SENATE BILL NO. 537–COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF LEGISLATIVE COMMITTEE TO STUDY THE DISTRIBUTION AMONG LOCAL GOVERNMENTS OF REVENUE FROM STATE AND LOCAL TAXES)

MARCH 22, 1999

Referred to Committee on Taxation

SUMMARY—Revises provisions governing tax abatements for certain businesses. (BDR 32-708)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 taxation; providing in skeleton form for the revision of the provisions governing tax abatements for certain businesses to provide uniformity in the criteria for qualification; 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. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who intends to locate or expand a business in this state may apply to the commission on economic development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 364A or 374 of NRS.

2. The commission on economic development shall approve an application for a partial abatement if the commission makes the following determinations:

(a) The business is consistent with:

(1) The state plan for industrial development and diversification that is developed by the commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the state plan.

(b) The applicant has executed an agreement with the commission which states that the business will, after the date on which a certificate of

eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this state for a period specified by the commission, which must be at least 5 years but not more than 15 years, and will continue to meet the eligibility requirements set forth in this subsection. The agreement must bind the successors in interest of the business for the specified period.

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

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 50,000 or more, the business meets at least two of the following requirements:

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

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

(3) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide industrial hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year and:

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

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

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 50,000, the business meets at least two of the following requirements:

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

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

(3) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide industrial hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year and:

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

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

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

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

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

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

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

(3) The average hourly wage that will be paid by the existing business to its new employees in this state is at least 100 percent of the average statewide industrial hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year and:

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

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

3. Notwithstanding the provisions of subsection 2, the commission on economic development may:

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

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

(c) Add additional requirements that a business must meet to qualify for a partial abatement,

if the commission determines that such action is necessary.

4. Before approving an application for a partial abatement pursuant to this section, the commission on economic development shall hold at least one public hearing in the county, city or town in which the new

business will be located or the existing business will expand. The commission shall, at least 10 days before the hearing, provide notice of the hearing to the governing body of the county, city or town in which the new business will be located or the existing business will expand. The notice must set forth the date, time and location of the hearing.

5. If the commission on economic development approves an application for a partial abatement, the commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The department;

(b) The Nevada tax commission; and

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

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the executive director of the commission on economic development, furnish the executive director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

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

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

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

the business shall repay to the department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada tax commission determines that the business has substantially complied with the requirements of this section. The business is also required to pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

8. A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.611, 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.611, 354.6113 and 354.6115.

9. The commission on economic development:

(a) Shall adopt regulations regarding:

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

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

(b) May adopt such other regulations as the commission on economic development determines to be necessary to carry out the provisions of this section.

10. The Nevada tax commission:

(a) Shall adopt regulations regarding:

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

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

(b) May adopt such other regulations as the Nevada tax commission determines to be necessary to carry out the provisions of this section.

11. An applicant for an abatement who is aggrieved by a final decision of the commission on economic development may petition for judicial review in the manner provided in chapter 233B of NRS.

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

361.0687 1. A person who intends to locate or expand a business in this state may ***, pursuant to section 1 of this act,*** apply to the commission on economic development for a partial abatement from the taxes imposed by this chapter ***.*** ~~[on the personal property of the new or expanded business.~~

~~2. The commission on economic development may approve an application for a partial abatement if the commission makes the following determinations:~~

~~(a) The goals of the business are consistent with the goals of the commission and the community concerning industrial development and diversification.~~

~~(b) The abatement is a significant factor in the decision of the applicant to locate or expand a business in this state or the appropriate affected local government determines that the abatement will be beneficial to the economic development of the community.~~

~~(c) The average hourly wage which will be paid by the new or expanded business to its employees in this state is at least 125 percent of the average statewide industrial hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.~~

~~(d) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees.~~

~~(e) The cost to the business for the benefits the business provides to its employees in this state will meet the minimum requirements for benefits established by the commission pursuant to subsection 8.~~

~~(f) A capital investment for personal property will be made to locate or expand the business in Nevada which is at least:~~

~~(1) If the personal property directly related to the establishment of the business in this state is primarily located in a county whose population:~~

~~(I) Is 100,000 or more, $50,000,000.~~

~~(II) Is less than 100,000, $20,000,000.~~

~~(2) If the personal property directly related to the expansion of the business is primarily located in a county whose population:~~

~~(I) Is 100,000 or more, $10,000,000.~~

~~(II) Is less than 100,000, $4,000,000.~~

~~(g) The business will create at least the following number of new, full-time and permanent jobs in the State of Nevada by the fourth quarter that it is in operation:~~

~~(1) If a new business will be primarily located in a county whose population:~~

~~(I) Is 100,000 or more, 100 jobs.~~

~~(II) Is less than 100,000, 35 jobs.~~

~~(2) If an expanded business will be primarily located in a county whose population:~~

~~(I) Is 100,000 or more, and the business has at least 100 employees in this state, 20 jobs. An expanded business primarily located in such a county that has less than 100 employees is not eligible for a partial abatement pursuant to this section.~~

~~(II) Is less than 100,000, and the business has at least 35 employees in this state, 10 jobs. An expanded business primarily located in such a county that has less than 35 employees is not eligible for a partial abatement pursuant to this section.~~

~~(h) For the expansion of a business primarily located in a county whose population:~~

~~(1) Is 100,000 or more, the book value of the assets of the business in this state is at least $20,000,000.~~

~~(2) Is less than 100,000, the book value of the assets of the business in this state is at least $5,000,000.~~

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

~~(j) The proposed abatement has been approved by the governing body of the appropriate affected local government as determined pursuant to the regulations adopted pursuant to subsection 8. In determining whether to approve a proposed abatement, the governing body shall consider whether~~

~~the taxes to be paid by the business are sufficient to pay for any investment required to be made by the local government for services associated with the relocation or expansion of the business, including, without limitation, costs related to the construction and maintenance of roads, sewer and water services, fire and police protection and the construction and maintenance of schools.~~

~~(k) The applicant has executed an agreement with the commission which states that the business will continue in operation in Nevada for 10 or more years after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5 and will continue to meet the eligibility requirements contained in this subsection. The agreement must bind the successors in interest of the business for the required period.~~

~~3. An applicant shall, upon the request of the executive director of the commission on economic development, furnish him with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.~~

~~4. The percentage of the abatement must be 50 percent of the taxes payable each year.~~

~~5. If an application for a partial abatement is approved, the commission on economic development shall immediately forward a certificate of eligibility for the abatement to:~~

~~(a) The department; and~~

~~(b) The county assessor of each county in which personal property directly related to the establishment or expansion of the business will be located.~~

~~6. Upon receipt by the department of the certificate of eligibility, the taxpayer is eligible for an abatement from the tax imposed by this chapter for 10 years:~~

~~(a) For the expansion of a business, on all personal property of the business that is located in Nevada and directly related to the expansion of the business in this state.~~

~~(b) For a new business, on all personal property of the business that is located in Nevada and directly related to the establishment of the business in this state.~~

~~7. If a business for which an abatement has been approved is not maintained in this state in accordance with the agreement required in subsection 2, for at least 10 years after the commission on economic development approved the abatement, the person who applied for the abatement shall repay to the county treasurer or treasurers who would have received the taxes but for the abatement the total amount of all taxes that were abated pursuant to this section. The person who applied for the abatement shall pay interest on the amount due at the rate of 10 percent per annum for each month, or portion thereof, from the last day of the month~~

~~following the period for which the payment would have been made if the abatement had not been granted until the date of the actual payment of the tax.~~

~~8. A county treasurer:~~

~~(a) Shall deposit any money that he receives pursuant to subsection 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.611, 354.6113 or 354.6115; and~~

~~(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.611, 354.6113 and 354.6115.~~

~~9. The commission on economic development shall adopt regulations necessary to carry out the provisions of this section. The regulations must include, but not be limited to:~~

~~(a) A method for determining the appropriate affected local government to approve a proposed abatement and the procedure for obtaining such approval; and~~

~~(b) Minimum requirements for benefits that a business applying for a partial abatement must offer to its employees to be approved for the partial abatement.~~

~~10. The department shall adopt regulations concerning how county assessors shall administer partial abatements approved pursuant to this section.~~

~~11. An applicant for an abatement who is aggrieved by a final decision of the commission on economic development may petition for judicial review in the manner provided in chapter 233B of NRS.~~**]**

2. For a business to qualify pursuant to section 1 of this act for a partial abatement from the taxes imposed by this chapter, the commission on economic development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 50,000 or more:

(1) The business will make a capital investment in the county of at least $50,000,000 if the business is an industrial or manufacturing business or at least $5,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide industrial hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 50,000:

(1) The business will make a capital investment in the county of at least $5,000,000 if the business is an industrial or manufacturing business or at least $500,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide industrial hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.

3. If a partial abatement from the taxes imposed by this chapter is approved by the commission on economic development pursuant to section 1 of this act:

(a) The partial abatement must:

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

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

(3) Be administered and carried out in the manner set forth in section 1 of this act.

(b) The executive director of the commission on economic development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the commission granted. The executive director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualified for a partial abatement in the immediately preceding fiscal year as to whether the business is still eligible for the partial abatement.

Sec. 3. This act becomes effective upon passage and approval.

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