

SENATE BILL NO. 339—SENATOR AMODEI

MARCH 24, 2005

Referred to Committee on Taxation

SUMMARY—Makes various changes concerning partial abatement of certain taxes for new or expanded businesses. (BDR 32-845)

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 taxation; revising the provisions concerning the average hourly wage that must be paid by a new or expanded business seeking a partial abatement of certain taxes; prohibiting the Commission on Economic Development from considering an application for an abatement without requesting a letter of acknowledgment of the request for the abatement from certain affected local governments; 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 363B 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:



1 (1) The State Plan for Industrial Development and
2 Diversification that is developed by the Commission pursuant to
3 NRS 231.067; and

4 (2) Any guidelines adopted pursuant to the State Plan.

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

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

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

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

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

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

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

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

38 (e) Except as otherwise provided in NRS 361.0687, if the
39 business is a new business in a county whose population is less than
40 100,000 or a city whose population is less than 60,000, the business
41 meets at least two of the following requirements:

42 (1) The business will have 15 or more full-time employees
43 on the payroll of the business by the fourth quarter that it is in
44 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 hourly wage *or the average countywide hourly wage, whichever is less*, 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 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 hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year~~ *the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable*, and:

(I) The business will provide 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.



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

(1) The business will have 10 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 \$500,000 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 hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year]~~ *the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable*, and:

(I) The business will provide 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 with minimum requirements 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]:~~

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

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

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

~~[(e)]~~ *(3) Add additional requirements that a business must meet to qualify for a partial abatement .* ~~[(~~

~~→ if the Commission determines that such action is necessary.)]~~

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county , *the board*



1 *of trustees of the school district* and the *governing body of the* city
2 or town, if any, in which the person intends to locate or expand a
3 business. The notice required pursuant to this subsection must set
4 forth the date, time and location of the hearing at which the
5 Commission will consider the application.

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

9 (a) The Department;

10 (b) The Nevada Tax Commission; and

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

13 6. An applicant for a partial abatement pursuant to this section
14 or an existing business whose partial abatement is in effect shall,
15 upon the request of the Executive Director of the Commission on
16 Economic Development, furnish the Executive Director with copies
17 of all records necessary to verify that the applicant meets the
18 requirements of subsection 2.

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

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

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

24 ➤ the business shall repay to the Department or, if the partial
25 abatement was from the property tax imposed pursuant to chapter
26 361 of NRS, to the county treasurer, the amount of the exemption
27 that was allowed pursuant to this section before the failure of the
28 business to comply unless the Nevada Tax Commission determines
29 that the business has substantially complied with the requirements of
30 this section. Except as otherwise provided in NRS 360.232 and
31 360.320, the business shall, in addition to the amount of the
32 exemption required to be paid pursuant to this subsection, pay
33 interest on the amount due at the rate most recently established
34 pursuant to NRS 99.040 for each month, or portion thereof, from the
35 last day of the month following the period for which the payment
36 would have been made had the partial abatement not been approved
37 until the date of payment of the tax.

38 8. A county treasurer:

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

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

45 9. The Commission on Economic Development:



(a) Shall adopt regulations relating to:

(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), (e) or (g) 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 NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 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 100,000 or more or a city whose population is 60,000 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 \$2,000,000 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 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 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$500,000; 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 hourly wage *or the average countywide hourly wage, whichever is less*, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

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

(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 on personal property payable by a business each year pursuant to this chapter; and

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

(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 qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

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

(a) The partial abatement must be:

(1) For a duration of 10 years;

(2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year pursuant to this chapter; and

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



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

(1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and

(2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.

5. As used in this section:

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

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) Municipal wastes; and

(5) Aquatic plants.

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

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

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

(2) Has a generating capacity of at least 10 kilowatts.

➔ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.

(d) "Industrial or manufacturing business" does not include a facility for the generation of electricity from renewable energy.

(e) "Renewable energy" means:

(1) Biomass;

(2) Solar energy; or

(3) Wind.

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

Sec. 3. 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 NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 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 100,000 or more or a city whose population is 60,000 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 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 100,000 or a city whose population is less than 60,000:

(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 hourly wage *or the average countywide hourly wage, whichever is less*, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

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

(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 on personal property payable by a business each year pursuant to this chapter; and

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

(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 qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.



- 1 **Sec. 4.** 1. This section and sections 1 and 2 of this act
2 become effective on July 1, 2005.
3 2. Section 2 of this act expires by limitation on June 30, 2009.
4 3. Section 3 of this act becomes effective on July 1, 2009.



