

Amendment No. 436

Senate Amendment to Senate Bill No. 321

(BDR 18-1182)

Proposed by: Senate Committee on Taxation**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

SJC/BJE



Date: 4/21/2007

S.B. No. 321—Provides certain economic incentives for registered motion picture companies. (BDR 18-1182)



SENATE BILL NO. 321—SENATOR COFFIN

MARCH 19, 2007

Referred to Committee on Taxation

SUMMARY—Provides certain economic incentives for ~~registered~~ **certain** motion picture companies. (BDR 18-1182)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 economic development; providing that certain fees relating to the operation of motor vehicles do not apply to ~~a registered~~ **certain** motion picture ~~company; clarifying that certain sales to a registered motion picture company are not taxable;~~ **companies; providing an abatement from certain sales and use taxes for certain motion picture companies;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a motion picture company to register with the Division of Motion Pictures of the Commission on Economic Development before engaging in the production of a motion picture in this State ~~[(NRS 231.128) Section 1 of this bill requires the issuance of a letter of registration to a motion picture company that complies with the requirements for registration] and exempts entities that produce motion pictures from the requirement to obtain a state business license and various requirements applicable to foreign corporations, foreign limited-liability companies and foreign limited partnerships. (NRS 80.015, 86.5483, 88.602, 231.128, 360.765) Sections 2, 3 and 5-9 of this bill revise the description of those entities to which these existing laws apply.~~

Existing law requires a person who uses certain special fuels for the propulsion of motor vehicles in this State to obtain a license or temporary permit, and provides for the collection of fees for that purpose. (NRS 366.220, 366.223) ~~Sections [2 and 3]~~ **Sections 4, 10 and 11** of this bill exempt **certain** registered motion picture companies **who agree to employ Nevada residents** from the payment of those fees.

~~Existing law provides for the administration of the sales and use taxes imposed in this State by the Department of Taxation. (Chapters 372 and 374 of NRS) Sections 4 and 5 of this bill prohibit the Department from considering as taxable the sale of property to or the use of property by a registered motion picture company.]~~

Existing law creates the Local School Support Tax Law. (Chapter 374 of NRS) Any amendment to the Local School Support Tax Law is also applicable to other sales and use taxes imposed under existing law. (NRS 354.705, 374A.020, 376A.060, 377.040, 377A.030, 377B.110 and 543.600, and various special and local acts) Sections 4 and 12 of this bill provide for an abatement of these taxes for certain registered motion picture companies who agree to employ Nevada residents.

Existing law authorizes the Board of Directors of the Department of Transportation to allow the movement of oversize or overweight vehicles on the public highways of this State

pursuant to permits issued by the Department, and to establish reasonable fees for those permits. (NRS 484.743) Existing law requires the imposition of an additional fee for the issuance of a continuous permit for the movement of such a vehicle to cover the expenses of conducting an initial investigation of the highways involved. (NRS 484.765) ~~Sections 4 and 14~~ **4, 13 and 14** of this bill exempt **certain** registered motion picture companies **who agree to employ Nevada residents** from the payment of those fees.

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

Delete existing sections 1 through 8 of this bill and replace with the following new sections 1 through 15:

Section 1. Chapter 231 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. "Motion picture" means any feature film, short film, documentary, movie made for television, television program, television series, television pilot, television special or other similar video, digital or electronic production that is:

1. Made, in whole or in part, in this State for commercial purposes; and
2. Intended to be distributed:
 - (a) In movie theaters;
 - (b) Over a broadcast, cable, digital or electronic television network;
 - (c) On videotape, videodisc or other video, digital or electronic medium; or
 - (d) Over the Internet.

Sec. 3. "Motion picture company" means any business or organization that creates or produces a motion picture.

Sec. 4. The Division of Motion Pictures shall:

1. Certify a motion picture company as eligible for the exemptions from fees and abatement of taxes provided pursuant to NRS 366.220, 366.223, 484.743 and 484.765 and section 12 of this act, if the motion picture company:

- (a) Is registered pursuant to NRS 231.128; and
- (b) Submits an application for that certification to the Division which:
 - (1) Contains a provision pursuant to which the motion picture company agrees to ensure that at least 30 percent of the persons employed full time by or under contract with the motion picture company at each of its production sites for a motion picture in this State are residents of this State; and
 - (2) Is signed by a person who is authorized to enter into an agreement on behalf of the motion picture company;

2. Issue a certificate of eligibility to each motion picture company the Division certifies pursuant to this section; and

3. Forward to the Department of Taxation a copy of each certificate of eligibility the Division issues pursuant to this section.

Sec. 5. NRS 231.020 is hereby amended to read as follows:

231.020 As used in NRS 231.020 to 231.139, inclusive, and sections 2, 3 and 4 of this act, unless the context otherwise requires, ~~["motion pictures" includes feature films, movies made for broadcast on television and programs made for broadcast on television in episodes.]~~ the words and terms defined in sections 2 and 3 of this act have the meanings ascribed to them in those sections.

Sec. 6. NRS 80.015 is hereby amended to read as follows:

80.015 1. For the purposes of this chapter, the following activities do not constitute doing business in this State:

- (a) Maintaining, defending or settling any proceeding;
 - (b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;
 - (c) Maintaining accounts in banks or credit unions;
 - (d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;
 - (e) Making sales through independent contractors;
 - (f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside of this State and filling them by shipping goods into this State;
 - (g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;
 - (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
 - (i) Owning, without more, real or personal property;
 - (j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;
 - (k) The production of motion pictures as defined in ~~NRS 231.020,~~ **section 2 of this act;**
 - (l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and
 - (m) Transacting business in interstate commerce.
2. The list of activities in subsection 1 is not exhaustive.
3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS or title 55 or 56 of NRS unless he:
- (a) Maintains an office in this State for the transaction of business; or
 - (b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.
4. The fact that a person is not doing business in this State within the meaning of this section:
- (a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and
 - (b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.
5. As used in this section and for the purposes of NRS 80.016, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.
- Sec. 7. NRS 86.5483 is hereby amended to read as follows:**
- 86.5483 1. For the purposes of NRS 86.543 to 86.549, inclusive, the following activities do not constitute transacting business in this State:
- (a) Maintaining, defending or settling any proceeding;
 - (b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;
 - (c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in ~~NRS 231.020;~~ section 2 of this act;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A, 645B or 645E of NRS unless he:

(a) Maintains an office in this State for the transaction of business; or

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 8. NRS 88.602 is hereby amended to read as follows:

88.602 1. For the purposes of NRS 88.570 to 88.605, inclusive, the following activities do not constitute transacting business in this State:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;

(c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in ~~NRS 231.020,~~ section 2 of this act;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A, 645B or 645E of NRS unless he:

(a) Maintains an office in this State for the transaction of business; or

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 9. NRS 360.765 is hereby amended to read as follows:

360.765 1. Except as otherwise provided in subsection 2, "business" means:

(a) Any person, except a natural person, that performs a service or engages in a trade for profit; or

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as

computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in ~~NRS 231.020~~ section 2 of this act.

Sec. 10. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter, it is unlawful for any:

(a) Special fuel supplier, special fuel dealer or special fuel user to sell or use special fuel within this State unless the special fuel supplier, special fuel dealer or special fuel user is the holder of a special fuel supplier's, special fuel dealer's or special fuel user's license issued to him by the Department.

(b) Person to be a:

(1) Special fuel exporter unless the person is the holder of a special fuel exporter's license issued to him by the Department.

(2) Special fuel transporter unless the person is the holder of a special fuel transporter's license issued to him by the Department.

(c) Retailer or other person to sell or distribute dyed special fuel unless the retailer or person controls the access to the dyed special fuel.

2. ~~The~~ Except as otherwise provided in subsection 3, the Department may adopt regulations relating to the issuance of any special fuel supplier's, special fuel dealer's, special fuel exporter's, special fuel transporter's or special fuel user's license and the collection of fees therefor.

3. A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of any fees for a special fuel user's license. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate of eligibility of the motion picture company to the Department when applying for the special fuel user's license.

Sec. 11. NRS 366.223 is hereby amended to read as follows:

366.223 1. A special fuel user may, in lieu of causing a motor vehicle that has a declared gross weight in excess of 26,000 pounds to be licensed pursuant to the provisions of NRS 366.220, obtain a temporary permit for special fuel from a vendor authorized to issue permits pursuant to NRS 481.051 before entering the State or immediately upon entering the State. ~~The~~ Except as otherwise provided in subsection 2, the fee for a temporary permit for special fuel is \$30 and is not refundable.

2. A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of the \$30 fee imposed pursuant to subsection 1 for any motor vehicle used in the making of the motion picture. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate of eligibility of the motion picture company to the vendor issuing the temporary permit for special fuel.

3. Except as otherwise provided in subsection ~~4~~ 4, a temporary permit for special fuel authorizes the operation of such a motor vehicle over the highways of this State from point of entry to point of exit for not more than 24 consecutive hours.

~~4.3~~ 4. The Department may issue to the owner or operator of a common motor carrier of passengers a temporary permit for special fuel that authorizes the operation of the motor carrier for not more than 120 consecutive hours.

~~4.4~~ 5. The Department may adopt regulations relating to the issuance of a temporary permit for special fuel pursuant to this section.

Sec. 12. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is entitled to an abatement of the taxes imposed pursuant to this chapter on the gross receipts from the sale, and the storage, use or other consumption, of tangible personal property for use by that motion picture company. If the motion picture company or a person affiliated with the motion picture company wishes to claim the abatement, the motion picture company or person claiming the abatement:

1. May, as evidence of its eligibility for the abatement, give a copy of the certificate of eligibility of the motion picture company to a retailer who sells tangible personal property to the motion picture company; and

2. Shall submit to the Department:

(a) An itemized report of each purchase for which the abatement is claimed, which must include a copy of a receipt for each such purchase; and

(b) A remittance of any unpaid taxes due on each such purchase pursuant to chapter 372 of NRS.

Sec. 13. NRS 484.743 is hereby amended to read as follows:

484.743 1. The Board of Directors of the Department of Transportation may by resolution authorize the movement of vehicles upon the public highways, including without limitation motor vehicles, tractors, trailers, semitrailers, and combinations thereof, of a size and weight in excess of the limits prescribed by this chapter, to such extent as may be authorized by any legislation enacted by the Congress of the United States permitting such increases without forfeiture of this State's eligibility for federal aid in highway construction and maintenance.

~~2. The~~ Except as otherwise provided in subsection 3, the Board of Directors of the Department of Transportation may by resolution establish a reasonable fee or fees to be charged by the Department for the issuance of permits authorizing the operation of oversize or overweight vehicles as provided in this chapter. The fee or fees so established must be in an amount set so that the aggregate amounts received from the fee or fees do not exceed the estimated costs of administering the permit system.

3. A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of any fees for the issuance of a permit authorizing the operation of an oversize or overweight vehicle used in the making of the motion picture. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate of eligibility of the motion picture company to the Department when applying for the permit.

Sec. 14. NRS 484.765 is hereby amended to read as follows:

484.765 1. No vehicle operated or moved upon any public highway under the authority of a continuous or multiple trip-limited time permit may exceed a maximum weight of 20,000 pounds on any single axle. ~~Before~~ Except as otherwise provided in subsection 3, before any continuous permit is issued, the applicant shall pay a reasonable fee to be determined by the Department of

1 Transportation or the governing body of any city or county to pay the costs and
2 expenses of conducting an initial investigation of the highway or highways
3 involved.

4 2. If, after issuance of a continuous or multiple trip-limited time permit by the
5 Department of Transportation or the governing body of any city or county, the
6 Department or governing body finds that the traffic authorized by such continuous
7 or multiple trip-limited time permit has caused substantial highway distress, the
8 permit may be revoked summarily, but the revocation does not operate to prevent a
9 subsequent filing of a new application for another continuous or multiple trip-
10 limited time permit.

11 3. A motion picture company that holds a certificate of eligibility issued
12 pursuant to section 4 of this act and is engaged in the making of a motion picture
13 is exempt from the imposition of any fees established pursuant to subsection 1 for
14 any vehicle used in the making of the motion picture. If the motion picture
15 company or a person affiliated with the motion picture company wishes to claim
16 the exemption from the fee, the motion picture company or person claiming the
17 exemption must give a copy of the certificate of eligibility of the motion picture
18 company to the Department when applying for the continuous permit.

19 **Sec. 15. This act becomes effective on July 1, 2007.**