

STATE QUESTION NUM. 5

Amendment to the Sales and Use Tax Act of 1955

Senate Bill 428 of the 82nd Session

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of diapers?

Yes

No

EXPLANATION & DIGEST

EXPLANATION— This 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 and storage, use or other consumption of diapers.

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 exemptions.

Additionally, the Legislature has provided that in administering these sales and use tax exemptions for diapers, the term “diaper” will mean any type of child or adult diaper.

Finally, the Legislature has provided that these sales and use tax exemptions for child and adult diapers will become effective on January 1, 2025, and expire by limitation on December 31, 2050.

A “Yes” vote would exempt child and adult diapers from the Sales and Use Tax Act of 1955, the Local School Support Tax Law and certain analogous sales and use taxes.

A “No” vote would keep the current provisions of the Sales and Use Tax Act of 1955, the Local School Support Tax Law and certain analogous sales and use taxes.

DIGEST—The Sales and Use Tax Act of 1955 imposes taxes on the gross receipts from the sale and storage, use or other consumption of all tangible personal property in this State unless the property is exempt from such taxation. Because the Sales and Use Tax Act of 1955 was approved by the voters at a referendum election as prescribed by the *Nevada Constitution*, the Act cannot be amended, annulled, repealed, set aside, suspended or in any way made inoperative unless such action is also approved by the voters at an election. This ballot measure would amend the Sales and Use Tax Act of 1955 by creating an exemption from sales and use taxes for diapers. This ballot measure would decrease public revenue because diapers would no longer be subject to sales and use taxes.

Under existing laws, additional sales and use taxes are imposed by: (1) the Local School Support Tax Law which provides revenue for the support of local schools; and (2) other tax laws which provide revenue for the support of counties, cities, towns, special and local districts, regional agencies and authorities, other political subdivisions and specific projects

and purposes. This ballot measure would change those existing laws by creating exemptions from sales and use taxes for diapers.

This ballot measure defines the term “diaper” for purposes of these exemptions to mean any type of diaper intended for use by a child or an adult, including, without limitation, a disposable diaper.

Under existing provisions of the *Nevada Constitution*, when any measure enacts exemptions from sales and use taxes, the measure must provide a specific date on which the exemptions will cease to be effective. Because this ballot measure would enact exemptions from sales and use taxes for diapers, this ballot measure provides that the exemptions will cease to be effective on December 31, 2050.

ARGUMENTS FOR PASSAGE

All diapers should be exempt from Nevada’s sales and use taxes to increase their affordability and access. These products are considered basic healthcare necessities for families with young children and for adults experiencing incontinence. Without a sufficient supply of clean diapers, babies are at risk for a host of illnesses, including skin infections, rashes, urinary tract infections and viral meningitis. Adults with conditions that require the use of an adult diaper face similar health risks without access to diapers, and additionally face risks of social isolation—which is linked to poorer health outcomes—from avoiding activities with family or friends.

The sales and use taxes on diapers place a financial burden on low-income families and other individuals who pay a larger percentage of their income each month on these essential goods. Child and adult diapers need to be more accessible, and eliminating these taxes will make them more affordable. Each year, Nevada families spend, on average, \$1,000 on diapers per child and pay up to \$84 in sales tax on those diapers. With the yearly tax savings from the passage of this ballot measure, Nevada families will be able to afford roughly one additional month supply of diapers or put that money toward other necessities. Adults with conditions requiring the use of diapers will receive similar tax relief.

Diapers are already exempt from sales and use taxes in 20 other states and an additional 5 that do not have sales and use taxes. In some states, such as Texas and Virginia, diapers are exempt specifically because they are considered necessities.

Ensure that Nevadans of all ages who rely on diapers have more affordable access to this basic healthcare necessity. Vote “Yes” on Question 5.

ARGUMENTS AGAINST PASSAGE

Exempting diapers from Nevada’s sales and use taxes will result in less revenue for the State and local governments and reduce funding for public schools. Passage of Question 5 is anticipated to reduce sales tax revenues by at least \$400 million between January 1, 2025, through the sunset date of December 31, 2050, which will adversely affect the provision

of State and local governmental services, including K-12 education. Additionally, State and local government funding, including funding for public schools, will no longer benefit from additional sales tax revenue generated from diapers purchased in Nevada by tourists and other nonresidents.

This ballot measure will narrow the tax base by reducing the types of goods that can be taxed, creating the potential for more volatility in sales and use tax revenue and complicating the administration of these taxes. A broader tax base generally leads to lower tax rates overall and is better suited to accommodate upturns and downturns in the economy, which is the opposite of what this ballot measure achieves. Question 5 is not consistent with sound tax policy.

Products sold in Nevada are generally subject to sales and use taxes regardless of who buys or uses them. For example, other products that are considered necessities, such as soap and toothpaste, are not exempt from Nevada sales and use taxes. Chipping away at tax revenues to benefit specific groups of people will limit the services the State and local governments can provide to all Nevadans.

Do not approve yet another tax exemption that violates sound tax policy and decreases revenue for public services. Vote “No” on Question 5.

FISCAL NOTE

Financial Impact—Yes

Under current law, diapers, defined as any type of child or adult diaper, are considered tangible personal property subject to state and local sales and use taxes in the State of Nevada. If Question 5 is approved by the voters, an exemption from state and local sales and use taxes for diapers purchased in the State of Nevada would be provided, which would reduce the revenue received by the State and local governments, including funding for public schools, during the last six months of Fiscal Year 2025 (January 1, 2025, through June 30, 2025), all of Fiscal Years 2026 through 2050 (July 1, 2026, through June 30, 2050), and the first six months of Fiscal Year 2051 (July 1, 2050, through December 31, 2050).

According to the data company Statista, the consumption of child and adult diapers in the United States is estimated at approximately \$12.3 billion in 2024. The population of Nevada, according to the United States Bureau of the Census, currently makes up approximately 0.95 percent of the national population; thus, assuming that consumption of diapers in Nevada is consistent with total national expenditures, approximately \$117.3 million in diapers will be purchased in Nevada during 2024.

Had this exemption been effective during this calendar year, the exemption of approximately \$117.3 million in diapers from the combined statewide sales and use tax rate of 6.85 percent would have resulted in the following estimated revenue reductions for each component of the combined rate:

Combined Statewide Sales & Use Tax Rate Component	Tax Rate	Recipient of Revenue	Estimated Revenue Loss per Fiscal Year
State Sales Tax	2.00%	State General Fund	\$2.3 million
Local School Support Tax (LSST)	2.60%	State Education Fund	\$3.0 million
Basic City-County Relief Tax (BCCRT)	0.50%	Counties, cities, towns, and other local government entities	\$0.6 million
Supplemental City-County Relief Tax (SCCRT)	1.75%	Counties, cities, towns, and other local government entities	\$2.0 million
TOTAL	6.85%		\$7.9 million

The estimated revenue loss for each component of the combined statewide sales and use tax rate represents approximately 0.13 percent of the estimated revenue collected for each of these components, based on the Economic Forum’s forecast for the 2 percent state sales and use tax in Fiscal Year 2024.

In addition to the statewide taxes described above, 13 of Nevada’s 17 counties (Carson City, Churchill, Clark, Douglas, Elko, Lander, Lincoln, Lyon, Nye, Pershing, Storey, Washoe and White Pine) impose one or more optional local sales tax rates for authorized uses. Based on the assumptions above and an average statewide sales and use tax rate of 8.234 percent, it is estimated that the exemption would additionally reduce total revenue generated for the counties imposing optional local sales tax rates by approximately \$1.6 million.

Additionally, under current law, Nevada’s Department of Taxation retains commissions, which are deposited in the State General Fund, for the cost of collecting sales and use taxes for local governments and school districts. The commissions are collected at a rate of 0.75 percent for the LSST and a rate of 1.75 percent for the BCCRT, SCCRT and the optional local sales taxes. It is estimated that the exemption of approximately \$117.3 million in taxable sales would reduce the commissions generated for the State General Fund by approximately \$97,000.

Finally, the State and local governments, including public schools, may lose additional sales tax revenue from this exemption for diapers purchased in Nevada by tourists and other nonresidents. However, the amount of these products that may be purchased by such nonresidents, and the resulting loss in revenue to these governmental entities, cannot be determined with any reasonable degree of certainty.

Note that the revenue loss to the State and local governments, including public schools, illustrated in the table and narrative above are estimates based on estimated sales of diapers and the State’s population in 2024. The actual revenue loss to the State and local governmental entities during the 26 years when this exemption would be effective (January 1, 2025, through December 31, 2050) may be higher or lower in any given fiscal year, depending on the number of exempt products that are actually purchased and the price of those products. Additionally, changes in the statewide population and the number of nonresidents purchasing these products may affect the actual reduction in sales and use tax revenue.

Additionally, the estimated revenue loss described in this fiscal note does not make any assumptions regarding whether consumers who are not paying sales and use tax on the purchase of diapers will use that savings to purchase other tangible personal property subject to the sales and use tax or will engage in other activities that are subject to a state or local tax in Nevada. Although it is possible that taxpayers will use these savings towards other activities that may generate additional revenue for the State or a local government, the types of taxable activities, the amount of revenue that may be generated, and the recipients of this revenue cannot be determined with any reasonable degree of certainty.

Nevada's Department of Taxation has indicated that no additional funding would be required to implement and administer this exemption for diapers from the state and local sales and use taxes.