

SENATE BILL NO. 322—SENATOR MCGINNESS

MARCH 19, 2007

Referred to Committee on Taxation

SUMMARY—Proposes to exempt sales to Indian tribes from sales taxes. (BDR 32-1310)

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

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

AN ACT relating to 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 provide an exemption for sales of tangible personal property to Indian tribes; contingently providing the same exemption from the Local School Support Tax Law and certain analogous taxes; 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 in a referendum on November 6, 1956. (Chapter 372 of NRS) Under
3 existing law, if the voters approve a statute or resolution in a referendum, the
4 statute or resolution is the law of the State and may not be amended, annulled,
5 repealed, set aside, suspended or in any way made inoperative except by the direct
6 vote of the people. (Nev. Const. Art. 19, § 1)

7 Existing law creates the Local School Support Tax Law. (Chapter 374 of NRS)
8 Any amendment to the Local School Support Tax Law is also applicable to other
9 sales and use taxes imposed under existing law. (NRS 354.705, 374A.020,
10 376A.060, 377.040, 377A.030, 377B.110 and 543.600 and various special and local
11 acts)

12 Under existing law, a state is allowed to impose a sales tax on an Indian tribe
13 for sales occurring off of tribal land. (*Mescalero Apache Tribe v. Jones*, 411 U.S.
14 145 (1973)) This bill requires that a question be submitted to the voters at the 2008
15 General Election on whether the Sales and Use Tax Act of 1955 should be amended
16 to provide an exemption for sales of tangible personal property to Indian tribes.
17 This bill amends the Local School Support Tax Law to provide the same
18 exemption. These exemptions become effective on January 1, 2009, only if the
19 voters approve the amendment to the Sales and Use Tax Act of 1955 at the General
20 Election in 2008.



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

Section 1. 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 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 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. Section 50 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as amended by chapter 459, Statutes of Nevada 1995, at page 1436, is hereby amended to read as follows:

Sec. 50. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any tangible personal property to:

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

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

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



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

5. *Any Indian tribe, band, nation or other organized group or community which is recognized as eligible for the special programs and services provided by the Federal Government to Indians because of their status as Indians, and any subdivision, subsidiary or business enterprise which is wholly owned by such an Indian tribe, band, nation or other organized group or community.*

Sec. 2. This act becomes effective on January 1, 2009.

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 provide an exemption from the sales tax imposed by this Act for sales to Indian tribes?

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 exempt from the sales tax imposed by this Act the sale of tangible personal property to an Indian tribe. 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. 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, 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. 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



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transmitted to the office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 9. NRS 374.330 is hereby amended to read as follows:

374.330 There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any tangible personal property to:

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

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

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

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

5. Any Indian tribe, band, nation or other organized group or community which is recognized as eligible for the special programs and services provided by the Federal Government to Indians because of their status as Indians, and any subdivision, subsidiary or business enterprise which is wholly owned by such an Indian tribe, band, nation or other organized group or community.

Sec. 10. 1. This section and sections 1 to 8, inclusive, of this act become effective on July 1, 2007.

2. Section 9 of this act becomes effective on January 1, 2009, only if the proposal submitted pursuant to sections 1 to 8, inclusive, of this act is approved by the voters at the General Election on November 4, 2008.

