(c) Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.

2. The Department may adopt regulations specifying the types of records which must be kept to determine the amount of liability of a heavy equipment rental company for the tax imposed by this chapter.

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

Sec. 12. *1. To verify the accuracy of any return filed or, if no return is filed by a taxpayer, to determine the amount required to be paid, the Department, or any person authorized in writing by the Department, may examine the books, papers and records of any person who may be liable for the tax imposed by this chapter.*

2. Any person who may be liable for the tax imposed by this chapter and who keeps outside of this State any books, papers and records relating thereto shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he or she is absent from his or her regular place of employment to examine those documents.

Sec. 13. *An excise tax is hereby imposed upon each heavy equipment rental company at the rate of 1.25 percent of the gross receipts of the heavy equipment rental company from the rental of qualified heavy equipment to a renter in a taxing district in a county in this State.*

Sec. 14. *There is exempted from the computation of the amount of the tax due pursuant to this chapter the gross receipts from the rental of any qualified heavy equipment to:*

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

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

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

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

5. Any other person or entity that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

Sec. 15. *The tax imposed by section 13 of this act shall be collected by the heavy equipment rental company from the renter insofar as it can be done.*

Sec. 16. *A heavy equipment rental company shall hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State.*

Sec. 17. *1. Each person desiring to engage in or conduct business as a heavy equipment rental company in this State must register with the Department on or before June 15 of the fiscal year immediately preceding the fiscal year in which a registrant intends to begin engaging in or conducting business as a heavy equipment rental company in this State. Every application for registration 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 the applicant's place or places of business;

(c) Contain a certification that the applicant transacts or intends to transact business as a heavy equipment rental company;

(d) Set forth, for each piece of qualified heavy equipment held in inventory by the applicant:

(1) A description of the qualified heavy equipment;

(2) The year of acquisition;

(3) The physical location at which the qualified heavy equipment is located on the date of the application; and

(4) The cost of the qualified heavy equipment; and

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

2. On or before June 15 of each year, a person registered pursuant to subsection 1 shall submit to the Department an updated statement certifying that the registrant transacts or intends to transact business as a heavy equipment rental company during the subsequent fiscal year. The certification must be accompanied by a statement that sets forth:

(a) For each piece of qualified heavy equipment held in inventory by the registrant:

(1) A description of the qualified heavy equipment;

(2) The year of acquisition;

(3) The physical location at which the qualified heavy equipment is located on the date of the submission of the updated statement; and

(4) The cost of the qualified heavy equipment; and

(b) The location of the registrant's place or places of business; and

(c) Any other information which the Department may require.

Sec. 18. *1. Each heavy equipment rental company shall, on or before the last day of the month immediately following the end of each calendar quarter:*

(a) File with the Department a return on a form prescribed by the Department which includes such information as the Department may require; and

(b) Remit to the Department any tax due pursuant to this chapter for that calendar quarter.

2. Each return required to be filed by this section must state separately the gross receipts from the rental of qualified heavy equipment which are attributable to each site at which the qualified heavy equipment was located during the period covered by the return and the total gross receipts which are attributable to each county in which the qualified heavy equipment was located during the period covered by the return.

3. In each return filed for the calendar quarter ending on June 30, for the fiscal year ending on that June 30, the heavy equipment rental company shall include, in addition to the information required pursuant to subsection 2, a statement of the total gross receipts from the rental of qualified heavy equipment which are attributable to each site at which the heavy equipment rental company and the total gross receipts from the rental of qualified heavy equipment.

Sec. 19. *1. Not later than 30 days after the end of each fiscal year, the Department shall estimate, for each heavy equipment rental company in this State, the amount of the taxes imposed pursuant to chapter 361 of NRS which would have been imposed on the qualified heavy equipment held in inventory of the heavy equipment rental company during the immediately preceding fiscal year if such qualified heavy equipment was not exempt from the taxes imposed pursuant to chapter 361 of NRS pursuant to NRS 361.068. In calculating the property tax which would have been owed, the Department shall use valuation categories which are as similar as possible to those in effect during Fiscal Year 2019-2020.*

2. If the amount of tax due pursuant to section 13 of this act from a heavy equipment rental company during the immediately preceding fiscal year is less than the amount estimated by the

Department pursuant to subsection 1, on or before September 30 following the end of the fiscal year, the Department shall send a notice to the heavy equipment rental company requiring the heavy equipment rental company to pay an amount equal to the difference between the amount of tax due pursuant to section 13 of this act from the heavy equipment rental company during the immediately preceding fiscal year and the amount estimated by the Department pursuant to subsection 1. Any amount charged to a heavy equipment rental company pursuant to this section shall be deemed a tax upon the heavy equipment rental company for the privilege of renting out qualified heavy equipment in this State.

3. The Commission shall adopt regulations establishing the manner in which the money received by the Department pursuant to subsection 2 will be distributed to the local governments in this State. Until the regulations adopted by the Commission pursuant to this subsection become effective, the amount remitted by the heavy equipment rental company to the Department pursuant to subsection 2 must be deposited in the Heavy Equipment Rental Tax Account in the State General Fund and handled in the same manner as all other fees, taxes, interest and penalties deposited in the Account pursuant to subsection 3 of section 20 of this act.

4. If the amount of tax due pursuant to section 13 of this act from the heavy equipment rental company during the immediately preceding fiscal year is more than the amount estimated by the Department pursuant to subsection 1, on or before September 1 following the end of the fiscal year, the Department shall notify the State Controller and the State Controller shall transfer an amount equal to the difference between the amount estimated by the Department pursuant to subsection 1 and the amount of tax due pursuant to section 13 of this act by the heavy equipment rental company during the immediately preceding fiscal year from the Heavy Equipment Rental Tax Account to the State General Fund.

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

2. The Department shall deposit the payments in the State Treasury to the credit of the Heavy Equipment Rental Tax Account, which is hereby created in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall, from the Heavy Equipment Rental Tax Account:

(a) Transfer 0.75 percent of all fees, taxes, interest and penalties collected in each county during the preceding month to

the appropriate account in the State General Fund as compensation to the State for the costs of collecting the tax.

(b) Determine for each taxing district in a county the amount of money equal to the fees, taxes, interest and penalties attributable to the taxing district pursuant to this chapter during the preceding month less the amount transferred pursuant to paragraph (a).

(c) On or before October 30 of each fiscal year, after subtracting the amount transferred pursuant to paragraph (a):

(1) Transfer to the Consolidated Bond Interest and Redemption Fund an amount equal to the fees, taxes, interest and penalties attributable to each taxing district for the period beginning on July 1 of the immediately preceding fiscal year and ending on December 31 of the immediately preceding fiscal year, multiplied by the percentage of the fees, taxes, interest and penalties attributable to a taxing district that would have been distributed to the Consolidated Bond Interest and Redemption Fund if the fees, taxes, interest and penalties were taxes imposed pursuant to chapter 361 of NRS.

(2) Transfer to the Intergovernmental Fund and remit to each county an amount equal to the fees, taxes, interest and penalties attributable to each taxing district in the county pursuant to this chapter during the period beginning on July 1 of the immediately preceding fiscal year and ending on December 31 of the immediately preceding fiscal year, less the amounts transferred pursuant to paragraph (a) and subparagraph (1) of this paragraph.

(d) On or before April 30 of each fiscal year, after subtracting the amount transferred pursuant to paragraph (a):

(1) Transfer to the Consolidated Bond Interest and Redemption Fund an amount equal to the fees, taxes, interest and penalties attributable to each taxing district for the period beginning on January 1 of the immediately preceding fiscal year and ending on June 30 of the immediately preceding fiscal year, multiplied by the percentage of the fees, taxes, interest and penalties attributable to a taxing district that would have been distributed to the Consolidated Bond Interest and Redemption Fund if the fees, taxes, interest and penalties were taxes imposed pursuant to chapter 361 of NRS.

(2) Transfer to the Intergovernmental Fund and remit to each county an amount equal to the fees, taxes, interest and penalties attributable to each taxing district in the county pursuant to this chapter during the period beginning on January 1 of the immediately preceding fiscal year and ending on June 30 of the immediately preceding fiscal year, less the amounts transferred

pursuant to paragraph (a) and subparagraph (1) of this paragraph.

4. At the time of transferring money to the Intergovernmental Fund pursuant to subsection 3, the Department shall:

(a) Inform each county auditor of the amount remitted to the county.

(b) Certify to the county auditor the taxing districts within the county to which the tax imposed by section 13 of this act was attributable during the relevant portion of the fiscal year and the amount of the tax collected with respect to each taxing district.

5. The county treasurer shall deposit the money received by the county pursuant to this chapter in a separate account for apportionment at the same time that money is apportioned pursuant to NRS 361.755. Money received by the county pursuant to this chapter must be apportioned and distributed among the taxing units of the county in the same manner that property taxes are apportioned and distributed with respect to property located in the taxing district where the qualified heavy equipment rental is sourced, as the Commission may prescribe by regulation. Until the Commission adopts regulations to the contrary, the rental of qualified heavy equipment is sourced to the business location of the heavy equipment rental company from which the qualified heavy equipment is rented.

Sec. 21. *If the tax imposed by section 13 of this act is paid in accordance with section 18 of this act, a heavy equipment rental company may deduct and withhold from the taxes otherwise due from the heavy equipment rental company 0.25 percent of those taxes as reimbursement for the cost of collecting the tax.*

Sec. 22. *Upon written application made before the date on which payment must be made, the Department may for good cause extend by 30 days the time within which a taxpayer is required to pay the tax imposed by this chapter. If the tax is paid during the period of extension, no penalty or late charge may be imposed for failure to pay at the time required, but the taxpayer shall pay interest at the rate of 1 percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.*

Sec. 23. *If the Department determines that any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and certify to the State Board of Examiners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Examiners, the*

excess amount collected or paid must, after being credited against any amount then due from the person in accordance with NRS 360.236, be refunded to the person or his or her successors in interest.

Sec. 24. ***1. Except as otherwise provided in NRS 360.235 and 360.395:***

(a) No refund may be allowed unless a claim for it is filed with the Department within 2 years after the last day of the month following the calendar quarter for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Department within that period.

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

3. Failure to file a claim within the time prescribed in this chapter constitutes a waiver of any demand against the State on account of overpayment.

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

Sec. 25. ***1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of any amount of the taxes imposed by this chapter at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.***

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

Sec. 26. ***1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection under this chapter of the tax imposed by this chapter or any amount of tax, penalty or interest required to be collected.***

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

Sec. 27. ***1. Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by the Commission, the claimant may bring an action against the Department on the grounds set forth in the claim in a court of competent jurisdiction in Carson City, the county of this State***

where the claimant resides or maintains his or her principal place of business or a county in which any relevant proceedings were conducted by the Department, for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

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

Sec. 28. *1. If the Department fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Commission within 30 days after the last day of the 6-month period. If the claimant is aggrieved by the decision of the Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.*

2. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited towards any tax due from the plaintiff.

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

Sec. 29. *In any judgment, interest must be allowed at the rate of 3 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.*

Sec. 30. *A judgment may not be rendered in favor of the plaintiff in any action brought against the Department to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.*

Sec. 31. *1. The Department may recover a refund or any part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in Carson City or Clark County in the name of the State of Nevada.*

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

3. The Attorney General shall prosecute the action, and the provisions of the Nevada Revised Statutes, the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure

relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings.

Sec. 32. ***1. If any amount in excess of $25 has been illegally determined, either by the Department or by the person filing the return, the Department shall certify this fact to the State Board of Examiners, and the latter shall authorize the cancellation of the amount upon the records of the Department.***

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

Sec. 33. ***1. A person shall not:***

(a) Make, cause to be made or permit to be made any false or fraudulent return or declaration or false statement in any report or declaration, with intent to defraud the State or to evade payment of the tax or any part of the tax imposed by this chapter; or

(b) Make, cause to be made or permit to be made any false entry in books, records or accounts with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter.

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

Sec. 34. ***Any violation of this chapter, except as otherwise provided, is a misdemeanor.***

Sec. 35. ***Any prosecution for violation of any of the penal provisions of this chapter must be instituted within 3 years after the commission of the offense.***

Sec. 36. ***In the determination of any case arising under this chapter, the rule of res judicata is applicable only if the liability involved is for the same period as was involved in another case previously determined.***

Sec. 37. ***The remedies of the State provided for in this chapter are cumulative, and no action taken by the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.***

Sec. 38. NRS 360.2937 is hereby amended to read as follows:

360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C or 377D of NRS, ***or sections 2 to 37, inclusive, of this act,*** any of the taxes provided for in NRS 372A.290, any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of 0.25 percent per month from the last day of the calendar month 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. 39. 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, 363C, 369, 370, 372, 372A, 372B, 374, 377, 377A, 377C, 377D or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, ***or sections 2 to 37, inclusive, of this act,*** 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

(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. 40. 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, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C, 377D, 444A or 585 of NRS, ***or sections 2 to 37, inclusive, of this act,*** any of the taxes provided for in NRS 372A.290, 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 0.75 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. 41. 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 subsection 5, no further notice is required to be served to that person.

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

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

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, that person is liable to the State for any indebtedness due pursuant to this chapter, chapter 360B, 362, 363A, 363B, 363C, 369, 370, 372, 372A, 372B, 374, 377, 377A, 377C, 377D or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS ***or sections 2 to 37, inclusive, of this act*** from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 42. NRS 361.068 is hereby amended to read as follows:

361.068 1. The following personal property is exempt from taxation:

(a) Personal property held for sale by a merchant;

(b) Personal property held for sale by a manufacturer;

(c) Raw materials and components held by a manufacturer for manufacture into products, and supplies to be consumed in the process of manufacture;

(d) Tangible personal property purchased by a business which will be consumed during the operation of the business;

(e) Livestock;

(f) Colonies of bees;

(g) Pipe and other agricultural equipment used to convey water for the irrigation of legal crops;

(h) All boats;

(i) Slide-in campers and camper shells;

(j) Except as otherwise provided in NRS 361.186, fine art for public display; ~~[and]~~

(k) All personal property that is:

(1) Owned by a person who is not a resident of this state; and

(2) Located in this state solely for the purposes of:

(I) An exhibit that is used in a convention or tradeshow that is located in this State; or

(II) A display, exhibition, carnival, fair or circus that is transient in nature and is located in this State for not more than 30 days ~~[.]~~ ***; and***

(l) Qualified heavy equipment.

2. The Nevada Tax Commission may exempt from taxation that personal property for which the annual taxes would be less than the cost of collecting those taxes. If such an exemption is provided, the Nevada Tax Commission shall annually determine the average cost of collecting property taxes in this state which must be used in determining the applicability of the exemption.

3. A person claiming the exemption provided for in paragraph (j) of subsection 1 shall:

(a) On or before June 15 for the next ensuing fiscal year, file with the county assessor an affidavit declaring that the fine art will, during that ensuing fiscal year, meet all the criteria set forth in paragraph (b) of subsection 4; and

(b) During any fiscal year in which the person claims the exemption, make available for educational purposes and not for resale, upon written request and without charge to any public school as defined in NRS 385.007, private school as defined in NRS 394.103 and parent of a child who receives instruction in a home pursuant to NRS 392.070, one copy of a poster depicting the fine art that the facility has on public display if such a poster is available for purchase by the public at the time of the request.

4. As used in this section:

(a) "Boat" includes any vessel or other watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(b) "Fine art for public display":

(1) Except as otherwise provided in subparagraph (2), means a work of art which:

(I) Is an original painting in oil, mineral, water colors, vitreous enamel, pastel or other medium, an original mosaic, drawing or sketch, an original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a similar material, an original work of mixed media or a lithograph;

(II) Was purchased in an arm's length transaction for $25,000 or more, or has an appraised value of $25,000 or more;

(III) Is on public display in a public or private art gallery, museum or other building or area in this state for at least 20 hours per week during at least 35 weeks of each year for which the exemption is claimed or, if the facility displaying the fine art disposes of it before the end of that year, during at least two-thirds of the full weeks during which the facility had possession of it, or if the gallery, museum or other building or area in which the fine art will be displayed will not be opened until after the beginning of the fiscal year for which the exemption is claimed, these display requirements must be met for the first full fiscal year after the date of opening, and the date of opening must not be later than 2 years after the purchase of the fine art being displayed; and

(IV) Is on display in a facility that is available for group tours by pupils or students for at least 5 hours on at least 60 days of each full year for which the exemption is claimed, during which the facility in which it is displayed is open, by prior appointment and at reasonable times, without charge; and

(2) Does not include:

(I) A work of fine art that is a fixture or an improvement to real property;

(II) A work of fine art that constitutes a copy of an original work of fine art, unless the work is a lithograph that is a limited edition and that is signed and numbered by the artist;

(III) Products of filmmaking or photography, including, without limitation, motion pictures;

(IV) Literary works;

(V) Property used in the performing arts, including, without limitation, scenery or props for a stage; or

(VI) Property that was created for a functional use other than, or in addition to, its aesthetic qualities, including, without limitation, a classic or custom-built automobile or boat, a sign that advertises a business, and custom or antique furniture, lamps, chandeliers, jewelry, mirrors, doors or windows.

(c) "Personal property held for sale by a merchant" includes property that:

(1) Meets the requirements of sub-subparagraphs (I) and (II) of subparagraph (1) of paragraph (b);

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

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

(d) "Public display" means the display of a work of fine art where members of the public have access to the work of fine art for viewing during publicly advertised hours. The term does not include the display of a work of fine art in an area where the public does not generally have access, including, without limitation, a private office, hallway or meeting room of a business, a room of a business used for private lodging and a private residence.

(e) "Pupil" means a person who:

(1) Is enrolled for the current academic year in a public school as defined in NRS 385.007 or a private school as defined in NRS 394.103; or

(2) Receives instruction in a home and is excused from compulsory attendance pursuant to NRS 392.070.

(f) ***"Qualified heavy equipment" has the meaning ascribed to it in section 7 of this act.***

(g) "Student" means a person who is enrolled for the current academic year in:

(1) A community college or university; or

(2) A licensed postsecondary educational institution as defined in NRS 394.099 and a course concerning fine art.

Sec. 43. The amendatory provisions of section 42 of this act do not apply to any taxes due for any period ending on or before June 30, 2022.

Sec. 44. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 43, inclusive, of this act become effective:

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

(b) On July 1, 2022, for all other purposes.