

SENATE BILL NO. 351—SENATOR O'DONNELL

MARCH 14, 2001

Referred to Committee on Taxation

SUMMARY—Exempts classic aircraft from tax on personal property. (BDR 32-281)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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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; exempting classic aircraft from the tax on personal property; 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 361.068 is hereby amended to read as follows:
2 361.068 1. The following personal property is exempt from taxation:
3 (a) Personal property held for sale by a merchant;
4 (b) Personal property held for sale by a manufacturer;
5 (c) Raw materials and components held by a manufacturer for
6 manufacture into products, and supplies to be consumed in the process of
7 manufacture;
8 (d) Tangible personal property purchased by a business which will be
9 consumed during the operation of the business;
10 (e) Livestock;
11 (f) Colonies of bees;
12 (g) Pipe and other agricultural equipment used to convey water for the
13 irrigation of legal crops;
14 (h) All boats;
15 (i) Slide-in campers and camper shells;
16 (j) Except as otherwise provided in NRS 361.186, fine art for public
17 display; ~~and~~
18 (k) Computers and related equipment donated for use in schools in this
19 state ~~and~~; *and*
20 (l) *Classic aircraft that is on display to the general public in this state*
21 *for at least 12 days in each year for which the exemption is claimed.*
22 2. The Nevada tax commission may exempt from taxation that
23 personal property for which the annual taxes would be less than the cost of
24 collecting those taxes. If such an exemption is provided, the Nevada tax



1 commission shall annually determine the average cost of collecting
2 property taxes in this state which must be used in determining the
3 applicability of the exemption.

4 3. A person claiming the exemption provided for in paragraph (j) of
5 subsection 1 shall:

6 (a) On or before June 15 for the next ensuing fiscal year, file with the
7 county assessor an affidavit declaring that the fine art will, during that
8 ensuing fiscal year, meet all the criteria set forth in paragraph ~~(b)~~ (c) of
9 subsection 5; and

10 (b) During any fiscal year in which he claims the exemption, make
11 available for educational purposes and not for resale, upon written request
12 and without charge to any public school as defined in NRS 385.007,
13 private school as defined in NRS 394.103 and parent of a child who
14 receives instruction in a home pursuant to NRS 392.070, one copy of a
15 poster depicting the fine art that the facility has on public display if such a
16 poster is available for purchase by the public at the time of the request.

17 4. To qualify for the exemption provided in paragraph (k) of
18 subsection 1, a taxpayer must donate the property through a foundation or
19 organization, not for profit, that accepts such property for use in schools in
20 this state. The foundation or organization shall issue a voucher identifying
21 each item of property donated. To obtain the benefit of the exemption, the
22 taxpayer must apply to the county assessor and tender the voucher. The
23 county assessor shall compute the assessed value of the property for the
24 year in which the donation was made using the original cost and the year of
25 acquisition. The county assessor shall allow a credit of that amount against
26 the personal property assessment for the year following the donation.

27 5. As used in this section:

28 (a) "Boat" includes any vessel or other watercraft, other than a seaplane,
29 used or capable of being used as a means of transportation on the water.

30 (b) *"Classic aircraft" means any aircraft that is an original, restored*
31 *or replica of a heavier-than-air-powered aircraft that is at least 35 years*
32 *old or is of a type or model of which there are less than five known to*
33 *exist, that is owned by a person who does not hold the aircraft primarily*
34 *for sale or use the aircraft for commercial purposes or general*
35 *transportation.*

36 (c) "Fine art for public display":

37 (1) Except as otherwise provided in subparagraph (2), means a work
38 of art which:

39 (I) Is an original painting in oil, mineral, water colors, vitreous
40 enamel, pastel or other medium, an original mosaic, drawing or sketch, an
41 original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a
42 similar material, an original work of mixed media or a lithograph;

43 (II) Was purchased in an arm's length transaction for \$25,000 or
44 more, or has an appraised value of \$25,000 or more;

45 (III) Is on public display in a public or private art gallery, museum
46 or other building or area in this state for at least 20 hours per week during
47 at least 35 weeks of each year for which the exemption is claimed or, if the
48 facility displaying the fine art disposes of it before the end of that year,
49 during at least two-thirds of the full weeks during which the facility had



1 possession of it, or if the gallery, museum or other building or area in
2 which the fine art will be displayed will not be opened until after the
3 beginning of the fiscal year for which the exemption is claimed, these
4 display requirements must instead be met for the first full fiscal year after
5 the date of opening, and the date of opening must not be later than 2 years
6 after the purchase of the fine art being displayed; and

7 (IV) Is on display in a facility that is available for group tours by
8 pupils or students for at least 5 hours on at least 60 days of each full year
9 for which the exemption is claimed, during which the facility in which it is
10 displayed is open, by prior appointment and at reasonable times, without
11 charge; and

12 (2) Does not include:

13 (I) A work of fine art that is a fixture or an improvement to real
14 property;

15 (II) A work of fine art that constitutes a copy of an original work of
16 fine art, unless the work is a lithograph that is a limited edition and that is
17 signed and numbered by the artist;

18 (III) Products of filmmaking or photography, including, without
19 limitation, motion pictures;

20 (IV) Literary works;

21 (V) Property used in the performing arts, including, without
22 limitation, scenery or props for a stage; or

23 (VI) Property that was created for a functional use other than, or in
24 addition to, its aesthetic qualities, including, without limitation, a classic or
25 custom-built automobile or boat, a sign that advertises a business, and
26 custom or antique furniture, lamps, chandeliers, jewelry, mirrors, doors or
27 windows.

28 ~~(e)~~ (d) "Personal property held for sale by a merchant" includes
29 property that:

30 (1) Meets the requirements of sub-subparagraphs (I) and (II) of
31 subparagraph (1) of paragraph ~~(b)~~ (c);

32 (2) Is made available for sale within 2 years after it is acquired; and

33 (3) Is made available for viewing by the public or prospective
34 purchasers, or both, within 2 years after it is acquired, whether or not a fee
35 is charged for viewing it and whether or not it is also used for purposes
36 other than viewing.

37 ~~(d)~~ (e) "Public display" means the display of a work of fine art where
38 members of the public have access to the work of fine art for viewing
39 during publicly advertised hours. The term does not include the display of
40 a work of fine art in an area where the public does not generally have
41 access, including, without limitation, a private office, hallway or meeting
42 room of a business, a room of a business used for private lodging and a
43 private residence.

44 ~~(e)~~ (f) "Pupil" means a person who:

45 (1) Is enrolled for the current academic year in a public school as
46 defined in NRS 385.007 or a private school as defined in NRS 394.103; or

47 (2) Receives instruction in a home and is excused from compulsory
48 attendance pursuant to NRS 392.070.



1 ~~(f)~~ (g) "Student" means a person who is enrolled for the current
2 academic year in:
3 (1) A community college or university; or
4 (2) A licensed postsecondary educational institution as defined in
5 NRS 394.099 and a course concerning fine art.
6 **Sec. 2.** NRS 361.068 is hereby amended to read as follows:
7 361.068 1. The following personal property is exempt from taxation:
8 (a) Personal property held for sale by a merchant;
9 (b) Personal property held for sale by a manufacturer;
10 (c) Raw materials and components held by a manufacturer for
11 manufacture into products, and supplies to be consumed in the process of
12 manufacture;
13 (d) Tangible personal property purchased by a business which will be
14 consumed during the operation of the business;
15 (e) Livestock;
16 (f) Colonies of bees;
17 (g) Pipe and other agricultural equipment used to convey water for the
18 irrigation of legal crops;
19 (h) All boats;
20 (i) Slide-in campers and camper shells; ~~and~~
21 (j) Except as otherwise provided in NRS 361.186, fine art for public
22 display ~~and~~; *and*
23 *(k) Classic aircraft that is on display to the general public in this state*
24 *for at least 12 days in each year for which the exemption is claimed.*
25 2. The Nevada tax commission may exempt from taxation that
26 personal property for which the annual taxes would be less than the cost of
27 collecting those taxes. If such an exemption is provided, the Nevada tax
28 commission shall annually determine the average cost of collecting
29 property taxes in this state which must be used in determining the
30 applicability of the exemption.
31 3. A person claiming the exemption provided for in paragraph (j) of
32 subsection 1 shall:
33 (a) On or before June 15 for the next ensuing fiscal year, file with the
34 county assessor an affidavit declaring that the fine art will, during that
35 ensuing fiscal year, meet all the criteria set forth in paragraph ~~(b)~~ (c) of
36 subsection 4; and
37 (b) During any fiscal year in which he claims the exemption, make
38 available for educational purposes and not for resale, upon written request
39 and without charge to any public school as defined in NRS 385.007,
40 private school as defined in NRS 394.103 and parent of a child who
41 receives instruction in a home pursuant to NRS 392.070, one copy of a
42 poster depicting the fine art that the facility has on public display if such a
43 poster is available for purchase by the public at the time of the request.
44 4. As used in this section:
45 (a) "Boat" includes any vessel or other watercraft, other than a seaplane,
46 used or capable of being used as a means of transportation on the water.
47 (b) *"Classic aircraft" means any aircraft that is an original, restored*
48 *or replica of a heavier-than-air-powered aircraft that is at least 35 years*
49 *old or is of a type or model of which there are less than five known to*



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1 *exist, that is owned by a person who does not hold the aircraft primarily*
2 *for sale or use the aircraft for commercial purposes or general*
3 *transportation.*

4 (c) “Fine art for public display”:

5 (1) Except as otherwise provided in subparagraph (2), means a work
6 of art which:

7 (I) Is an original painting in oil, mineral, water colors, vitreous
8 enamel, pastel or other medium, an original mosaic, drawing or sketch, an
9 original sculpture of clay, textiles, fiber, wood, metal, plastic, glass or a
10 similar material, an original work of mixed media or a lithograph;

11 (II) Was purchased in an arm’s length transaction for \$25,000 or
12 more, or has an appraised value of \$25,000 or more;

13 (III) Is on public display in a public or private art gallery, museum
14 or other building or area in this state for at least 20 hours per week during
15 at least 35 weeks of each year for which the exemption is claimed or, if the
16 facility displaying the fine art disposes of it before the end of that year,
17 during at least two-thirds of the full weeks during which the facility had
18 possession of it, or if the gallery, museum or other building or area in
19 which the fine art will be displayed will not be opened until after the
20 beginning of the fiscal year for which the exemption is claimed, these
21 display requirements must be met for the first full fiscal year after the date
22 of opening, and the date of opening must not be later than 2 years after the
23 purchase of the fine art being displayed; and

24 (IV) Is on display in a facility that is available for group tours by
25 pupils or students for at least 5 hours on at least 60 days of each full year
26 for which the exemption is claimed, during which the facility in which it is
27 displayed is open, by prior appointment and at reasonable times, without
28 charge; and

29 (2) Does not include:

30 (I) A work of fine art that is a fixture or an improvement to real
31 property;

32 (II) A work of fine art that constitutes a copy of an original work of
33 fine art, unless the work is a lithograph that is a limited edition and that is
34 signed and numbered by the artist;

35 (III) Products of filmmaking or photography, including, without
36 limitation, motion pictures;

37 (IV) Literary works;

38 (V) Property used in the performing arts, including, without
39 limitation, scenery or props for a stage; or

40 (VI) Property that was created for a functional use other than, or in
41 addition to, its aesthetic qualities, including, without limitation, a classic or
42 custom-built automobile or boat, a sign that advertises a business, and
43 custom or antique furniture, lamps, chandeliers, jewelry, mirrors, doors or
44 windows.

45 ~~(c)~~ (d) “Personal property held for sale by a merchant” includes
46 property that:

47 (1) Meets the requirements of sub-subparagraphs (I) and (II) of
48 subparagraph (1) of paragraph ~~(b)~~ (c);

49 (2) Is made available for sale within 2 years after it is acquired; and



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1 (3) Is made available for viewing by the public or prospective
2 purchasers, or both, within 2 years after it is acquired, whether or not a fee
3 is charged for viewing it and whether or not it is also used for purposes
4 other than viewing.

5 ~~(d)~~ (e) "Public display" means the display of a work of fine art where
6 members of the public have access to the work of fine art for viewing
7 during publicly advertised hours. The term does not include the display of
8 a work of fine art in an area where the public does not generally have
9 access, including, without limitation, a private office, hallway or meeting
10 room of a business, a room of a business used for private lodging and a
11 private residence.

12 ~~(e)~~ (f) "Pupil" means a person who:

13 (1) Is enrolled for the current academic year in a public school as
14 defined in NRS 385.007 or a private school as defined in NRS 394.103; or

15 (2) Receives instruction in a home and is excused from compulsory
16 attendance pursuant to NRS 392.070.

17 ~~(f)~~ (g) "Student" means a person who is enrolled for the current
18 academic year in:

19 (1) A community college or university; or

20 (2) A licensed postsecondary educational institution as defined in
21 NRS 394.099 and a course concerning fine art.

22 **Sec. 3.** NRS 361.186 is hereby amended to read as follows:

23 361.186 1. A taxpayer may collect an admission fee for the
24 exhibition of fine art otherwise exempt from taxation pursuant to NRS
25 361.068 if the taxpayer offers to residents of the State of Nevada a discount
26 of 50 percent from any admission fee charged to nonresidents. The
27 discounted admission fee for residents must be offered at any time the
28 exhibition is open to the public and admission fees are being charged.

29 2. Except as otherwise provided in subsection 5, if a taxpayer collects
30 a fee for the exhibition of fine art otherwise exempt from taxation pursuant
31 to NRS 361.068, the exemption pertaining to that fine art for the fiscal year
32 must be reduced by the net revenue derived by the taxpayer for that fiscal
33 year. The exemption pertaining to fine art for a particular fiscal year must
34 not be reduced below zero, regardless of the amount of the net revenue
35 derived by the taxpayer for that fiscal year.

36 3. A tax resulting from the operation of this section is due with the tax
37 otherwise due under the taxpayer's first statement filed pursuant to NRS
38 361.265 after the 15th day of the fourth month after the end of the fiscal
39 year in which the net revenue was received or, if no such statement is
40 required to be filed, under a statement of the net revenue filed on or before
41 the last day of the fourth month after the end of that fiscal year.

42 4. A taxpayer who is required to pay a tax resulting from the operation
43 of this section may receive a credit against the tax for any donations made
44 by the taxpayer to the state arts council, the division of museums and
45 history dedicated trust fund established pursuant to NRS 381.0031, a
46 museum that provides exhibits specifically related to nature or a museum
47 that provides exhibits specifically related to children, if the taxpayer:

48 (a) Made the donation before the date that either statement required
49 pursuant to subsection 3 is due; and



1 (b) Provides to the county assessor documentation of the donation at the
2 time that he files the statement required pursuant to subsection 3.
3 5. If a taxpayer qualifies for and avails himself of both of the
4 exemptions from taxation provided by NRS 361.068 and 374.291, the
5 reduction of the exemptions by the net revenue derived by the taxpayer, as
6 required pursuant to subsection 2 of this section and subsection 2 of NRS
7 374.2911, must be carried out in such a manner that the total net revenue
8 derived by the taxpayer is first applied to reduce the exemption provided
9 pursuant to NRS 374.291. If the net revenue exceeds the amount of the
10 exemption provided pursuant to NRS 374.291, the remaining net revenue
11 must be applied to reduce the exemption provided pursuant to NRS
12 361.068. If the net revenue is less than or equal to the exemption provided
13 pursuant to NRS 374.291 for that fiscal year, the exemption provided
14 pursuant to NRS 361.068 must not be reduced.
15 6. For the purposes of this section:
16 (a) "Direct costs of owning and exhibiting the fine art" does not include
17 any allocation of the general and administrative expense of a business or
18 organization that conducts activities in addition to the operation of the
19 facility in which the fine art is displayed, including, without limitation, an
20 allocation of the salary and benefits of a senior executive who is
21 responsible for the oversight of the facility in which the fine art is
22 displayed and who has substantial responsibilities related to the other
23 activities of the business or organization.
24 (b) "Net revenue" means the amount of the fees collected for exhibiting
25 the fine art during that fiscal year less the following paid or made during
26 that fiscal year:
27 (1) The direct costs of owning and exhibiting the fine art; and
28 (2) The cost of educational programs associated with the taxpayer's
29 public display of fine art, including the cost of meeting the requirements of
30 sub-subparagraph (IV) of subparagraph (1) of paragraph ~~(b)~~ (c) of
31 subsection 5 of NRS 361.068.
32 **Sec. 4.** 1. This section and sections 1 and 3 of this act become
33 effective on July 1, 2001.
34 2. Section 1 of this act expires by limitation on July 1, 2003.
35 3. Section 2 of this act becomes effective at 12:02 a.m. on July 1,
36 2003.

