

**State of Nevada**

**Statewide**

**Ballot Questions**

**2008**



**To Appear on the November 4, 2008  
General Election Ballot**

**Issued by  
Ross Miller  
Secretary of State**

**ROSS MILLER**  
*Secretary of State*

**NICOLE J. LAMBOLEY**  
*Chief Deputy Secretary  
of State*

**CHRIS LEE**  
*Deputy Secretary for  
Southern Nevada*

**STATE OF NEVADA**



**OFFICE OF THE  
SECRETARY OF STATE**

**SCOTT W. ANDERSON**  
*Deputy Secretary  
for Commercial Recordings*

**MATTHEW M. GRIFFIN**  
*Deputy Secretary  
for Elections*

**KATE THOMAS**  
*Deputy Secretary  
for Operations*

Dear Fellow Nevadan:

As the November 4, 2008 General Election approaches, it is my responsibility as the Chief Elections Officer to inform the public about important issues facing the State of Nevada. It is my duty to ensure voters have all the information necessary to make informed decisions on Ballot Questions appearing in the upcoming election.

To assist voters, my office has prepared this informational booklet providing detailed information for the four (4) statewide ballot questions appearing in the 2008 General Election. Specifically, the booklet provides the exact wording and a brief summary of each question, as well as arguments for and against passage of the proposed measure. Some questions may include a fiscal note, which provides information on potentially adverse financial impacts to the State of Nevada.

For your reference, Ballot Question Numbers 1, 3, and 4 were placed on the ballot by the Nevada State Legislature, while Ballot Question Number 2 qualified for the ballot through initiative petition in 2006. This measure was passed during the 2006 General Election, and appears for the second and final time in 2008.

I encourage you to carefully review and consider each of the ballot questions prior to Election Day on November 4, 2008. As a voter, your decisions on these ballot questions are very important, as they may create new laws, amend existing laws, or amend the Nevada Constitution.

Thank you for your attention on this important matter. If you require additional information, please do not hesitate to contact my office at (775) 684-5705, or visit my website: [www.nvsos.gov](http://www.nvsos.gov).

Respectfully,

A handwritten signature in black ink, appearing to read "Ross Miller".

**ROSS MILLER**  
Secretary of State

**LAS VEGAS OFFICE**  
555 E. Washington Avenue  
SECURITIES: Suite 5200  
Las Vegas, Nevada 89101  
Telephone (702) 486-2440  
Fax (702) 486-2453

**MAIN OFFICE**  
101 N. Carson Street, Suite 3  
Carson City, Nevada 89701-4786  
Telephone (775) 684-5708  
Fax (775) 684-5725

**CORPORATE SATELLITE OFFICE**  
202 N. Carson Street  
Carson City, Nevada 89101  
Telephone (775) 684-5708  
Fax (775) 684-5725

# 2008 STATEWIDE BALLOT QUESTIONS SUMMARY

Question #	Title	Originated	If passed in 2008
1	Amend Nevada Constitution	Legislature AJR 10 of the 73 <sup>rd</sup> Session	Becomes effective upon canvass
2	Nevada Property Owner's Bill of Rights (PISTOL)	Initiative Petition	Becomes Law
3	Amend Nevada Constitution	Legislature AJR 16 of the 73 <sup>rd</sup> Session	Becomes effective upon canvass
4	Sales and Use Tax of 1955	Legislature SB 502 of the 74 <sup>th</sup> Session	Becomes effective January 1, 2009

## QUESTION NO. 1

Amendment to the *Nevada Constitution*

Assembly Joint Resolution No. 10 of the 73rd Session

### CONDENSATION (Ballot Question)

Shall the *Nevada Constitution* be amended to eliminate an unconstitutional requirement that a person must reside in Nevada for 6 months prior to an election in order to be eligible to vote in that election?

Yes       No

### EXPLANATION

The proposed amendment to the *Nevada Constitution* would remove language requiring that a person who is otherwise eligible to vote must reside in Nevada for 6 months before being entitled to vote.

Currently, language in Article 2, Section 1 of the *Nevada Constitution* provides that a person who is otherwise eligible to vote must reside in Nevada for 6 months, and in a particular district or county for 30 days, in order to be entitled to vote. The United States Supreme Court has ruled that state residency requirements of this length are unconstitutional. The proposed amendment would remove the 6-month requirement, allowing the 30-day requirement to apply to both state and local residency.

**A “Yes” vote would change the language in the *Nevada Constitution* to allow a person who has lived both in Nevada and in a particular district or county for 30 days to register to vote in the next upcoming election.**

**A “No” vote would retain the existing language which provides that a person must live in Nevada for 6 months, and in a given district or county for 30 days, prior to an election in order to be eligible to vote in that election.**

### ARGUMENTS FOR PASSAGE

In 1972, and again in later years, the U.S. Supreme Court ruled that residency requirements, which exceed the amount of time required to complete election-related administrative procedures, do not further any compelling state interest and violate the Equal Protection Clause of the Fourteenth Amendment of the *United States Constitution*. The U.S. Supreme Court has stated that 30 days is a reasonable time period for residency requirements.

Chapter 293.485 of the *Nevada Revised Statutes* complies with the U.S. Supreme Court’s position on residency requirements and sets 30 days as the length of time one must reside in Nevada prior to being eligible to register to vote. However, the *Nevada Constitution* has yet to be corrected. It is time for this unenforceable provision to be removed from the *Nevada Constitution*.

### **ARGUMENTS AGAINST PASSAGE**

In its current form, the *Nevada Constitution* seeks to ensure that those who wish to vote have been in the state long enough to get to know the issues and the candidates upon which they must decide.

The 6-month requirement may not be enforceable today, but it may be enforceable in the future should the U.S. Supreme Court reverse itself and conclude that lengthier residency requirements are acceptable. If the U.S. Supreme Court does not change course, there is still no reason to repeal the 6-month residency requirement because it is not being applied.

Nevada’s 6-month residency requirement has existed since the *Nevada Constitution* was ratified in 1864. There is no reason to believe that Nevadans are opposed to the requirement and, therefore, no reason to do away with it.

### **FISCAL NOTE**

**Financial Impact** - None

AJR 10 -73<sup>nd</sup> Session

### **FULL TEXT OF MEASURE**

Assembly Joint Resolution No. 10—Committee on Elections, Procedures, Ethics, and Constitutional Amendments

FILE NUMBER.....

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to provide that a person must be a resident of the State for 30 days before an election to be eligible to vote in that election.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 1 of Article 2 of the Nevada Constitution be amended to read as follows:

Section 1. All citizens of the United States (not laboring under the disabilities named in this Constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the State [six months,] and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election; *provided*, that no person who has

been or may be convicted of treason or felony in any state or territory of the United States, unless restored to civil rights, and no person who has been adjudicated mentally incompetent, unless restored to legal capacity, shall be entitled to the privilege of an elector. There shall be no denial of the elective franchise at any election on account of sex. The Legislature may provide by law the conditions under which a citizen of the United States who does not have the status of an elector in another state and who does not meet the residence requirements of this section may vote in this State for President and Vice President of the United States.0 ~~~~~ 05

## QUESTION NO. 2

### Amendment to the Nevada Constitution

#### CONDENSATION (Ballot Question)

Shall Article 1 of the Nevada Constitution be amended in order: to provide that the transfer of property from one private party to another private party is not considered a public use; to provide that property taken for a public use must be valued at its highest and best use; to provide that fair market value in eminent domain proceedings be defined as the “highest price the property would bring on the open market;” and to make certain other changes related to eminent domain proceedings?

Yes

No

#### EXPLANATION

The proposed amendment, if passed, would create a new section within Article 1 of the Nevada Constitution. The amendment provides that the transfer of property taken in an eminent domain action from one private party to another private party would not be considered taken for a public use.

The State or its political subdivisions or agencies would not be allowed to occupy property taken in an eminent domain action until the government provides a property owner with all government property appraisals. The government would have the burden to prove that any property taken was taken for a public use.

If property is taken by the State or its political subdivisions or agencies for a public use, the property must be valued at its highest and best use. In an eminent domain action, just compensation would be considered a sum of money that puts a property owner in the same position as if the property had not been taken, and includes compounded interest and reasonable costs and expenses. Fair market value, for eminent domain purposes, would be defined as the “highest price the property would bring on the open market.”

If property taken in an eminent domain proceeding is not used for the purpose the property was taken for within five years, the original property owner would be able to reclaim the property upon repayment of the original purchase price.

#### ARGUMENT ADVOCATING PASSAGE

Question 2 is a response to the Supreme Court decision in *Kelo v. the City of New London* which expanded the definition of “public use” to include increasing city hall’s tax base. It is also a response to the failure of the Nevada Supreme Court which made the same ruling three years ago in *Pappas v. the City of Las Vegas Redevelopment Agency* authored by Justice Nancy Becker. Suzette Kelo’s home was taken by the government and given to a developer who wanted to build

more expensive homes. In *Pappas*, the property was given to casinos. Transfers like this are absolutely “forbidden” under our proposed rules.

To help citizens whose homes are targeted to be “taken” by eminent domain, we are adding several new procedural protections. Before the government can force someone out of their home, the government will be required to provide the property owner with copies of ALL appraisals the government possesses. This will have the effect of helping a homeowner decide if the government is acting in “good faith.” Right now, a landowner is not entitled to these appraisals, until their property is taken, and they are in the middle of a costly lawsuit. If a landowner disagrees with the government’s decision that a project is a valid “public use,” the landowner has the right *to ask a jury to determine if* the “public use” is legitimate, before the government has the right to occupy the land. Under current rules, once the city council or county commission approves the decision of its bureaucrats that a certain project is a “public use,” the landowner has no remedy.

Lastly, if a landowner ends up in court in an eminent domain battle, we have added provisions to keep the playing field level. People who are standing their ground and fighting for their rights need not fear court costs and attorney’s fees, because judges will not have the power to award fees and costs if the landowner should lose.

Question 2 will prevent the government from automatically pulling the “trigger” of eminent domain, when it wants to take someone’s private property. It will give landowners legal weapons to fight back, when they find their land has been targeted for government seizure.

*The above argument was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252*

### **REBUTTAL TO ARGUMENT ADVOCATING PASSAGE**

Contrary to what proponents say, Question 2 will hurt the great majority of Nevadans by slowing and in some cases stopping construction of needed highways and other public projects. If this question was truly about the *Kelo* decision, it should have stopped after section two. Instead, eight additional sections are included that we believe would primarily benefit trial lawyers and their special interest clients, with all extra costs to be borne by you the taxpayer!

Keep in mind that the Nevada Constitution provides a framework upon which a duly elected State Legislature may add laws. However, this proposal bypasses all public hearings, discussions, and debate in the Legislature, as well as the final review and action of the Governor. If the voters approve Question 2, ALL nine sections would go into effect, both good and bad! The process to fix the Constitution at a later date is both costly and lengthy, taking five years or longer.

Vote NO on this question! DO NOT clutter our Constitution with language that undermines local community control and your quality of life! Instead, require the newly elected Legislature and Governor to do their jobs by dealing with the *Kelo* issue in 2007.

*The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252*



## **ARGUMENT OPPOSING PASSAGE**

*Voters Beware!* Question 2 is *NOT* what it appears to be! The public should be suspicious of a proposal that adds over 400 words to Nevada's Constitution. Details like these belong in state law, not in the Constitution.

Question 2 fails the test of being in the public's best interest. Buried within are a number of provisions that primarily benefit a small number of lawyers and special interests. Current Nevada law requires payment of the "most probable price" when land is acquired for roads, schools, or other vital public facilities. However, this proposal requires payment of the "highest price." Further, we believe taxpayers may have to pay all lawyers fees and court expenses for any legal actions brought by private parties on eminent domain!

The total cost to Nevada's taxpayers is unknown, but every extra penny spent on settlement costs and attorney's fees may mean that fewer vital public projects get done. Nevada's Department of Transportation and the Regional Transportation Commission of Washoe County have estimated that this proposal will cost taxpayers a minimum of \$640 million more for transportation projects over the next ten years. Further, because Question 2 appears to violate federal transportation regulations, Nevada may lose an estimated \$210 million each year in federal highway funds.

Section 11 could greatly slow and increase the cost of constructing school, major road, water, flood control, or other vital public projects. It does this by requiring land acquired through eminent domain to be "used within five years for the original purpose stated," starting from the date the final order of condemnation is entered. Otherwise, such land automatically reverts back to the original property owner upon repayment of the purchase price. This would cause the eminent domain process to start all over again, with all the costs borne by Nevada's taxpayers! Acquisition of land and right-of-way, legal actions, and required environmental analyses all take time. Five years is an unreasonable time frame to put in our Constitution.

Vote *NO* on Question 2. It is not only misleading, it will be expensive for taxpayers and harmful to our communities! Your *NO* vote will send a message to the special interests backing this proposal that you want to stay in control of your community and protect your quality of life.

*The above argument was submitted by the Ballot Question Committee composed of citizens opposed to this question as provided for in NRS 293.252*

## **REBUTTAL TO ARGUMENT OPPOSING PASSAGE**

Question 2 is a concise blueprint to restore valuable rights that once belonged to all homeowners. Until 1993, Nevada defined "just compensation" as the "highest price" the property would bring on the open market. Our legislature changed that definition after strong lobbying to the "most probable price." Today, only Nevada and a small minority of other states refuse to use the "highest price" definition.

If landowners are not entitled to the appraisals in the government's possession, how do they know whether the government is acting in good faith, or what price, their property is really worth?

The Legislature and Courts had their chances to save the rights of homeowners, but instead of protecting homeowners, they acted as accomplices in allowing those rights to be taken away. Our opponents think that adding 400 words to the Constitution is unnecessary. Their complaint is not with the number of words we use, but the number of protections you will have restored.

Lastly, we believe the government has fabricated impact costs as can be seen on the Secretary of State's website which states it is unknown if there will be an increase in costs, because if litigation decreases, so will the costs to the public.

*The above argument was submitted by the Ballot Question Committee composed of citizens in favor of this question as provided for in NRS 293.252*

## **FISCAL NOTE**

### **FINANCIAL IMPACT – CANNOT BE DETERMINED**

Question 2 proposes to amend Article 1 of Nevada's Constitution regarding the determination of public use of property, payment for private property taken under eminent domain actions, and the rights of property owners in eminent domain actions. The provisions of Question 2 cannot become effective until after the 2008 General Election.

### **FINANCIAL IMPACT OF QUESTION 2**

Question 2 declares that public use does not include transfers of property taken in an eminent domain proceeding from one private party to another private party. Although the use of this type of transfer of private property for projects by government entities is eliminated, an estimate of the financial impact to state and local governments planning to use this type of transfer after the effective date of the Question 2 cannot be determined.

The provision requiring taken or damaged property to be valued at its highest and best use potentially increases the costs incurred by state or local government entities to provide the required payments to property owners under eminent domain proceedings. Given the difficulty projecting the level and scope of eminent domain proceedings state and local governments may undertake after the effective date of the Question 2, the potential financial impact on state or local governments cannot be determined with any degree of certainty. The potential increase in the costs may cause government entities to forego certain projects requiring the taking of private property under eminent domain actions.

The provisions of the Question 2 may potentially increase the number of cases involving eminent domain actions. The potential increase in expenses incurred by state and district courts from handling a larger number of cases involving eminent domain actions cannot be determined with any degree of certainty.

*The fiscal note was prepared by the Legislative Counsel Bureau pursuant to NRS 295.015*

## FULL TEXT OF MEASURE

*(Sections 1, 3, 8, 9, and 10 have been stricken from the text of the measure by the Nevada Supreme Court.)*

### NEVADA PROPERTY OWNERS BILL OF RIGHTS INITIATIVE

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

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

**Section 1.** Article 1 of the Constitution of the State of Nevada is hereby amended by adding thereto a new section to be designated section 22, to read as follows:

*Sec. 22. Notwithstanding any other provision of this Constitution to the contrary:*

~~1. All property rights are hereby declared to be fundamental constitutional rights and each and every right provided herein shall be self-executing.~~

*2. Public use shall not include the direct or indirect transfer of any interest in property taken in an eminent domain proceeding from one private party to another private party. In all eminent domain actions, the government shall have the burden to prove public use.*

~~3. Unpublished eminent domain judicial opinions or orders shall be null and void.~~

*4. In all eminent domain actions, prior to the government's occupancy, a property owner shall be given copies of all appraisals by the government and shall be entitled, at the property owner's election, to a separate and distinct determination by a district court jury, as to whether the taking is actually for a public use.*

*5. If a public use is determined, the taken or damaged property shall be valued at its highest and best use without considering any future dedication requirements imposed by the government. If private property is taken for any proprietary governmental purpose, then the property shall be valued at the use to which the government intends to put the property, if such use results in a higher value for the land taken.*

*6. In all eminent domain actions, just compensation shall be defined as that sum of money, necessary to place the property owner back in the same position, monetarily, without any governmental offsets, as if the property had never been taken. Just compensation shall include, but is not limited to, compounded interest and all reasonable costs and expenses actually incurred.*

*7. In all eminent domain actions where fair market value is applied, it shall be defined as the highest price the property would bring on the open market.*

~~8. Government actions which result in substantial economic loss to private property shall require the payment of just compensation. Examples of such substantial economic loss include, but are not limited to, the down zoning of private property, the elimination of any access to private property, and limiting the use of private air space.~~

~~9. No Nevada state court judge or justice who has not been elected to a current term of office shall have the authority to issue any ruling in an eminent domain proceeding.~~

~~10. In all eminent domain actions, a property owner shall have the right to preempt one judge at the district court level and one justice at each appellate court level. Upon prior notice to all parties, the clerk of that court shall randomly select a currently elected district court judge to replace the judge or justice who was removed by preemption.~~

*11. Property taken in eminent domain shall automatically revert back to the original property owner upon repayment of the original purchase price, if the property is not used within five years for the original purpose stated by the government. The five years shall begin running from the date of the entry of the final order of condemnation.*

*12. A property owner shall not be liable to the government for attorney fees or costs in any eminent domain action.*

*13. For all provisions contained in this section, government shall be defined as the State of Nevada, its political subdivisions, agencies, any public or private agent acting on their behalf, and any public or private entity that has the power of eminent domain.*

*14. Any provision contained in this section shall be deemed a separate and freestanding right and shall remain in full force and effect should any other provision contained in this section be stricken for any reason.*

## **DESCRIPTION OF EFFECT**

*The following constitutional provisions shall supersede all conflicting Nevada law regarding eminent domain actions.*

- Property rights are fundamental constitutional rights.
- Transfer of land from one private party to another private party is not public use.
- Before the government may occupy property, it must provide appraisals and prove the taking is for public use.
- Property must be valued at the use which yields the highest value.
- Government actions causing economic loss to property require the payment of just compensation.
- Only currently elected judges may issue eminent domain decisions, and such decisions must be published to be valid.
- In each action, the property owner may disqualify one judge at each judicial level.
- Just compensation is the sum of money including interest compounded annually necessary to put the owner in the same position without offsets as if the property was not taken.
- Property taken but not used within five years for the purpose for which it was taken must be returned to the owner.
- Fair market value is the highest price the property would bring on the open market.
- Property owners shall not be liable for the government's attorney fees or costs.

## QUESTION NO. 3

Amendment to the *Nevada Constitution*

Assembly Joint Resolution No. 16 of the 73rd Session

### CONDENSATION (Ballot Question)

**Shall the *Nevada Constitution* be amended to require that, before it can enact an exemption from property tax or from sales and use tax, the Nevada Legislature must: (1) make certain findings regarding the social or economic purpose and benefits of the exemption; (2) ensure that similar classes of taxpayers must meet similar requirements for claiming exemptions; and (3) provide a specific date on which the exemption will expire?**

Yes       No

### EXPLANATION

The proposed amendment to the *Nevada Constitution* would require the Nevada Legislature, before enacting an exemption from State and local government property tax or from sales and use tax, to find that: (1) the exemption will achieve a bona fide social or economic purpose; (2) the exemption's benefits are expected to exceed any adverse effect on the provision of services to the public by the State or a local government; and (3) the exemption will not impair the State or a local government's ability to make payments on outstanding bonds or other obligations for which revenue from the property tax or sales and use tax was pledged. The Legislature must also ensure that the requirements for claiming the exemption are as similar as practicable for similar classes of taxpayers and must establish a specific expiration date for the exemption.

Currently, there is no constitutional or statutory language establishing specific provisions the Legislature must consider when granting an exemption from property tax or sales and use tax, nor is the Legislature required to include a specific expiration date for an exemption.

**A "Yes" vote would amend the *Nevada Constitution* to require the Nevada Legislature, before enacting an exemption from the property tax or sales and use tax, to determine that the exemption will achieve a genuine social or economic purpose, the exemption's benefits are expected to exceed its costs, the requirements for claiming the exemption will treat similarly situated taxpayers in a similar fashion, and the exemption will expire on a specific date.**

**A "No" vote would retain the current constitutional language which does not require the Legislature to make these findings or establish an expiration date before enacting an exemption from the property tax or sales and use tax.**

## **ARGUMENTS FOR PASSAGE**

Exemptions granted by the Nevada Legislature are generally designed to provide a benefit to a particular group of taxpayers while potentially reducing the revenue received by the State or local governments. At present, the Legislature is not constitutionally required to make a formal finding or to undertake any particular deliberative process regarding the purpose, costs, and benefits of granting an exemption from the property tax or sales and use tax. This amendment to the *Nevada Constitution* will require the Legislature to determine that a proposed exemption from the property tax or sales and use tax will achieve a bona fide social or economic purpose, and that the expected benefits from the exemption will exceed any adverse effects on the provision of government services due to the potential reduction in State or local government revenue from the exemption.

This proposed amendment also requires the Legislature to establish an expiration or “sunset” date on which an exemption will cease to be effective. Under current law, the Legislature is not required to establish an exemption sunset date. Requiring the Legislature to formally consider an appropriate period for which the exemption should provide a taxpayer benefit or for which the State or local governments must give up the exempted tax revenues will help ensure that exemptions do not outlive their usefulness or reduce revenues unnecessarily. Sunset dates for exemptions will require the Legislature to periodically review exemptions that have been enacted to determine whether the original social or economic purpose is still served and the benefits will continue to exceed the costs from maintaining the original exemption.

## **ARGUMENTS AGAINST PASSAGE**

Constitutional language should not be added simply to place requirements on the Nevada Legislature with regard to approving exemptions from property taxes or sales and use taxes. This proposed amendment assumes that the Legislature does not consider whether a proposed property or sales and use tax exemption provides a bona fide social or economic purpose or whether the benefits of the exemption will exceed its costs. As part of the legislative process, the Legislature considers testimony and other information provided to it by proponents and opponents of the proposed exemption to help address these questions.

The proposed amendment does not establish standards for determining whether an exemption achieves a bona fide social or economic purpose, nor does it establish standards for determining whether the benefits of an exemption exceed the costs. The Legislature can establish its own standards and guidelines for implementing the provisions of this amendment. Thus, adding these provisions to the *Nevada Constitution* may have no effect on the Legislature with regard to enacting property tax or sales and use tax exemptions.

The provisions of the amendment requiring the Legislature to set a date on which an exemption expires do not establish a specific time period, nor do they establish standards for the Legislature to follow when considering the effective period for an exemption. This amendment does not prohibit the Legislature from allowing an exemption to be effective for a very long period of time. Additionally, current constitutional and statutory language does not prohibit the Legislature from establishing an expiration date for an exemption. In fact, prior Legislatures have established sunset dates when enacting property tax or sales and use tax exemptions.

## FISCAL NOTE

### Financial Impact – Cannot Be Determined

If this proposal to amend the *Nevada Constitution* is approved by voters, the Legislature would be required to establish certain findings before enacting exemptions from the property tax and sales and use tax, which may impact the number or types of exemptions enacted by the Legislature. However, it cannot be determined with any degree of certainty whether the provisions of this proposed constitutional amendment would cause the Legislature to reduce the number or type of exemptions enacted relative to those enacted under the current framework for granting exemptions from the property tax and sales and use tax.

Given that the number or type of exemptions that may or may not be enacted based on the requirements established in this proposed constitutional amendment cannot be determined, the financial impact on the State or local governments due to the potential loss of revenue attributed to exemptions from property tax and sales and use tax cannot be estimated. Additionally, the potential financial impact on certain taxpayers or classes of taxpayers cannot be determined.

AJR 16 –73<sup>rd</sup> Session

### FULL TEXT OF MEASURE

Assembly Joint Resolution No. 16–Committee on Elections,  
Procedures, Ethics, and Constitutional Amendments  
FILE NUMBER.....

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to provide requirements for the enactment of property and sales tax exemptions.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA,  
JOINTLY, That a new section, designated Section 6, be added to Article 10 of the Nevada Constitution to read as follows:

***Sec. 6. 1. The Legislature shall not enact an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail unless the Legislature finds that the exemption:***

***(a) Will achieve a bona fide social or economic purpose and the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and***

***(b) Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.***

***2. In enacting an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail, the Legislature shall:***

***(a) Ensure that the requirements for claiming the exemption are as similar as practicable for similar classes of taxpayers; and***

*(b) Provide a specific date on which the exemption will cease to be effective.*



## QUESTION NO. 4

Amendment to the Sales and Use Tax Act of 1955

Senate Bill No. 502 of the 74<sup>th</sup> Session

### CONDENSATION (Ballot Question)

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

### EXPLANATION

This proposed amendment to the Sales and Use Tax Act of 1955 (Act) would authorize the Nevada Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval whenever that legislation is necessary to carry out any federal law or interstate agreement for the administration, collection, or enforcement of sales and use taxes. The proposed amendment would not authorize the Legislature to enact any legislation that increases the rate of the tax imposed pursuant to this Act, currently 2 percent, without obtaining voter approval.

Additionally, this amendment would repeal an exemption from the taxes imposed by the Act for the sale of aircraft and major components of aircraft to a scheduled air carrier based in Nevada. The language in the Act providing this exemption from the state's portion of the sales and use tax was declared unconstitutional by the Nevada Supreme Court in 1997. Thus, although the language remains in the Act, the exemption is no longer provided to air carriers. The Legislature cannot enact legislation to remove this unconstitutional language from the Act without voter approval.

Existing law provides for the administration of sales and use taxes in Nevada pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act, and the Local School Support Tax Law. The state's portion of the sales and use tax is administered under provisions of the Act that were submitted to and approved by the voters at the 1956 General Election. These provisions cannot be amended or repealed without additional voter approval.

Nevada has entered into the interstate "Streamlined Sales and Use Tax Agreement" to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and types of commerce. To maintain compliance with the provisions the Agreement, the Legislature may be required to enact legislation amending the Sales and Use Tax

Act and the Local School Support Tax Law in response to federal legislation approved by Congress affecting the Agreement or to interstate actions amending the Agreement. The Legislature has the authority to amend the Local School Support Tax Law without voter approval, but the Sales and Use Tax Act cannot be amended without voter approval.

**A “Yes” vote would authorize the Legislature to amend or repeal any provision of the Sales and Use Tax Act of 1955 without voter approval in order to carry out federal law or interstate agreements for the administration, collection, or enforcement of the sales and use tax, except for legislation that would increase the rate of tax imposed pursuant to the Act. A “Yes” vote would also repeal an exemption from the taxes imposed on the sale of aircraft and major components of aircraft to an air carrier based in Nevada.**

**A “No” vote would continue to require the Legislature to obtain voter approval before enacting any legislation amending or repealing any provision of the Sales and Use Tax Act of 1955, including legislation required to carry out federal law or an interstate agreement, and would retain the exemption for the sale of aircraft and major components of aircraft to an air carrier based in Nevada.**

#### **ARGUMENTS FOR PASSAGE**

This proposed amendment would authorize the Nevada Legislature to amend or repeal provisions of the Sales and Use Tax Act without voter approval only for legislation necessary to comply with a federal law or an interstate agreement, such as the Streamlined Sales and Use Tax Agreement, for the administration, collection, and enforcement of sales and use taxes in Nevada. Authorizing the Legislature to enact legislation without voter approval would allow the Legislature to respond more flexibly and efficiently to federal legislation and interstate agreements.

This amendment does not authorize the Legislature to increase the rate of tax without voter approval. Thus, the sales and use tax rate for the state’s portion of the tax (currently 2 percent) could not be increased by the Legislature without voter approval.

The language in the Sales and Use Tax Act of 1955 granting an exemption from the state’s portion of the sales and use tax for the sale of aircraft and major components of aircraft to a scheduled air carrier based in Nevada was declared unconstitutional by the Nevada Supreme Court in 1997. This exemption has not been allowed by the Department of Taxation to any air carrier based in Nevada since it was declared unconstitutional. The purpose of repealing this exemption is simply to eliminate obsolete language. The repeal will not impact any air carrier because the unconstitutional exemption is not being offered.

## **ARGUMENTS AGAINST PASSAGE**

Amendments to the Sales and Use Tax Act of 1955 have required voter approval since 1956 when Nevada voters approved the Act through the constitutional referendum process. Since 1956, the Department of Taxation has been able to administer sales and use taxes and the Nevada Legislature has been able to enact appropriate legislation to maintain compliance with federal law and interstate agreements with voter approval when required. The citizens of Nevada should not surrender their right to approve legislation that makes changes to the administration, collection, and enforcement of sales and use taxes whether to comply with federal law or interstate agreements, or for any other reason.

Finally, there is no need to repeal the unconstitutional language concerning aircraft from the Act because it is not being applied.

## **FISCAL NOTE**

### **Financial Impact – Cannot Be Determined**

If this proposal to amend the Sales and Use Tax Act of 1955 is approved by voters, the Nevada Legislature would be authorized to amend the Act without voter approval for legislation necessary to carry out federal law or interstate agreements affecting the administration, collection, or enforcement of the sales and use tax in Nevada. It cannot be determined with any degree of certainty what changes to federal law or existing interstate agreements may occur and the legislative actions that would be required by the Legislature to maintain compliance with the federal law or these interstate agreements, such as the Streamlined Sales and Use Tax Agreement. If this proposed amendment is not approved, and voter approval is still required, it cannot be determined which legislative actions may or may not be approved by voters. Thus, the financial impact on the sales and use taxes collected in the state or individual taxpayers cannot be determined.

Since the proposed amendment to repeal the exemption from the State 2 percent sales and use tax for the sale of aircraft and major components of aircraft to a scheduled air carrier which is based in Nevada has been declared unconstitutional and is not currently provided to any air carrier in the state by the Department of Taxation, there is no financial impact.

### **FULL TEXT OF MEASURE**

Senate Bill No. 502–Committee on Taxation

CHAPTER.....

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

administration of sales and use taxes; repealing certain obsolete provisions for the administration of sales and use taxes; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

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

**Section 12** of this bill carries out and clarifies the requirements of the Agreement, as amended, to waive the liability of sellers and purchasers who rely on the tax information posted on the Department's website in accordance with the Agreement. Existing law authorizes a person who obtains a direct pay permit to pay any applicable sales and use taxes due on certain purchases directly to this State and its local governments instead of to the seller. (NRS 360B.260)

**Section 13** of this bill additionally provides for the direct payment of any applicable sales and use taxes due on such a purchase to an Indian reservation or Indian colony in this State. Under existing law, persons who desire to conduct business as sellers in this State must register pursuant to the Streamlined Sales and Use Tax Agreement or obtain permits from the Department of Taxation. (NRS 372.125 and 374.130)

**Sections 18-20 and 28-30** of this bill clarify that the statutory provisions applicable to an application for such a permit do not apply to the registration of a seller pursuant to the Agreement. Existing law creates a presumption that a sale is subject to sales and use taxes unless the seller obtains a certificate from the purchaser indicating that the property is purchased for resale. (NRS 372.155, 372.225, 374.160, 374.230)

**Sections 21-25 and 31-35** of this bill revise the statutory provisions governing resale certificates to combine some of the existing provisions for clarity and to carry out the requirements of the Streamlined Sales and Use Tax Agreement regarding the acceptance of resale certificates from

certain third-party vendors, the contents of resale certificates and the liability of a seller for the improper use of a resale certificate by a purchaser. Existing law prohibits the Department of Taxation, in administering use taxes, from considering the taxability of certain property acquired free of charge at a convention, trade show or other public event. (NRS 372.7275, 374.726)

**Sections 27 and 37** of this bill ensure that existing law does not appear to create a threshold for the application of a sales or use tax, as prohibited by the Streamlined Sales and Use Tax Agreement. Existing law authorizes the adoption of an ordinance for the imposition of a sales and use tax in Clark County to employ and equip additional police officers. (Clark County Sales and Use Tax Act of 2005) **Section 38** of this bill revises the requirements for such an ordinance in accordance with the provisions of the Streamlined Sales and Use Tax Agreement requiring a common state and local tax base and imposing restrictions on the date of implementation of changes in tax rates. Existing law includes various provisions of the Sales and Use Tax Act of 1955. (NRS 372.010-372.115, 372.185-372.205, 372.260-372.284, 372.285-372.325, 372.327-372.345, 372.350) Under existing law, the provisions of that Act, which was submitted to and approved by the voters at the 1956 General Election, cannot be amended or repealed without additional voter approval. (Nev. Const. Art. 19, §1) **Sections 39-47** of this bill provide for the submission to the voters of an amendment to that Act to authorize the Legislature to amend that Act without any additional voter approval as necessary to carry out any federal law or interstate agreement for the administration of sales and use taxes, unless the amendment would increase the rate of a tax imposed pursuant to that Act, and to repeal a section of that Act that was declared unconstitutional by the Nevada Supreme Court in *Worldcorp v. State, Department of Taxation*, 113 Nev. 1032 (1997).

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

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

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

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

**Sec. 3.** *The Department shall: 1. Review the software submitted for the certification of a certified automated system pursuant to the Agreement and, if the Department determines that the software adequately classifies each exemption from the sales and use taxes imposed in this State which is based upon the description of a product, certify its acceptance of the classifications made by the system. 2. Except as otherwise provided in subsection 3:*

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

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

*(2) Any penalties and interest on that amount.*

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

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

*(2) Any penalties and interest on that amount. 3. Notify a certified service provider or a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 if the Department determines that the taxability of any item or transaction is being incorrectly classified by the certified automated system used by the certified service provider or registered seller. The provisions of subsection 2 do not require the waiver of any liability for the incorrect classification of an item or transaction regarding which notice was provided to the certified service provider or registered seller pursuant to this subsection if the incorrect classification occurs more than 10 days after the receipt of that notice.*

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

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

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

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

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

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

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

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

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

360B.110 The Nevada Tax Commission shall:

1. Except as otherwise provided in NRS 360B.120, enter into the Agreement.
2. Act jointly with other states that are members of the Agreement to establish standards for:
  - (a) Certification of a certified service provider;
  - (b) A certified automated system; *and*
  - (c) Performance of multistate sellers . [; and
  - (d) An address-based system for determining the applicable sales and use taxes.]
3. Take all other actions reasonably required to implement the provisions of this chapter and the provisions of the Agreement, including, without limitation, the:
  - (a) Adoption of regulations to carry out the provisions of this chapter and the provisions of the Agreement; and
  - (b) Procurement, jointly with other member states, of goods and services.
4. Represent, or have its designee represent, the State of Nevada before the other states that are signatories to the Agreement.
5. Designate not more than four delegates, who may be members of the Commission, to represent the State of Nevada for the purposes of reviewing or amending the Agreement.

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

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

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

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

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

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

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

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

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

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

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

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if [:(I) **The seller collects**] *the seller*:

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

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

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

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

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

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails. (e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted using uniform codes for the type of tax and payment in accordance with the Agreement.

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

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

360B.230 1. The Department shall post on a website or other Internet site that is operated or administered by or on behalf of the Department [:], ***in any format which may be required by the Agreement:*** (a) The rates of sales and use taxes for this State and for each local government ***and Indian reservation or Indian colony*** in this State that imposes such taxes. **[The Department shall identify this State and each local government using the Federal Information Processing Standards developed by the National Institute of Standards and Technology.]**

(b) Any change in those rates.

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

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

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

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

(g) Any other information the Department deems appropriate. 2. The Department shall make a reasonable effort to provide sellers with as much advance notice as possible of any changes or amendments required to be posted pursuant to subsection 1 and of any other changes in the information posted pursuant to subsection 1. Except as otherwise provided in NRS 360B.250, the failure of the Department to provide such notice and the failure of a seller to



receive such notice does not affect the obligation of the seller to collect and remit any applicable sales and use taxes.

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

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

2. If a street address does not have a nine-digit zip code or if a registered seller **or certified service provider** is unable to determine the nine-digit zip code **[of a purchaser] applicable to a purchase** after exercising due diligence to determine that information, that seller **or certified service provider** may, except as otherwise provided in subsection 3, apply the rate denoted for the five-digit zip code in the list maintained pursuant to this section. For the purposes of this subsection, there is a rebuttable presumption that a registered seller **or certified service provider** has exercised due diligence if the seller **or certified service provider** has attempted to determine the nine-digit zip code **[of a purchaser] applicable to a purchase** by using software approved by the Department which makes that determination from the street address and five-digit zip code **[of the purchaser.] applicable to the purchase.**

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

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

360B.250 The Department shall **[waive any liability of] :**

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

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

**[2.] (b)** Any penalties and interest on that amount.

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

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

**(b) Any penalties and interest on that amount.**

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

***4. If a purchaser fails to pay the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230, waive any liability of the purchaser for:***

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

***(b) Any penalties and interest on that amount.***

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

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

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

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

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

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

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

3. The application must be signed by:

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

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

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

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

(a) Determine the amount of sales and use taxes that are due and payable to this State , **[or]** a local government of this State ***or an Indian reservation or Indian colony in this State*** upon the purchase of tangible personal property from such a seller; and (b) Report and pay those taxes to the appropriate authority.

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

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

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

1. Any installation charges for the property;

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

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

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

***[5.]*** 4. Any taxes legally imposed directly on the consumer.

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

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

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

360B.460 “Prepared food” means:

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

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

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

- (a) The seller’s cost of the property sold;
  - (b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
  - (c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges and excluding any installation charges which are stated separately pursuant to NRS 360B.290; and
  - (d) Except as otherwise provided in subsection 2, any credit for any trade-in.
2. The term does not include:
- (a) Any installation charges which are stated separately pursuant to NRS 360B.290;
  - (b) [The value of any exempt personal property given to the purchaser if:
    - (1) The exempt property and any taxable property are sold as a single product or piece of merchandise; and
    - (2) The value of the exempt property is stated separately pursuant to NRS 360B.290;
  - (c) Any credit for any trade-in which is:
    - (1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and
    - (2) Stated separately pursuant to NRS 360B.290;
  - [(d)] (c) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;
  - [(e)] (d) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to NRS 360B.290; and
  - [(f)] (e) Any taxes legally imposed directly on the consumer which are stated separately pursuant to NRS 360B.290.

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

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

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

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

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

*(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.*

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

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

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

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

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

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

2. Every application for a permit must:

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

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

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

**[3. The application must be]**

*(d) Be* signed by:

**[(a)] (1)** The owner if he is a natural person;

**[(b)] (2)** A member or partner if the seller is an association or partnership; or

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

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

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

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

372.135 1. Except as otherwise provided in NRS 360.205 and 372.145, after compliance with NRS 372.125, 372.130 and 372.510 by **[the applicant,]** *an applicant for a permit*, the Department shall:

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

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

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

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

(II) The procedures for administering exemptions; and

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

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

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

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

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

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

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

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

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

*(a) The third-party vendor:*

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

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

*(b) His customer:*

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

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

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

372.165 **[1.]** A resale certificate must:

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

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

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

**2. The certificate must be]**

1. *Be* substantially in such form **and include such information** as the Department may prescribe **[.]**; **and**
2. **Unless submitted in electronic form, be signed by the purchaser.**

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

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

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

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

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

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

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

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

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

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

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

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

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

**(a) The third-party vendor:**

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

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

**(b) His customer:**

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

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



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

372.235 [1.] A resale certificate must: [(a) Be signed and bear the name and address of the purchaser.

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

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

2. The certificate must be]

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

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

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

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

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

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

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

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

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

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

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

1. *Worth \$100 or less; and 2. Acquired]* :

1. *Does not have significant value; and*

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

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

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

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

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

2. Every application for a permit must:

- (a) Be made upon a form prescribed by the Department.
- (b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.
- (c) Set forth such other information as the Department may require.

**[3. The application must be]**

**(d) Be** signed by:

- [(a)] (1)** The owner if he is a natural person;
- [(b)] (2)** A member or partner if the seller is an association or partnership; or
- [(c)] (3)** An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

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

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

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

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

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

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

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

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

(II) The procedures for administering exemptions; and (III) The circumstances under which charges for freight are taxable.

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

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

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

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

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

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



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

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

*(a) The third-party vendor:*

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

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

*(b) His customer:*

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

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

**Sec. 32.** NRS 374.170 is hereby amended to read as follows:

374.170 **[1.]** A resale certificate must:

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

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

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

**2. The certificate must be]**

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

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

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

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

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

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

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

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

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

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

374.230 **1.** For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it **[shall be] is** presumed that tangible personal

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

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

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

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

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

(a) *The third-party vendor:*

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

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

(b) *His customer:*

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

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

**Sec. 35.** NRS 374.240 is hereby amended to read as follows:

374.240 [1.] A resale certificate must:

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

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

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

2. *The certificate must be]*

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

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

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

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

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

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

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

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser

improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

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

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

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

1. Worth \$100 or less; and

2. Acquired];

*1. Does not have significant value; and*

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

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

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

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

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

(b) Up to an additional one-quarter of 1 percent if the date on which the increased rate must first be imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate, the total rate not to exceed one-half of 1 percent.

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

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

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

5. A provision that [exempts from the tax the gross receipts from] *a purchaser is entitled to a refund, in*

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

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

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

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

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

1. There has been a rapid increase during recent years in the conduct of interstate commerce through telecommunication and electronic means.
2. Many of the merchants who transact these forms of interstate commerce have been discouraged by the substantial burdens of ascertaining and complying with the extremely diverse and detailed tax laws of each state from making the efforts necessary to collect sales and use taxes on behalf of the states in which they do not maintain a place of business.
3. As a result of the proliferation of these forms of interstate commerce and federal restrictions on the ability of each state to collect sales and use taxes from merchants who do not maintain a place of business in that state, the people of this State are losing millions of dollars in state and local tax revenue.
4. The nonpayment of Nevada sales and use taxes by merchants in other states provides those merchants with an unfair competitive advantage over local merchants who lawfully pay the sales and use taxes due in this State.
5. As a result of the similarity of these circumstances in the various states, considerable efforts are being made to provide more uniformity, simplicity and fairness in the administration and collection of sales and use taxes in this country, including the introduction and consideration of Congressional legislation and the participation by Nevada and many other states in the Streamlined Sales and Use Tax Agreement.
6. Compliance with the Streamlined Sales and Use Tax Agreement and its amendments has and will continue to require amendments to the Nevada Sales and Use Tax Act, and it is anticipated that any Congressional legislation will also necessitate such amendments.
7. The Nevada Sales and Use Tax Act was approved by referendum at the General Election in 1956 and therefore, pursuant to Section 1 of Article 19 of the Constitution of the State of Nevada, may not be “amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people.”
8. Unlike the circumstances in other states where legislatures have the direct authority to amend sales and use tax laws in a timely manner, the period required for the legislative enactment and subsequent voter approval of any necessary amendments to the Nevada Sales and Use Tax Act has placed the ability of this State to comply with the Streamlined Sales and Use Tax Agreement and any Congressional legislation in serious jeopardy.
9. It would be beneficial to the public welfare for the people of this State by direct vote to authorize the Legislature to enact without any additional voter approval such amendments to the Nevada Sales and Use Tax Act as it determines to be necessary to carry out any Congressional legislation or interstate agreements for the administration, collection or enforcement of sales and use taxes.

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

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

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

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

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

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

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

*Sec. 153.5. The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, whenever the Legislature determines that such legislation is necessary to carry out any federal statute or regulation or interstate agreement providing for the administration, collection or enforcement of sales and use taxes, unless such legislation would increase the rate of any tax imposed pursuant to this Act.*

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

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

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

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

Yes \_ No \_

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

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would repeal an exemption from the taxes imposed by this Act for the sale of aircraft and major components of aircraft to a scheduled air carrier which is based in Nevada, and would

authorize the Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval whenever that legislation is necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes. The proposed amendment would not authorize any legislation that increases the rate of any tax imposed pursuant to this Act.

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

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

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

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

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

2. NRS 372.726 is hereby repealed.

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

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

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