

SENATE BILL NO. 473—COMMITTEE ON TAXATION

MARCH 24, 2003

Referred to Committee on Taxation

SUMMARY—Makes various changes to provisions governing abatement of taxes for new or expanded businesses. (BDR 32-1241)

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 economic development; making various changes to the provisions governing the abatement of taxes for new or expanded businesses; extending the prospective expiration of certain amendments to those provisions; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 360.750 is hereby amended to read as follows:
2 360.750 1. A person who intends to locate or expand a
3 business in this state may apply to the Commission on Economic
4 Development for a partial abatement of one or more of the taxes
5 imposed on the new or expanded business pursuant to chapter 361,
6 364A or 374 of NRS.
7 2. The Commission on Economic Development shall approve
8 an application for a partial abatement if the Commission makes the
9 following determinations:
10 (a) The business is consistent with:
11 (1) The state plan for industrial development and
12 diversification that is developed by the Commission pursuant to
13 NRS 231.067; and
14 (2) Any guidelines adopted pursuant to the state plan.



1 (b) The applicant has executed an agreement with the
2 Commission which states that the business will, after the date on
3 which a certificate of eligibility for the abatement is issued pursuant
4 to subsection 5, continue in operation in this state for a period
5 specified by the Commission, which must be at least 5 years, and
6 will continue to meet the eligibility requirements set forth in this
7 subsection. The agreement must bind the successors in interest of
8 the business for the specified period.

9 (c) The business is registered pursuant to the laws of this state or
10 the applicant commits to obtain a valid business license and all other
11 permits required by the county, city or town in which the business
12 operates.

13 (d) Except as otherwise provided in NRS 361.0687, if the
14 business is a new business in a county whose population is 100,000
15 or more or a city whose population is 60,000 or more, the business
16 meets at least two of the following requirements:

17 (1) The business will have ~~75~~ 30 or more full-time
18 employees on the payroll of the business by the fourth quarter that it
19 is in operation.

20 (2) Establishing the business will require the business to
21 make a capital investment of at least \$1,000,000 in this state.

22 (3) The average hourly wage that will be paid by the new
23 business to its employees in this state is at least 100 percent of the
24 average statewide hourly wage as established by the Employment
25 Security Division of the Department of Employment, Training and
26 Rehabilitation on July 1 of each fiscal year and:

27 (I) The business will provide a health insurance plan for
28 all employees that includes an option for health insurance coverage
29 for dependents of the employees; and

30 (II) The cost to the business for the benefits the business
31 provides to its employees in this state will meet the minimum
32 requirements for benefits established by the Commission by
33 regulation pursuant to subsection 9.

34 (e) Except as otherwise provided in NRS 361.0687, if the
35 business is a new business in a county whose population is less than
36 100,000 or a city whose population is less than 60,000, the business
37 meets at least two of the following requirements:

38 (1) The business will have ~~25~~ 10 or more full-time
39 employees on the payroll of the business by the fourth quarter that it
40 is in operation.

41 (2) Establishing the business will require the business to
42 make a capital investment of at least \$250,000 in this state.

43 (3) The average hourly wage that will be paid by the new
44 business to its employees in this state is at least 100 percent of the
45 average statewide hourly wage as established by the Employment



1 Security Division of the Department of Employment, Training and
2 Rehabilitation on July 1 of each fiscal year and:

3 (I) The business will provide a health insurance plan for
4 all employees that includes an option for health insurance coverage
5 for dependents of the employees; and

6 (II) The cost to the business for the benefits the business
7 provides to its employees in this state will meet the minimum
8 requirements for benefits established by the Commission by
9 regulation pursuant to subsection 9.

10 (f) If the business is an existing business, the business meets at
11 least two of the following requirements:

12 (1) The business will increase the number of employees on
13 its payroll by 10 percent more than it employed in the immediately
14 preceding fiscal year or by six employees, whichever is greater.

15 (2) The business will expand by making a capital investment
16 in this state in an amount equal to at least 20 percent of the value of
17 the tangible property possessed by the business in the immediately
18 preceding fiscal year. The determination of the value of the tangible
19 property possessed by the business in the immediately preceding
20 fiscal year must be made by the:

21 (I) County assessor of the county in which the business
22 will expand, if the business is locally assessed; or

23 (II) Department, if the business is centrally assessed.

24 (3) The average hourly wage that will be paid by the existing
25 business to its new employees in this state is at least 100 percent of
26 the average statewide hourly wage as established by the
27 Employment Security Division of the Department of Employment,
28 Training and Rehabilitation on July 1 of each fiscal year and:

29 (I) The business will provide a health insurance plan for
30 all new employees that includes an option for health insurance
31 coverage for dependents of the employees; and

32 (II) The cost to the business for the benefits the business
33 provides to its new employees in this state will meet the minimum
34 requirements for benefits established by the Commission by
35 regulation pursuant to subsection 9.

36 *(g) In lieu of meeting the requirements of paragraph (d), (e) or*
37 *(f), if the business furthers the development and refinement of*
38 *intellectual property, a patent or a copyright into a commercial*
39 *product, the business meets at least two of the following*
40 *requirements:*

41 *(1) The business will have 10 or more full-time employees*
42 *on the payroll of the business by the fourth quarter that it is in*
43 *operation.*

44 *(2) Establishing the business will require the business to*
45 *make a capital investment of at least \$500,000 in this state.*



1 (3) *The average hourly wage that will be paid by the new*
2 *business to its employees in this state is at least 100 percent of the*
3 *average statewide hourly wage as established by the Employment*
4 *Security Division of the Department of Employment, Training and*
5 *Rehabilitation on July 1 of each fiscal year and:*

6 (I) *The business will provide a health insurance plan for*
7 *all employees that includes an option for health insurance*
8 *coverage for dependents of the employees; and*

9 (II) *The cost to the business for the benefits the business*
10 *provides to its employees in this state will meet with minimum*
11 *requirements established by the Commission by regulation*
12 *pursuant to subsection 9.*

13 3. Notwithstanding the provisions of subsection 2, the
14 Commission on Economic Development may:

15 (a) Approve an application for a partial abatement by a business
16 that does not meet the requirements set forth in paragraph (d), (e),
17 ~~(f)~~ (f) *or (g)* of subsection 2;

18 (b) Make the requirements set forth in paragraph (d), (e), ~~(f)~~
19 (f) *or (g)* of subsection 2 more stringent; or

20 (c) Add additional requirements that a business must meet to
21 qualify for a partial abatement,
22 if the Commission determines that such action is necessary.

23 4. If a person submits an application to the Commission on
24 Economic Development pursuant to subsection 1, the Commission
25 shall provide notice to the governing body of the county and the city
26 or town, if any, in which the person intends to locate or expand a
27 business. The notice required pursuant to this subsection must set
28 forth the date, time and location of the hearing at which the
29 Commission will consider the application.

30 5. If the Commission on Economic Development approves an
31 application for a partial abatement, the Commission shall
32 immediately forward a certificate of eligibility for the abatement to:

33 (a) The Department;

34 (b) The Nevada Tax Commission; and

35 (c) If the partial abatement is from the property tax imposed
36 pursuant to chapter 361 of NRS, the county treasurer.

37 6. An applicant for a partial abatement pursuant to this section
38 or an existing business whose partial abatement is in effect shall,
39 upon the request of the Executive Director of the Commission on
40 Economic Development, furnish the Executive Director with copies
41 of all records necessary to verify that the applicant meets the
42 requirements of subsection 2.

43 7. If a business whose partial abatement has been approved
44 pursuant to this section and is in effect ceases:

45 (a) To meet the requirements set forth in subsection 2; or



1 (b) Operation before the time specified in the agreement
2 described in paragraph (b) of subsection 2,
3 the business shall repay to the Department or, if the partial
4 abatement was from the property tax imposed pursuant to chapter
5 361 of NRS, to the county treasurer, the amount of the exemption
6 that was allowed pursuant to this section before the failure of the
7 business to comply unless the Nevada Tax Commission determines
8 that the business has substantially complied with the requirements of
9 this section. Except as otherwise provided in NRS 360.232 and
10 360.320, the business shall, in addition to the amount of the
11 exemption required to be paid pursuant to this subsection, pay
12 interest on the amount due at the rate most recently established
13 pursuant to NRS 99.040 for each month, or portion thereof, from the
14 last day of the month following the period for which the payment
15 would have been made had the partial abatement not been approved
16 until the date of payment of the tax.

17 8. A county treasurer:

18 (a) Shall deposit any money that he receives pursuant to
19 subsection 7 in one or more of the funds established by a local
20 government of the county pursuant to NRS 354.6113 or 354.6115;
21 and

22 (b) May use the money deposited pursuant to paragraph (a) only
23 for the purposes authorized by NRS 354.6113 and 354.6115.

24 9. The Commission on Economic Development:

25 (a) Shall adopt regulations relating to:

26 (1) The minimum level of benefits that a business must
27 provide to its employees if the business is going to use benefits paid
28 to employees as a basis to qualify for a partial abatement; and

29 (2) The notice that must be provided pursuant to
30 subsection 4.

31 (b) May adopt such other regulations as the Commission on
32 Economic Development determines to be necessary to carry out the
33 provisions of this section.

34 10. The Nevada Tax Commission:

35 (a) Shall adopt regulations regarding:

36 (1) The capital investment that a new business must make to
37 meet the requirement set forth in paragraph (d) , ~~(e)~~ (e) *or* (g) of
38 subsection 2; and

39 (2) Any security that a business is required to post to qualify
40 for a partial abatement pursuant to this section.

41 (b) May adopt such other regulations as the Nevada Tax
42 Commission determines to be necessary to carry out the provisions
43 of this section.

44 11. An applicant for an abatement who is aggrieved by a final
45 decision of the Commission on Economic Development may



1 petition for judicial review in the manner provided in chapter 233B
2 of NRS.

3 **Sec. 2.** NRS 361.0687 is hereby amended to read as follows:

4 361.0687 1. A person who intends to locate or expand a
5 business in this state may, pursuant to NRS 360.750, apply to the
6 Commission on Economic Development for a partial abatement
7 from the taxes imposed by this chapter.

8 2. For a business to qualify pursuant to NRS 360.750 for a
9 partial abatement from the taxes imposed by this chapter, the
10 Commission on Economic Development must determine that, in
11 addition to meeting the other requirements set forth in subsection 2
12 of that section:

13 (a) If the business is a new business in a county whose
14 population is 100,000 or more or a city whose population is 60,000
15 or more:

16 (1) The business will make a capital investment in the county
17 of at least ~~[\$50,000,000]~~ \$5,000,000 if the business is an industrial
18 or manufacturing business or at least ~~[\$5,000,000]~~ \$1,000,000 if the
19 business is not an industrial or manufacturing business; and

20 (2) The average hourly wage that will be paid by the new
21 business to its employees in this state is at least 100 percent of the
22 average statewide hourly wage as established by the Employment
23 Security Division of the Department of Employment, Training and
24 Rehabilitation on July 1 of each fiscal year.

25 (b) If the business is a new business in a county whose
26 population is less than 100,000 or a city whose population is less
27 than 60,000:

28 (1) The business will make a capital investment in the county
29 of at least ~~[\$5,000,000 if the business is an industrial or~~
30 ~~manufacturing business or at least \$500,000 if the business is not an~~
31 ~~industrial or manufacturing business;]~~ \$500,000; and

32 (2) The average hourly wage that will be paid by the new
33 business to its employees in this state is at least 100 percent of the
34 average statewide hourly wage as established by the Employment
35 Security Division of the Department of Employment, Training and
36 Rehabilitation on July 1 of each fiscal year.

37 3. Except as otherwise provided in NRS 361.0685 and
38 subsection 4, if a partial abatement from the taxes imposed by this
39 chapter is approved by the Commission on Economic Development
40 pursuant to NRS 360.750:

41 (a) The partial abatement must:

42 (1) Be for a duration of at least 1 year but not more than 10
43 years;

44 (2) Not exceed 50 percent of the taxes on personal property
45 payable by a business each year pursuant to this chapter; and



1 (3) Be administered and carried out in the manner set forth in
2 NRS 360.750.

3 (b) The Executive Director of the Commission on Economic
4 Development shall notify the county assessor of the county in which
5 the business is located of the approval of the partial abatement,
6 including, without limitation, the duration and percentage of the
7 partial abatement that the Commission granted. The Executive
8 Director shall, on or before April 15 of each year, advise the county
9 assessor of each county in which a business qualifies for a partial
10 abatement during the current fiscal year as to whether the business is
11 still eligible for the partial abatement in the next succeeding fiscal
12 year.

13 4. If a partial abatement from the taxes imposed by this chapter
14 is approved by the Commission on Economic Development
15 pursuant to NRS 360.750 for a facility for the generation of
16 electricity from renewable energy ~~+~~ *or an energy storage device:*

- 17 (a) The partial abatement must be:
18 (1) For a duration of 10 years;
19 (2) Equal to 50 percent of the taxes on real and personal
20 property payable by the facility each year pursuant to this chapter;
21 and

22 (3) Administered and carried out in the manner set forth in
23 NRS 360.750.

24 (b) The Executive Director of the Commission on Economic
25 Development shall:

- 26 (1) Notify the county assessor of the county in which the
27 facility is located of the approval of the partial abatement; and
28 (2) Advise the county assessor of the county in which the
29 facility is located as to the dates on which the partial abatement will
30 begin and end.

31 5. As used in this section:

32 (a) "Biomass" means any organic matter that is available on a
33 renewable basis, including, without limitation:

- 34 (1) Agricultural crops and agricultural wastes and residues;
35 (2) Wood and wood wastes and residues;
36 (3) Animal wastes;
37 (4) Municipal wastes; and
38 (5) Aquatic plants.

39 (b) *"Energy storage device" means a device for use and
40 storage of electrical energy that alleviates the consumption of
41 fossil fuel and does not produce fossil fuel emissions.*

42 (c) "Facility for the generation of electricity from renewable
43 energy" means a facility for the generation of electricity that:

- 44 (1) Uses renewable energy as its primary source of energy;
45 and



1 (2) Has a generating capacity of at least 10 kilowatts.
2 The term includes all the machinery and equipment that is used
3 in the facility to collect and store the renewable energy and to
4 convert the renewable energy into electricity. The term does not
5 include a facility that is located on residential property.

6 ~~[(e)]~~ (d) "Industrial or manufacturing business" does not
7 include a facility for the generation of electricity from renewable
8 energy.

9 ~~[(d)]~~ (e) "Renewable energy" means:

- 10 (1) Biomass;
- 11 (2) Solar energy; or
- 12 (3) Wind.

13 The term does not include coal, natural gas, oil, propane or any
14 other fossil fuel, or nuclear energy.

15 **Sec. 3.** NRS 364A.170 is hereby amended to read as follows:

16 364A.170 1. A business that qualifies pursuant to the
17 provisions of NRS 360.750 is entitled to an exemption of ~~£~~

18 ~~—(a) Eighty] 50~~ percent of the amount of tax otherwise due
19 pursuant to NRS 364A.140 during the first 4 ~~[quarters of its~~
20 ~~operation;~~

21 ~~—(b) Sixty percent of the amount of tax otherwise due pursuant to~~
22 ~~NRS 364A.140 during the second 4 quarters of its operation;~~

23 ~~—(c) Forty percent of the amount of tax otherwise due pursuant to~~
24 ~~NRS 364A.140 during the third 4 quarters of its operation; and~~

25 ~~—(d) Twenty percent of the amount of tax otherwise due pursuant~~
26 ~~to NRS 364A.140 during the fourth 4 quarters] years~~ of its
27 operation.

28 2. If a partial abatement from the taxes otherwise due pursuant
29 to NRS 364A.140 is approved by the Commission on Economic
30 Development pursuant to NRS 360.750, the partial abatement must
31 be administered and carried out in the manner set forth in
32 NRS 360.750.

33 **Sec. 4.** NRS 374.357 is hereby amended to read as follows:

34 374.357 1. A person who maintains a business or intends to
35 locate a business in this state may, pursuant to NRS 360.750, apply
36 to the Commission on Economic Development for an abatement
37 from the taxes imposed by this chapter on the gross receipts from
38 the sale, and the storage, use or other consumption, of eligible
39 machinery or equipment for use by a business which has been
40 approved for an abatement pursuant to NRS 360.750.

41 2. Except as otherwise provided in subsection 3, if an
42 application for an abatement is approved pursuant to NRS 360.750:

43 (a) The taxpayer is eligible for an abatement from the tax
44 imposed by this chapter for not more than 2 years ~~£~~ *for machinery*
45 *or equipment that is purchased, or for the duration of the lease for*



1 *machinery or equipment that is leased. In the case of machinery*
2 *or equipment that is leased, the lessee is the taxpayer who is*
3 *eligible for an abatement.*

4 (b) The abatement must be administered and carried out in the
5 manner set forth in NRS 360.750.

6 3. If an application for an abatement is approved pursuant to
7 NRS 360.750 for a facility for the generation of electricity from
8 renewable energy ~~or~~ *or an energy storage device:*

9 (a) The taxpayer is eligible for an abatement from the tax
10 imposed by this chapter for 2 years.

11 (b) The abatement must be administered and carried out in the
12 manner set forth in NRS 360.750.

13 4. As used in this section, unless the context otherwise
14 requires:

15 (a) "Biomass" means any organic matter that is available on a
16 renewable basis, including, without limitation:

17 (1) Agricultural crops and agricultural wastes and residues;

18 (2) Wood and wood wastes and residues;

19 (3) Animal wastes;

20 (4) Municipal wastes; and

21 (5) Aquatic plants.

22 (b) "Eligible machinery or equipment" means:

23 (1) If the business that qualifies for the abatement is not a
24 facility for the generation of electricity from renewable energy,
25 machinery or equipment *which is leased or purchased and* for
26 which a deduction is authorized pursuant to 26 U.S.C. § 179. The
27 term does not include:

28 (I) Buildings or the structural components of buildings;

29 (II) Equipment used by a public utility;

30 (III) Equipment used for medical treatment;

31 (IV) Machinery or equipment used in mining; ~~or~~

32 (V) Machinery or equipment used in gaming ~~or~~

33 *(VI) Aircraft.*

34 (2) If the business that qualifies for the abatement is a facility
35 for the generation of electricity from renewable energy, all the
36 machinery and equipment that is used in the facility to collect and
37 store the renewable energy and to convert the renewable energy into
38 electricity.

39 (c) *"Energy storage device" means a device for use and*
40 *storage of electrical energy that alleviates the consumption of*
41 *fossil fuel and does not produce fossil fuel emissions.*

42 (d) "Facility for the generation of electricity from renewable
43 energy" means a facility for the generation of electricity that:

44 (1) Uses renewable energy as its primary source of energy;
45 and



1 (2) Has a generating capacity of at least 10 kilowatts.
2 The term includes all the machinery and equipment that is used
3 in the facility to collect and store the renewable energy and to
4 convert the renewable energy into electricity. The term does not
5 include a facility that is located on residential property.

6 ~~(d)~~ (e) "Fuel cell" means a device or contrivance which,
7 through the chemical process of combining ions of hydrogen and
8 oxygen, produces electricity and water.

9 ~~(e)~~ (f) "Renewable energy" means a source of energy that
10 occurs naturally or is regenerated naturally, including, without
11 limitation:

- 12 (1) Biomass;
- 13 (2) Fuel cells;
- 14 (3) Geothermal energy;
- 15 (4) Solar energy;
- 16 (5) Waterpower; and
- 17 (6) Wind.

18 The term does not include coal, natural gas, oil, propane or any
19 other fossil fuel, or nuclear energy.

20 **Sec. 5.** Section 9 of chapter 335, Statutes of Nevada 2001, at
21 page 1585, is hereby amended to read as follows:

22 Sec. 9. 1. This section and sections 1, 2 and 4 to 8,
23 inclusive, of this act become effective on July 1, 2001.

24 2. Sections 2 and 5 of this act expire by limitation on
25 June 30, ~~2005.~~ 2009.

26 3. Section 3 of this act becomes effective on July 1,
27 ~~2005.~~ 2009.

28 **Sec. 6.** The amendatory provisions of this act apply only to an
29 abatement from taxation for which a person applies on or after
30 July 1, 2003.

31 **Sec. 7.** 1. This act becomes effective on July 1, 2003.

32 2. Sections 2 and 4 of this act expire by limitation on June 30,
33 2009.

