

Suspension of the More Cops Funding Sunset
Legislative Recommendation | Preliminary Draft

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

OVERVIEW

SECTION 1 to **SECTION 21** set forth the existing provisions of the Clark County Sales and Use Tax Act of 2005. **SECTION 22** of this act removes the sunset date of October 1, 2025, for any taxes imposed by the act.

LANGUAGE FOR CONSIDERATION

Chapter 249, Statutes of Nevada, the Clark County Sales and Use Act of 2005, is Hereby Amended as Follows:

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows

SECTION 1. Short title. This act may be cited as the Clark County Sales and Use Tax Act of 2005.

SECTION 2. Legislative findings and declaration. The Legislature hereby finds and declares that:

1. Nevada continues to be the fastest-growing state in the nation, with the overwhelming majority of this population growth occurring in Clark County, which adds 6,000 to 7,000 new residents each month;
2. The increase in the number of police officers to protect the residents of Clark County has not kept pace with the explosive growth in the numbers of these residents, so, while the nation as a whole averages 2.5 police officers for each 1,000 residents, the current ratio in Clark County is now only 1.7 police officers for each 1,000 residents;
3. The crime rate in Clark County is increasing, and so is the time it takes for police officers to respond when a resident reports a crime, while the very real threat of terrorism means that police now must assume added responsibilities for homeland security;
4. A majority of the voters in Clark County approved at the November 2, 2004, General Election Advisory Question No. 9, indicating their support for an increase in the sales tax of up to one-half of 1 percent for the purpose of employing and equipping more police officers to protect the residents of Clark County;
5. It is intended that 80 percent of any additional police officers employed and equipped pursuant to this act be assigned to uniform operations for marked patrol units in the community and for the control of traffic;
6. It is further intended that each police department that receives proceeds from any sales and use tax imposed pursuant to this act establish a program that promotes community participation in protecting the residents of the community that includes, without limitation:
 - (a) A written policy of the department that sets forth its position on providing law enforcement services oriented toward the involvement of residents of the community;
 - (b) The provision of training for all police officers employed by the department that includes, without limitation, training related to:
 - (1) Methods that may be used to analyze, respond to and solve problems commonly confronted by

police officers in the community;

(2) The cultural and racial diversity of the residents of the community;

(3) The proper utilization of community resources, such as local housing authorities, public utilities and local public officials, that are available to assist in providing law enforcement services; and

(4) Issues concerning not only the prevention of crime, but also concerning improving the quality of life for the residents of the community; and

(c) The formation of partnerships with the residents of the community and public and private agencies and organizations to address mutual concerns related to the provision of law enforcement services;

7. A general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act because of the demographic, economic and geographic diversity of the local governments of this State, the unique growth patterns occurring in Clark County and the special financial conditions experienced in the County related to the need to employ and equip more police officers; and

8. The powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act comply in all respects with any requirement or limitation pertaining thereto and imposed by any constitutional provisions.

SECTION 3. Definitions. Except as otherwise provided in this act or unless the context otherwise requires, terms used or referred to in this act have the meanings ascribed to them in chapter 374 of NRS, as from time to time amended, but the definitions in sections 4 to 8, inclusive, of this act, unless the context otherwise requires, govern the construction of this act.

SECTION 4. "Act" defined. "Act" means the Clark County Sales and Use Tax Act of 2005.

SECTION 5. "Board" defined. "Board" means the Board of County Commissioners of Clark County.

SECTION 6. "County" defined. "County" means Clark County.

SECTION 7. "County Treasurer" defined. "County Treasurer" means the County Treasurer of Clark County.

SECTION 8. "Department" defined. "Department" means the Department of Taxation created pursuant to NRS 360.120.

SECTION 9. Imposition of tax; allocation and use of proceeds; prerequisites to change in use.

1. The Board may enact an ordinance imposing a local sales and use tax to employ and equip additional police officers for the Boulder City Police Department, Henderson Police Department, Las Vegas Metropolitan Police Department, Mesquite Police Department and North Las Vegas Police Department.

2. Before enacting such an ordinance, the Board shall hold a public hearing to present its plan for implementing the local sales and use tax.

3. The proceeds from the tax authorized pursuant to this section, including interest and other income earned thereon, must be:

(a) Allocated among the police departments within the County in the same ratio that the population served by each department bears to the total population of the County. As used in this paragraph,

“population” means the estimated annual population determined pursuant to NRS 360.283.

(b) Used only as approved pursuant to section 13 of this act and only for the purposes set forth in this section unless the Legislature changes the use. The Board shall, before submitting to the Legislature any request to change the uses for the proceeds from the tax, submit an advisory question to the voters of the County pursuant to NRS 295.230, asking whether the uses for the proceeds from the tax should be so changed. The Board shall not submit such a request to the Legislature if a majority of the voters in the County disapprove the proposed change.

SECTION 10. Required provisions of ordinance. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate of:

(a) One-quarter of 1 percent if the date on which the tax must first be imposed is on October 1, 2005; and

(b) Up to an additional one-quarter of 1 percent if the date on which the increased rate must first be imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate, the total rate not to exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed or on which any change in the rate of tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

SECTION 12. Amendatory ordinances. An ordinance amending an ordinance enacted pursuant to this act, except an ordinance authorizing the issuance of bonds or other securities, must include a provision in substance that the Board shall amend a contract made pursuant to subsection 4 of section 10 of this act by a contract made between the Board and the Department before the effective date of the amendatory ordinance, unless the Board determines with the written concurrence of the Department that no such amendment of the contract is needed.

SECTION 13. Requirements for expenditure or transfer of proceeds.

1. A police department shall not expend proceeds received from any sales and use tax imposed pursuant to this act unless the expenditure has been approved by the body designated pursuant to this section for the approval of expenditures of that police department. The body designated pursuant to this section must approve the expenditure of the proceeds by the police department if it determines that:

- (a) The proposed use of the money conforms to all provisions of this act; and
- (b) The proposed use will not replace or supplant existing funding for the police department.

2. The body designated to approve an expenditure for:

- (a) The Boulder City Police Department is the City Council of the City of Boulder City;
- (b) The Henderson Police Department is the City Council of the City of Henderson;
- (c) The Las Vegas Metropolitan Police Department is the Metropolitan Police Committee on Fiscal Affairs;
- (d) The Mesquite Police Department is the City Council of the City of Mesquite; and
- (e) The North Las Vegas Police Department is the City Council of the City of North Las Vegas.

3. In determining that a proposed use meets the requirement set forth in paragraph (b) of subsection 1, a body designated pursuant to subsection 2 must find that either:

- (a) The amount approved for expenditure by the body for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is equal to or greater than the amount approved for expenditure in the immediately preceding fiscal year for the support of the police department; or
- (b) The amount approved for expenditure by the body for the fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is less than the amount approved for expenditure in the immediately preceding fiscal year for the support of the police department and the body projects a decrease in its receipt of revenue in that fiscal year from consolidated taxes and property taxes of more than 2 percent from its base fiscal year.

4. If a body designated pursuant to subsection 2 makes a finding pursuant to subsection 3, the body shall adopt a resolution setting forth the finding and the reasons therefor. If the finding is made pursuant to paragraph (b) of subsection 3, the finding must include, without limitation, all facts supporting the projection of a decrease in revenue.

5. If a body designated pursuant to subsection 2 does not make a finding pursuant to subsection 3 for a fiscal year on or before July 1 of that fiscal year, the body shall retain the proceeds received for that fiscal year from any sales and use tax imposed pursuant to this act in the special revenue fund created by the body pursuant to section 17 of this act for use pursuant to this section. Any other body designated pursuant to subsection 2 which makes a finding pursuant to subsection 3 for that fiscal year may apply to the County Treasurer requesting approval for the use by the police department for which the other body approves expenditures of any portion of those proceeds in accordance with the provisions of this section.

6. The County Treasurer, upon receiving a request pursuant to subsection 5 and proper documentation of compliance with the provisions of this section, shall provide written notice to the designated body which failed to make a finding pursuant to subsection 3 that it is required to transfer from the special revenue fund created by the body pursuant to section 17 of this act to the County Treasurer such amount of the proceeds received for that fiscal year from any sales and use tax imposed pursuant to this act as approved by the County Treasurer for use by the designated body that submitted the request.

7. Notwithstanding the provisions of subsection 3 of section 17 of this act, a designated body that

receives written notice from the County Treasurer pursuant to subsection 6 shall transfer all available required money to the County Treasurer as soon as practicable following its receipt of any portion of the proceeds. Upon receipt of the money, the County Treasurer shall transfer the money to the designated body that submitted the request, which shall deposit the money in the special revenue fund created by that designated body pursuant to section 17 of this act.

8. As used in this section, “base fiscal year” means, with respect to a body designated pursuant to subsection 2, Fiscal Year 2009-2010, except that:

(a) If, in any subsequent fiscal year, the amount approved for expenditure by the body for that subsequent fiscal year for the support of the police department, not including any money received or expended pursuant to this act, exceeds by more than 2 percent the amount approved for expenditure in Fiscal Year 2009-2010, the base fiscal year for that body becomes the most recent of such subsequent fiscal years.

(b) If the base fiscal year is revised pursuant to paragraph (a) and, in any subsequent fiscal year, the amount approved for expenditure by the body for that subsequent fiscal year for the support of the police department, not including any money received or expended pursuant to this act, is equal to or less than the amount approved for expenditure in Fiscal Year 2009-2010, the base fiscal year for that body becomes Fiscal Year 2009-2010 but is subject to subsequent revision pursuant to paragraph (a).

SECTION 13.3. Suspension of requirements for expenditure of proceeds from sales and use tax imposed on or after July 1, 2013, but before July 1, 2016; report of expenditure.

1. The provisions of paragraph (b) of subsection 1 and subsections 3 to 8, inclusive, of section 13 of this act do not apply to any expenditure of proceeds from any sales and use tax imposed pursuant to this act on or after July 1, 2013, but before July 1, 2016.

2. In addition to the requirements of section 13.5 of this act:

(a) The periodic reports required by that section must include, with respect to the period covered by the report, a separate detailed description of the expenditure of any proceeds from the sales and use tax imposed pursuant to this act as a result of the provisions of subsection 1; and

(b) A governing body that is required to submit a report pursuant to section 13.5 of this act shall submit a copy of the separate detailed description required by paragraph (a) for the period covered by the report to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee on or before the date by which the governing body is required to submit the report for that period to the Department pursuant to section 13.5 of this act.

SECTION 13.5. Reports.

1. Any governing body that has approved expenditures pursuant to section 13 of this act shall submit to the Department the periodic reports required pursuant to this section and such other information relating to the provisions of this act as may be requested by the Department.

2. The reports required pursuant to this section must be submitted:

(a) On or before:

(1) February 15 for the 3-month period ending on the immediately preceding December 31;

(2) May 15 for the 3-month period ending on the immediately preceding March 31;

(3) August 15 for the 3-month period ending on the immediately preceding June 30; and

(4) November 15 for the 3-month period ending on the immediately preceding September 30; and

(b) On or before August 15 for the 12-month period ending on the immediately preceding June 30.

3. Each report must be submitted on a form provided by the Department and include, with respect to the period covered by the report:

(a) The total proceeds received by the respective police department from the sales and use tax imposed pursuant to this act;

(b) A detailed description of the use of the proceeds, including, without limitation:

(1) The total expenditures made by the respective police department from the sales and use tax imposed pursuant to this act;

(2) The total number of police officers hired by the police department and the number of those officers that are filling authorized, funded positions for new officers; and

(3) A detailed analysis of the manner in which each expenditure:

(I) Conforms to all provisions of this act; and

(II) Does not replace or supplant funding which existed before October 1, 2005, for the police department; and

(c) Any other information required to complete the form for the report.

4. The Department may review and investigate the reports submitted pursuant to this section and the expenditure of any proceeds pursuant to section 13 of this act.

SECTION 13.7. Determination and use of adjusted base fiscal year. Notwithstanding the provisions of subsection 8 of section 13 of this act, for Fiscal Year 2015-2016, the base fiscal year for each body must be adjusted for the purposes of section 13 of this act as provided in this section, and that adjusted base fiscal year must be used as the base fiscal year for all purposes, including future calculations of base fiscal years. To determine the adjusted base fiscal year for Fiscal Year 2015-2016, any expenditures authorized as a result of the provisions of subsection 1 of section 13.3 of this act must not be included when calculating the amount of money received or expended in that fiscal year.

SECTION 14. Payment of proceeds to Department; distribution of proceeds.

1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the County pursuant to this act must be paid to the Department in the form of remittances payable to the Department.

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

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

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

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

SECTION 15. Redistribution of improperly distributed proceeds. The Department may redistribute any proceeds from the tax, interest or penalty collected pursuant to this act which is determined to be improperly distributed, but no such redistribution may be made as to amounts originally distributed

more than 6 months before the date on which the Department obtains knowledge of the improper distribution.

SECTION 16. Creation by County Treasurer of fund for use of proceeds; distribution of money.

1. The County Treasurer shall deposit money received from the State Controller pursuant to paragraph (c) of subsection 3 of section 14 of this act into the County Treasury for credit to a fund created for the use of the proceeds from the tax authorized by this act.
2. The fund of the County created for the use of the proceeds from the tax authorized by this act must be accounted for as a separate fund and not as a part of any other fund.
3. The County Treasurer upon receipt of the money remitted to him or her pursuant to this section shall distribute it to the appropriate accounts in accordance with the allotments established pursuant to section 9 of this act.

SECTION 17. Creation by city treasurers of special revenue fund for use of proceeds.

1. The City Treasurers of Boulder City, Henderson, Mesquite and North Las Vegas and the Las Vegas Metropolitan Police Department shall deposit the money received from the County Treasurer pursuant to subsection 3 of section 16 of this act into a special revenue fund created for the use of the proceeds from the tax authorized by this act.
2. Each special revenue fund created for the use of the proceeds from the tax authorized by this act pursuant to subsection 1 must be accounted for as a separate fund and not as a part of any other fund.
3. Interest earned on a special revenue fund created pursuant to subsection 1 must be credited to the fund. The money in each such fund must remain in the fund and must not revert to the County Treasury at the end of any fiscal year.

SECTION 20. Action by Department on behalf of County. In a proceeding arising from an ordinance imposing a tax pursuant to this act, the Department may act for and on behalf of the County.

SECTION 21. Construction of act; severability of provisions.

1. The powers conferred by this act are in addition and supplemental to, and not in substitution for, the powers conferred by any other law and the limitations imposed by this act do not affect the powers conferred by any other law.
2. This act must not be construed to prevent the exercise of any power granted by any other law to the County or any officer, agent or employee of the County.
3. This act must not be construed to repeal or otherwise affect any other law or part thereof.
4. This act is intended to provide a separate method of accomplishing the objectives of the act, but not an exclusive method.
5. If any provision of this act, or application thereof to any person, thing or circumstance, is held invalid, the invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 22. *This act is hereby amended upon passage and approval and shall not expire by limitation at any future date.*