
ASSEMBLY BILL NO. 376—ASSEMBLYMAN PERKINS

MARCH 23, 2005

Referred to Concurrent Committees on
Government Affairs and Ways and Means

SUMMARY—Provides for various benefits for members of Nevada National Guard who are called into active service. (BDR 36-1072)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Contains Appropriation not included in Executive Budget.

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

AN ACT relating to the Nevada National Guard; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for the gross receipts from the sale, storage, use or other consumption of tangible personal property sold to certain members of the Nevada National Guard and certain relatives of such members; contingently providing the same exemption from certain analogous taxes; providing for the reimbursement to certain members of the Nevada National Guard of premiums paid for coverage under certain policies of group life insurance; providing for a tax incentive for a mortgagor who defers payment on an obligation secured by a mortgage from certain members of the Nevada National Guard; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law creates the Sales and Use Tax Act of 1955, which was approved
- 2 by the voters by referendum at the General Election in 1956. (Chapter 372 of NRS)
- 3 Under existing law, if the voters approve a statute or resolution in a referendum,
- 4 statute or resolution becomes the law of the State and may not be changed, repealed
- 5 or in any way made inoperative except by the direct vote of the people. (Nev.
- 6 Const., Art. 19, § 1) Existing law also creates the Local School Support Tax Law,



7 which imposes an additional sales tax on retail sales for the support of local schools
8 and contains provisions that are substantively identical to provisions of the Sales
9 and Use Tax Act. (Chapter 374 of NRS) Existing law further provides for the taxes
10 imposed pursuant to the Local School Support Tax Law to be incorporated into
11 various other sales and use taxes. (NRS 354.705, 374A.010, 376A.060, 377.040,
12 377A.030, 377B.110 and 543.600 and various special and local acts)

13 This bill proposes to amend the Sales and Use Tax Act to provide an exemption
14 from the tax for: (1) members of the Nevada National Guard who are called into
15 active service; and (2) for certain relatives of such a member of the Nevada
16 National Guard. The question authorizing this proposal must be submitted to the
17 voters at the 2006 General Election. This bill further provides that the exemption
18 only applies to a member of the Nevada National Guard who is called into service
19 outside the State of Nevada and to relatives who are related within the first degree
20 of consanguinity or affinity to the member and who reside with the member. This
21 bill also amends the Local School Support Tax Law to provide the same
22 exemptions which become effective only if the question submitted to the voters to
23 amend the Sales and Use Tax Act is approved.

24 Under existing federal law, a member of the Nevada National Guard who is
25 called into active service is eligible to purchase a policy of group life insurance
26 procured by the Federal Government which provides up to \$250,000 in benefits in
27 the event of the death of the member. (38 U.S.C. §§ 1965 et seq.)

28 This bill creates the Nevada National Guard Life Insurance Reimbursement
29 Trust Fund to reimburse members of the Nevada National Guard who are called
30 into active service for premiums paid by the members to purchase such policies of
31 life insurance from the Federal Government. This bill also makes an appropriation
32 to this Trust Fund in the amount of \$264,000 for each year of the biennium.

33 Existing law imposes an excise tax on financial institutions based on a
34 percentage of the wages paid by the financial institutions to their employees.
35 Existing law authorizes a financial institution to deduct from the total amount of
36 wages reported for purposes of determining the amount of tax owed, certain
37 amounts paid for health insurance or a health benefit plan for employees of the
38 financial institution. (NRS 363A.130)

39 This bill authorizes an additional deduction from this excise tax for a financial
40 institution that waives interest owed on a mortgage by a member of the Nevada
41 National Guard who is called into active service. If the financial institution waives
42 such interest during any period in which the member of the Nevada National Guard
43 is called into active service and during which the institution allows the member to
44 defer payment on the principal balance of the loan, the financial institution is
45 authorized to deduct the amount of the interest waived from the wages reported.

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

1 **Section 1.** Chapter 412 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. There is hereby created in the State Treasury the Nevada*
4 *National Guard Life Insurance Reimbursement Trust Fund to be*
5 *administered by the Office. The purpose of the Trust Fund is to*
6 *provide a reimbursement to members of the Nevada National*
7 *Guard who pay premiums on a policy of group life insurance*
8 *provided pursuant to the provisions of 38 U.S.C. §§ 1965 et seq.*



1 **2. The Trust Fund is a continuing fund without reversion.**
2 **The money in the Trust Fund must be invested as the money in**
3 **other state funds is invested. The interest and income earned on**
4 **the money in the Trust Fund, after deducting any applicable**
5 **charges, must be credited to the Trust Fund. All claims against the**
6 **Trust Fund must be paid as other claims against the State are**
7 **paid.**

8 **3. The Office may accept gifts, grants and donations from**
9 **any source for deposit in the Trust Fund.**

10 **4. The Adjutant General shall adopt any regulations**
11 **necessary to determine eligibility for reimbursement from the**
12 **Trust Fund and to carry out a reimbursement program.**

13 **Sec. 2.** At the General Election on November 7, 2006, a
14 proposal must be submitted to the registered voters of this State to
15 amend the Sales and Use Tax Act, which was enacted by the 47th
16 Session of the Legislature of the State of Nevada and approved by
17 the Governor in 1955, and subsequently approved by the people of
18 this State at the General Election held on November 6, 1956.

19 **Sec. 3.** At the time and in the manner provided by law, the
20 Secretary of State shall transmit the proposed Act to the several
21 county clerks, and the county clerks shall cause it to be published
22 and posted as provided by law.

23 **Sec. 4.** The proclamation and notice to the voters given by the
24 county clerks pursuant to law must be in substantially the following
25 form:

26 Notice is hereby given that at the General Election on
27 November 7, 2006, a question will appear on the ballot for the
28 adoption or rejection by the registered voters of the State of the
29 following proposed Act:

30 AN ACT to amend an Act entitled "An Act to provide
31 revenue for the State of Nevada; providing for sales
32 and use taxes; providing for the manner of collection;
33 defining certain terms; providing penalties for
34 violation, and other matters properly relating thereto."
35 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 762, is hereby amended by adding thereto a new section to be designated as section 50.5, immediately following section 50.2, to read as follows:

Sec. 50.5. 1. There are exempted from the taxes imposed by this Act the gross receipts from the sale of, and the storage, use or other consumption in this State of, any tangible personal property sold to:

(a) A member of the Nevada National Guard who has been called into active service; or

(b) An eligible relative of a member of the Nevada National Guard who has been called into active service.

2. The Legislature shall establish:

(a) Standards for determining:

(1) Whether a person is a member of the Nevada National Guard who has been called into active service; and

(2) Whether a person is an eligible relative of a member of the Nevada National Guard who has been called into active service.

(b) Procedures for administering the provisions of this section.

Sec. 2. This Act becomes effective on January 1, 2007.

Sec. 5. 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 provide an exemption from the sales and use tax for items sold to a member of the Nevada National Guard who has been called into active service or certain relatives of a member of the Nevada National Guard who has been called into active service?

Yes ☐ No ☐

Sec. 6. 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 exempt from the taxes imposed by this Act the gross receipts from the sale, storage, use or other



consumption of tangible personal property sold to a member of the Nevada National Guard who has been called into active service or certain relatives of a member of the Nevada National Guard who has been called into active service. If this proposal is adopted, the Legislature has provided that the Local School Support Tax Law and certain analogous taxes on retail sales will be amended to provide the same exemption.

Sec. 7. 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, 2007. 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. 8. All general election laws not inconsistent with this act are applicable.

Sec. 9. 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. 10. NRS 363A.130 is hereby amended to read as follows:

363A.130 1. There is hereby imposed an excise tax on each employer at the rate of 2 percent of the wages, as defined in NRS 612.190, paid by the employer during a calendar quarter with respect to employment.

2. The tax imposed by this section must not be deducted, in whole or in part, from any wages of persons in the employment of the employer.

3. Each employer shall, on or before the last day of the month immediately following each calendar quarter for which the employer is required to pay a contribution pursuant to NRS 612.535:

(a) File with the Department:

(1) A return on a form prescribed by the Department; and

(2) A copy of any report required by the Employment Security Division of the Department of Employment, Training and Rehabilitation for determining the amount of the contribution required pursuant to NRS 612.535 for any wages paid by the employer during that calendar quarter; and

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



4. Except as otherwise provided in subsection 5, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to this section any amount authorized pursuant to this section that is paid by the employer for health insurance or a health benefit plan for its employees in the calendar quarter for which the tax is paid. The amounts for which the deduction is allowed include:

(a) For an employer providing a program of self-insurance for its employees, all amounts paid during the calendar quarter for claims, direct administrative services costs, including such services provided by the employer, and any premiums paid for individual or aggregate stop-loss insurance coverage. An employer is not authorized to deduct the costs of a program of self-insurance unless the program is a qualified employee welfare benefit plan pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

(b) The premiums for a policy of health insurance or reinsurance for a health benefit plan for its employees.

(c) Any amounts paid by an employer to a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) for participation in an employee welfare benefit plan.

(d) Such other similar payments for health care or insurance for health care for employees as are authorized by the Department.

5. An employer may not deduct from the wages upon which the excise tax is imposed pursuant to this section:

(a) Amounts paid for health care or premiums paid for insurance for an industrial injury or occupational disease for which coverage is required pursuant to chapters 616A to 616D, inclusive, or 617 of NRS; or

(b) Any payments made by employees for health care or health insurance or amounts deducted from the wages of employees for such care or insurance.

6. *An employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to this section any amount of interest that the employer is authorized to waive pursuant to this subsection in the calendar quarter. The amount for which the deduction is allowed includes any interest that accrues on an obligation of a member of the Nevada National Guard which is secured by a mortgage on a single-family dwelling that serves as the primary residence of the member in this State during any period in which the member has been called into active service and during which the employer allows the member to defer payment on the principal balance of the obligation secured by the mortgage.*



7. An employer claiming the deduction allowed ~~[pursuant]~~ :

(a) *Pursuant* to subsection 4 shall submit with the return filed pursuant to subsection 3 proof of the amount paid in the calendar quarter that qualifies for the deduction. If the amount of the deduction exceeds the amount of reported wages, the excess amount may be carried forward to the following calendar quarter until the deduction is exhausted.

~~[7.]~~ (b) *Pursuant to subsection 6 shall submit with the return filed pursuant to subsection 3 proof of the amount of interest waived in the calendar quarter that qualifies for the deduction. If the amount of the deduction exceeds the amount of reported wages, the excess amount may be carried forward to the following calendar quarter until the deduction is exhausted.*

8. As used in this section ~~[, "employee"]~~ :

(a) "Active service" means service of a member of the militia of the State while:

(1) *Engaged in full-time National Guard duty, as defined in 10 U.S.C. § 101(d)(5); or*

(2) *Under an order to perform training or other duty in the National Guard pursuant to 32 U.S.C. § 502(f).*

(b) "Employee welfare benefit plan" has the meaning ascribed to it in 29 U.S.C. § 1002.

Sec. 11. Chapter 372 of NRS is hereby amended by adding thereto the provisions set forth as sections 12 and 13 of this act.

Sec. 12. *For the purposes of section 50.5 of the Sales and Use Tax Act of 1955, chapter 397, Statutes of Nevada 1955:*

1. *A member of the Nevada National Guard is called into active service if the member is:*

(a) *Engaged in full-time National Guard duty, as defined in 10 U.S.C. § 101(d)(5); or*

(b) *Under an order to perform training or other duty pursuant to 32 U.S.C. § 502(f).*

2. *An eligible relative of a member of the Nevada National Guard who has been called into active service is a person who:*

(a) *Resides in the same home or dwelling in this State as the member; and*

(b) *Is related by blood, adoption or marriage within the first degree of consanguinity or affinity to the member.*

Sec. 13. 1. *A person who wishes to claim an exemption pursuant to section 50.5 of the Sales and Use Tax Act of 1955, chapter 397, Statutes of Nevada 1955, shall file an application with the Department to obtain a letter of exemption. The application must be on a form and contain such information as is required by the Department.*



2. If the Department determines that a person is eligible for the exemption provided pursuant to section 50.5 of the Sales and Use Tax Act of 1955, chapter 397, Statutes of Nevada 1955, the Department shall issue a letter of exemption to the person. The letter of exemption expires 6 months after the date on which it is issued by the Department or on the date on which the person no longer meets the qualifications for eligibility, whichever occurs earlier. A person may renew a letter of exemption for an additional 6 months by filing an application for renewal with the Department. The application for renewal must be on a form and contain such information as is required by the Department.

3. To claim an exemption pursuant to section 50.5 of the Sales and Use Tax Act of 1955, chapter 397, Statutes of Nevada 1955, for the sale of tangible personal property to such a person:

(a) The person must provide a copy of the letter of exemption to the retailer from whom the person purchases the property; and

(b) The retailer must retain and present upon request a copy of the letter of exemption to the Department.

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

Sec. 14. Chapter 374 of NRS is hereby amended by adding thereto the provisions set forth as sections 15, 16 and 17 of this act.

Sec. 15. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the storage, use or other consumption in this State of, any tangible personal property sold to:

1. A member of the Nevada National Guard who has been called into active service; or

2. An eligible relative of a member of the Nevada National Guard who has been called into active service.

Sec. 16. For the purposes of section 15 of this act:

1. A member of the Nevada National Guard is called into active service if the member is:

(a) Engaged in full-time National Guard duty, as defined in 10 U.S.C. § 101(d)(5); or

(b) Under an order to perform training or other duty pursuant to 32 U.S.C. § 502(f).

2. An eligible relative of a member of the Nevada National Guard who has been called into active service is a person who:

(a) Resides in the same home or dwelling in this State as the member; and

(b) Is related by blood, adoption or marriage within the first degree of consanguinity or affinity to the member.

Sec. 17. 1. A person who wishes to claim an exemption pursuant to section 15 of this act shall file an application with the



1 *Department to obtain a letter of exemption. The application must*
2 *be on a form and contain such information as is required by the*
3 *Department.*

4 2. *If the Department determines that a person is eligible for*
5 *the exemption provided pursuant to section 15 of this act, the*
6 *Department shall issue a letter of exemption to the person. The*
7 *letter of exemption expires 6 months after the date on which it is*
8 *issued by the Department or on the date on which the person no*
9 *longer meets the qualifications for eligibility, whichever occurs*
10 *earlier. A person may renew a letter of exemption for an*
11 *additional 6 months by filing an application for renewal with the*
12 *Department. The application for renewal must be on a form and*
13 *contain such information as is required by the Department.*

14 3. *To claim an exemption pursuant to section 15 of this act,*
15 *for the sale of tangible personal property to such a person:*

16 (a) *The person must provide a copy of the letter of exemption*
17 *to the retailer from whom the person purchases the property; and*

18 (b) *The retailer must retain and present upon request a copy of*
19 *the letter of exemption to the Department.*

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

22 **Sec. 18.** There is hereby appropriated from the State General
23 Fund to the Nevada National Guard Life Insurance Reimbursement
24 Trust Fund created pursuant to section 1 of this act:

25 For the Fiscal Year 2005-2006..... \$264,000

26 For the Fiscal Year 2006-2007..... \$264,000

27 **Sec. 19.** 1. This section and section 18 of this act become
28 effective upon passage and approval.

29 2. Sections 1 to 10, inclusive, of this act become effective on
30 July 1, 2005.

31 3. Sections 11 to 17, inclusive, of this act become effective on
32 January 1, 2007, only if the proposal submitted pursuant to sections
33 2 to 8, inclusive, of this act is approved by the voters at the General
34 Election on November 7, 2006.



