

INITIATIVE PETITION NO. 1

FEBRUARY 7, 2011

Referred to Committee on Taxation

SUMMARY—Imposes an additional sales and use tax in certain areas of larger counties for the construction, improvement, equipment, operation and maintenance of a sports and entertainment arena through public and private cooperation.

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

AN ACT relating to taxation; requiring the establishment of an arena district in certain larger counties; requiring the imposition of an additional sales and use tax in such a district; providing for the use of the proceeds of such a tax for the construction, improvement, equipment, operation and maintenance of a sports and entertainment arena through public and private cooperation; and providing other matters properly relating thereto.

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

Section 1. Purpose. The People of Nevada hereby find and declare that:

1. Increases in the population in the most densely populated areas in this State create circumstances and conditions requiring public and private cooperation for the building and operation of first-class sports and entertainment arenas capable of supporting and enticing professional sports teams, such as from the National Basketball Association or National Hockey League.

2. To promote economic development, it is appropriate and beneficial for such areas to have a large sports and entertainment arena that is capable of attracting and maintaining world-class events in this State.

3. Nevada has long been the chosen and preferred venue of many premier sports and entertainment events, including the



1 National Finals Rodeo, boxing and other sporting and entertainment
2 events. Other areas seek to draw those events away from this State,
3 with larger and newer facilities, which have been built through
4 public/private cooperative arrangements.

5 4. In order to continually preserve this State's status as a
6 premier entertainment, convention and resort destination, it is the
7 will of the People of this State to provide by statute for the creation
8 and facilitation of public/private cooperation for the creation of first-
9 class sports and entertainment arenas.

10 5. This measure provides by statute for the imposition of an
11 additional sales and use tax within defined areas and for the manner
12 in which the proceeds of that tax must be used in facilitating
13 public/private cooperation for the construction, acquisition,
14 improvement, equipment, operation and maintenance of such
15 arenas.

16 **Sec. 2.** Chapter 244A of NRS is hereby amended by adding
17 thereto the provisions set forth as sections 3 to 7, inclusive, of this
18 measure.

19 **Sec. 3.** *Except as otherwise provided in this section and*
20 *sections 4 to 7, inclusive, of this measure or unless the context*
21 *otherwise requires, terms used or referred to in this section and in*
22 *sections 4 to 7, inclusive, of this measure have the meaning*
23 *ascribed to them in Chapter 374 of NRS, as from time to time*
24 *amended. As used in this section and sections 4 to 7, inclusive, of*
25 *this measure:*

26 1. "Arena District" means that portion of a Gaming
27 Enterprise District located within a 3-mile radius of a parcel
28 approved for the Qualifying Arena, excluding that portion of the
29 Gaming Enterprise District located within an incorporated city.

30 2. "County" means any county whose population is 800,000
31 or more.

32 3. "Department" means the Department of Taxation.

33 4. "Gaming Enterprise District" has the meaning ascribed to
34 it in NRS 463.0158.

35 5. "Governing Body" means the Board of County
36 Commissioners of any county whose population is 800,000 or
37 more.

38 6. "Qualifying Arena" means an arena that will possess all of
39 the following attributes:

40 (a) A seating capacity of at least 18,000 with attributes suitable
41 for use by a professional sports team from either the National
42 Basketball Association, the National Hockey League, or both;

43 (b) The arena must be located upon property the purchase,
44 acquisition, or use of which is not paid for with any fees, taxes,
45 interest or penalties collected pursuant to this measure;



(c) The arena must be located within the Arena District; and
(d) So as to ensure that the arena is centrally located for the benefit of the public and thus supports tourism, there must exist at least 95,000 transient lodging rooms within a 2-mile radius of the center point of the parcel upon which the arena is to be located at the time of its approval.

7. "State" means the State of Nevada.

8. "Taxing Ordinance" means the ordinance enacted pursuant to subsections 1 and 2 of section 4 of this measure.

Sec. 4. 1. As soon as practicable after the effective date of this measure, the Governing Body shall by ordinance establish an Arena District within the County and impose a sales and use tax within the Arena District to support the construction, improvement, equipment, operation and maintenance of a Qualifying Arena. The proceeds from the tax required by this section, including the interest and other income earned thereon, must be used only for the purposes provided by section 6 of this measure and as appropriated by the Governing Body pursuant to section 7 of this measure.

2. The ordinance adopted by the Governing Body must further include provisions in substance as follows:

(a) A provision imposing a tax at the rate of 0.9 percent on the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the Arena District or stored, used or otherwise consumed in the Arena District;

(b) A provision establishing that the Arena's usage must not be limited or dictated to favor the existing or prior owners of the property upon which the Arena is to be built nor any entity or person otherwise involved or contributing to the Arena's design, development or construction;

(c) Provisions substantially identical to those contained in Chapter 374 of NRS, insofar as applicable;

(d) A provision that if an amendment to Chapter 374 of NRS is enacted after the effective date of the ordinance, not inconsistent with this measure, it automatically becomes part of the ordinance imposing the tax;

(e) A provision that the Governing Body shall contract with the Department, before the tax's imposition, to perform all the functions incident to the administration or operation of the tax in the Arena District;

(f) A provision that exempts from the tax the gross receipts from the sale of, and the storage, use or other consumption in the Arena District, of tangible personal property used for the performance of a written contract for the construction of an improvement to real property;



1 (i) That was entered into on or before the effective date of
2 the tax; or

3 (ii) For which a binding bid was submitted before the
4 effective date if the bid was afterward accepted, and pursuant to
5 the terms of the contract or bid, the contract price or bid amount
6 may not be adjusted to reflect the imposition of the tax; and

7 (g) A provision specifying that the tax is imposed on the first
8 day of the first calendar quarter that begins 120 days after the
9 effective date of the ordinance.

10 3. Any ordinance amending the Taxing Ordinance enacted
11 pursuant to this section must include a provision in substance that
12 the Governing Body shall amend the contract made pursuant to
13 this section by a contract made between the Governing Body and
14 the Department, before the effective date of the amendment to the
15 Taxing Ordinance, unless the Governing Body determines with
16 the written concurrence of the Department that no such
17 amendment of the contract is necessary or desirable.

18 **Sec. 5. 1.** All fees, taxes, interest and penalties imposed and
19 all amounts of tax required to be paid to the County pursuant to
20 this measure must be paid to the Department in the form of
21 remittances payable to the Department.

22 2. The Department shall deposit the payments with the State
23 Treasurer for credit to the Sales and Use Tax Account in the State
24 General Fund.

25 3. The State Controller, acting upon the collection data
26 furnished by the Department, shall monthly:

27 (a) Transfer from the Sales and Use Tax Account to the
28 appropriate account in the State General Fund 1.75 percent of all
29 fees, taxes, interest and penalties collected pursuant to this
30 measure during the preceding month as compensation to the State
31 for the cost of collecting the tax;

32 (b) Determine for each County the amount equal to all fees,
33 taxes, interest and penalties collected in the County pursuant to
34 this measure during the preceding month, less the amount
35 transferred to the State General Fund pursuant to paragraph (a);
36 and

37 (c) Transfer the amount owed to each County to the
38 Intergovernmental Fund and remit the money to the County
39 Treasurer, who shall deposit such amount into a special revenue
40 fund created for the use of the proceeds from the tax required by
41 this measure.

42 4. Each special revenue fund created for the use of the
43 proceeds from the tax required by this measure must be accounted
44 for as a separate fund and not as a part of any other fund.



1 5. *Interest earned on a special revenue fund created pursuant*
2 *to this measure must be credited to the fund. The money in each*
3 *such fund must remain in the fund and must not revert to the*
4 *County Treasury at the end of any fiscal year.*

5 **Sec. 6.** 1. *Except as otherwise provided by section 5, all*
6 *proceeds of the tax imposed by section 4 of this measure, including*
7 *all fees, interest and penalties, must be used only to aid in the*
8 *funding of the costs to construct, improve, equip, operate and*
9 *maintain a Qualifying Arena, including to pay the principal of,*
10 *interest on or other payments due with respect to bonds issued to*
11 *pay those costs, including bonds issued to refund bonds issued to*
12 *pay those costs, or any combination thereof. The Governing Body*
13 *shall have the right, at its sole cost, to audit the financial records*
14 *related to the use of tax proceeds generated pursuant to section 4*
15 *of this measure.*

16 2. *Except as otherwise provided in section 4 of this measure,*
17 *the Governing Body shall not repeal or amend or otherwise*
18 *directly or indirectly modify the Taxing Ordinance, until such time*
19 *as all outstanding bonds, including any bonds issued to refund*
20 *bonds, have been paid and are retired.*

21 **Sec. 7.** 1. *As soon as practicable after the effective date of*
22 *this measure, and in accordance with the limitations of this*
23 *section and section 6 of this measure, each Governing Body shall*
24 *approve a Qualifying Arena and shall appropriate the proceeds of*
25 *the tax imposed by section 4 of this measure to support the*
26 *construction, improvement, equipment, operation or maintenance*
27 *of the Qualifying Arena. Such an appropriation may be made for*
28 *all or any combination of the purposes enumerated in this*
29 *subsection.*

30 2. *An appropriation may be made for the support of only one*
31 *Qualifying Arena by any Governing Body. If the Governing Body*
32 *determines that there is more than one Qualifying Arena*
33 *otherwise eligible for an appropriation, the appropriation must be*
34 *made for the support of the Qualifying Arena that, in the*
35 *judgment of the Governing Body, best serves the interest of the*
36 *public.*

37 **Sec. 8. Effective dates.**

38 1. This section and sections 1 to 7, inclusive, of this measure
39 become effective:

- 40 (a) If subsection 2 is applicable, upon passage and approval; or
41 (b) If subsection 3 is applicable, upon completion of the canvass
42 of votes by the Supreme Court.

43 2. If this measure is enacted by the 76th Session of the
44 Legislature and approved by the Governor as provided in subsection
45 3 of Section 2 of Article 19 of the Nevada Constitution:



(a) This section and sections 1 to 7, inclusive, of this measure become effective:

(1) Upon passage and approval, for purposes of adopting the ordinance imposing the Taxing Ordinance; and

(2) On July 1, 2011, for all other purposes.

3. If this measure is not enacted and approved as provided in subsection 2, but is approved by voters after the measure has been referred or submitted to the voters pursuant to subsection 3 of Section 18 of Article 4 or subsection 3 of Section 2 of Article 19 of the Nevada Constitution:

(a) This section and sections 1 to 7, inclusive, of this measure become effective:

(1) Upon the completion of the canvass of votes by the Supreme Court, for the purposes of adopting the Taxing Ordinance; and

(2) On January 1, 2013, for all other purposes.

4. For the purposes of subsection 2, this measure shall be deemed to have been approved by the Governor if, in accordance with Section 35 of Article 4 of the Nevada Constitution:

(a) The Governor signs the measure;

(b) The measure is passed by both Houses of the Legislature during its 76th Session notwithstanding the objections of the Governor; or

(c) The Governor fails to return or file the measure within the time provided by Section 35 of Article 4.

Sec. 9. Severability. If any provision of this measure or its application to any person or circumstance is held to be invalid or ineffective, the invalidity or ineffectiveness must be given the narrowest possible construction and shall not affect any other provision or application of this measure.

