

SENATE BILL NO. 339—SENATOR AMODEI

MARCH 24, 2005

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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.

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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; requiring the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to determine the average hourly wage for nonmanagerial employees and report to the Legislature concerning the average hourly wage required to be paid to be eligible for the partial abatement of certain taxes; 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.



1       2. The Commission on Economic Development shall approve  
2 an application for a partial abatement if the Commission makes the  
3 following determinations:

4       (a) The business is consistent with:

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

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

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

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

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

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

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

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

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

38               (II) The cost to the business for the benefits the business  
39 provides to its employees in this State will meet the minimum  
40 requirements for benefits established by the Commission by  
41 regulation pursuant to subsection 9.

42       (e) Except as otherwise provided in NRS 361.0687, if the  
43 business is a new business in a county whose population is less than  
44 100,000 or a city whose population is less than 60,000, the business  
45 meets at least two of the following requirements:



(1) The business will have 15 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 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:*

*(I) 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*



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

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

4 4. If a person submits an application to the Commission on  
5 Economic Development pursuant to subsection 1, the Commission  
6 shall provide notice to the governing body of the county , *the board*  
7 *of trustees of the school district* and the *governing body of the* city  
8 or town, if any, in which the person intends to locate or expand a  
9 business. The notice required pursuant to this subsection must set  
10 forth the date, time and location of the hearing at which the  
11 Commission will consider the application.

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

15 (a) The Department;

16 (b) The Nevada Tax Commission; and

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

19 6. An applicant for a partial abatement pursuant to this section  
20 or an existing business whose partial abatement is in effect shall,  
21 upon the request of the Executive Director of the Commission on  
22 Economic Development, furnish the Executive Director with copies  
23 of all records necessary to verify that the applicant meets the  
24 requirements of subsection 2.

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

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

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

30 → the business shall repay to the Department or, if the partial  
31 abatement was from the property tax imposed pursuant to chapter  
32 361 of NRS, to the county treasurer, the amount of the exemption  
33 that was allowed pursuant to this section before the failure of the  
34 business to comply unless the Nevada Tax Commission determines  
35 that the business has substantially complied with the requirements of  
36 this section. Except as otherwise provided in NRS 360.232 and  
37 360.320, the business shall, in addition to the amount of the  
38 exemption required to be paid pursuant to this subsection, pay  
39 interest on the amount due at the rate most recently established  
40 pursuant to NRS 99.040 for each month, or portion thereof, from the  
41 last day of the month following the period for which the payment  
42 would have been made had the partial abatement not been approved  
43 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 354.6113 or 354.6115; and

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

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



1 electricity from renewable energy or a facility for the production of  
2 an energy storage device:

3 (a) The partial abatement must be:

4 (1) For a duration of 10 years;

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

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

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

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

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

17 5. As used in this section:

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

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

21 (2) Wood and wood wastes and residues;

22 (3) Animal wastes;

23 (4) Municipal wastes; and

24 (5) Aquatic plants.

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

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

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

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

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

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

39 (e) "Renewable energy" means:

40 (1) Biomass;

41 (2) Solar energy; or

42 (3) Wind.

43 ➡ The term does not include coal, natural gas, oil, propane or any  
44 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.



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

11 **Sec. 4.** 1. In addition to the determinations made pursuant to  
12 NRS 612.340, the Administrator of the Employment Security  
13 Division of the Department of Employment, Training and  
14 Rehabilitation shall, on or before January 1, 2007, determine the  
15 average hourly wage in the State and in each county for  
16 nonmanagerial employees.

17 2. The Administrator of the Employment Security Division of  
18 the Department of Employment, Training and Rehabilitation shall  
19 establish a method to determine the average hourly wage in the State  
20 and in each county which segregates wages for nonmanagerial  
21 employees from wages for managerial and administrative  
22 employees. The Administrator shall identify and define the various  
23 types of managerial and administrative positions to allow the  
24 computation of a wage that represents the average hourly wage paid  
25 to nonmanagerial employees.

26 3. The Administrator of the Employment Security Division of  
27 the Department of Employment, Training and Rehabilitation shall  
28 report to the 74th Session of the Legislature the information  
29 determined pursuant to subsections 1 and 2 and recommendations  
30 concerning changes in the average hourly wage required to be paid  
31 to managerial and nonmanagerial employees to be eligible for the  
32 partial abatement of taxes pursuant to NRS 360.750 and 361.0687.

33 **Sec. 5.** 1. This section and sections 1, 2 and 4 of this act  
34 become effective on July 1, 2005.

35 2. Section 2 of this act expires by limitation on June 30, 2009.

36 3. Section 3 of this act becomes effective on July 1, 2009.





