SENATE BILL NO. 167–SENATORS CARLTON, TITUS AND HORSFORD

MARCH 8, 2005

JOINT SPONSORS: ASSEMBLYMEN PERKINS, BUCKLEY AND OCEGUERA

Referred to Committee on Taxation

SUMMARY—Proposes to authorize Legislature to prescribe temporary exemptions from sales and use taxes. (BDR 32-1086)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 taxes on retail sales; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to authorize the Legislature to prescribe temporary exemptions from sales and use taxes to effect sales tax holidays; contingently authorizing the Legislature to prescribe temporary exemptions from the Local School Support Tax Law and certain analogous taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Sales and Use Tax Act of 1955, which was approved by the voters in a referendum on November 6, 1956. (Chapter 372 of NRS) Under existing law, if the voters approve a statute or resolution in a referendum, the statute or resolution is the law of the State and may not be amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. (Nev. Const., Art. 19, § 1)

Existing law creates the Local School Support Tax Law. (Chapter 374 of NRS) Any amendment to the Local School Support Tax Law is also applicable to other sales and use taxes imposed under existing law. (NRS 354.705, 374A.010, 376A.060, 377.040, 377A.030, 377B.110 and 543.600 and various special and local acts)

This bill requires that a question be submitted to the voters at the 2006 General Election on whether the Sales and Use Tax Act of 1955 should be amended to allow the Legislature to establish temporary sales tax exemptions. The exemptions would apply to specific tangible personal property for a specific period of time, as determined by the Legislature. This practice is commonly referred to as a sales tax holiday.

This bill amends the Local School Support Tax Law by authorizing the Legislature to establish temporary sales tax exemptions for tangible personal property.

This bill requires that the temporary exemptions established by the Legislature must comply with the requirements of any interstate agreements concerning the administration of sales and use taxes to which Nevada is a member. This bill allows a retailer to communicate to the public and customers that a tax holiday is in effect on certain personal tangible property.

The authority of the Legislature to declare tax holidays for the Sales and Use Tax, the Local School Support Tax and certain other analogous taxes becomes effective on January 1, 2007, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2006.

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

Section 1. At the general election on November 7, 2006, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the general election held on November 6, 1956.

Sec. 2. 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. 3. 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 7, 2006, 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 762, is hereby amended by adding thereto a new section to be designated as section 53, immediately following section 52, to read as follows:

Sec. 53. ***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, such tangible personal property as may be prescribed by the Legislature which is sold during such a temporary period as may be prescribed by the Legislature.***

2. A legislative act prescribing any tangible personal property or temporary period for the purposes of subsection 1:

(a) Must comply with the requirements of any interstate agreements regarding the administration of sales and use taxes to which this State is a member.

(b) Shall not be deemed to amend, annul, repeal, set aside, suspend or in any way make inoperative any provision of this act or require a direct vote of the people to become effective.

Sec. 2. Section 21 of the above-entitled act, being chapter 397, Statutes of Nevada 1955, at page 766, is hereby amended to read as follows:

Sec. 21. ***1.*** It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer ***,*** ~~[or]~~ that ***if applicable*** it will not be added to the selling price of the property sold ***,*** or that if added it or any part thereof will be refunded.

2. Any person violating any provision of this section is guilty of a misdemeanor.

Sec. 3. Section 38 of the above-entitled act, being chapter 397, Statutes of Nevada 1955, at page 769, is hereby amended to read as follows:

Sec. 38. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer ***,*** ~~[or]~~ that ***if applicable*** it will not be added to the selling price of the property sold ***,*** or that if added it or any part thereof will be refunded.

Sec. 4. This act becomes effective on January 1, 2007.

Sec. 4. 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 authorize the Legislature to prescribe temporary exemptions from sales and use taxes to become effective without voter approval?
>
> Yes ☐ No ☐

Sec. 5. 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 authorize the Legislature to prescribe temporary exemptions from sales and use taxes to become effective without voter approval. 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 authorize the Legislature to prescribe temporary exemptions from those taxes.

Sec. 6. 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. 7. All general election laws not inconsistent with this act are applicable.

Sec. 8. 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. 9. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

1. 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 a county of, such tangible personal property as

may be prescribed by the Legislature which is sold during such a temporary period as may be prescribed by the Legislature.

2. A legislative act prescribing any tangible personal property or temporary period for the purposes of subsection 1 must comply with the requirements of any interstate agreements regarding the administration of sales and use taxes to which this State is a member.

Sec. 10. NRS 374.120 is hereby amended to read as follows:

374.120 1. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer ***,*** ~~[or]~~ that ***if applicable*** it will not be added to the selling price of the property sold ***,*** or that if added it or any part thereof will be refunded.

2. Any person violating any provision of this section is guilty of a misdemeanor.

Sec. 11. NRS 374.210 is hereby amended to read as follows:

374.210 It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer ***,*** ~~[or]~~ that ***if applicable*** it will not be added to the selling price of the property sold ***,*** or that if added it or any part thereof will be refunded.

Sec. 12. NRS 374.265 is hereby amended to read as follows:

374.265 "Exempted from the taxes imposed by this chapter," as used in NRS 374.265 to 374.355, inclusive, ***and section 9 of this act*** means exempted from the computation of the amount of taxes imposed.

Sec. 13. Sections 9 to 12, inclusive, of this act become effective on January 1, 2007, only if the proposal submitted pursuant to sections 1 to 5, inclusive, of this act is approved by the voters at the general election on November 7, 2006.

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