

ASSEMBLY BILL NO. 414—ASSEMBLYWOMAN NEAL

MARCH 21, 2011

Referred to Committee on Taxation

SUMMARY—Requires a contribution to higher education for technology commercialization by businesses which are granted certain tax abatements. (BDR 34-771)

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 higher education; establishing the Nevada System of Higher Education Science Technology and Research Fund; requiring the Board of Regents of the University of Nevada to use money in the Fund for certain purposes related to technology transfer and commercialization; requiring businesses which receive a partial abatement of certain taxes for locating or expanding in this State to contribute a certain percentage of the abatement to the Fund; requiring the Commission on Economic Development to assist faculty, researchers and students at institutions of higher education in this State with the commercialization of research and innovations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commission on Economic Development to grant to businesses intending to locate or expand in this State a partial abatement of property taxes, business taxes and local sales and use taxes. (NRS 360.750, 361.0687, 363B.120, 374.357) **Section 6** of this bill creates the Nevada System of Higher Education Science Technology and Research Trust Fund and **section 13** of this bill requires a business receiving this partial abatement to pay annually to the Trust Fund an amount equal to 3 percent of the dollar amount by which the abatement reduced the property tax and sales tax owed by the business. Under **sections 7-9** of this bill, the Board of Regents of the University of Nevada must use money in the Trust Fund to: (1) establish a program to enhance and support the efforts of existing technology transfer offices at the University of Nevada, Las Vegas, the University of Nevada, Reno and the Desert Research Institute and to



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13 assist in the commercialization of research and technology developed by faculty,
14 researchers and students at institutions of higher education in this State; and (2)
15 make allocations of money to the University of Nevada, Las Vegas, the University
16 of Nevada, Reno and the Desert Research Institute for the recruitment and hiring of
17 research teams to conduct research in science and technology at these institutions,
18 to provide funding for research laboratories and facilities and to create a research
19 center to enhance innovation by faculty, researchers and students in
20 pharmaceuticals, medical devices and chemistry. **Section 10** of this bill provides a
21 formula by which revenues obtained from the commercialization of research and
22 technology pursuant to these programs is distributed among the universities, the
23 Desert Research Institute and the Trust Fund created by **section 6**. **Section 11** of
24 this bill requires the Commission on Economic Development to provide assistance
25 to faculty, researchers and students at institutions of higher education in this State
26 for the commercialization of research and innovations.

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

1 **Section 1.** Chapter 396 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 10, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 10, inclusive, of this act, the*
5 *words and terms defined in sections 3, 4 and 5 of this act have the*
6 *meanings ascribed to them in those sections.*

7 **Sec. 3.** *“Commercialization revenues” means dividends,*
8 *realized capital gains, license fees, royalty fees and other revenues*
9 *received by a university as a result of commercial applications*
10 *developed through the programs established pursuant to sections 2*
11 *to 10, inclusive, of this act, less:*

12 1. *The portion of those revenues allocated to the inventor;*
13 *and*

14 2. *Expenditures incurred by the university to legally protect*
15 *the intellectual property.*

16 **Sec. 4.** *“Research universities” means the University of*
17 *Nevada, Las Vegas, and the University of Nevada, Reno.*

18 **Sec. 5.** *“Trust Fund” means the Nevada System of Higher*
19 *Education Science Technology and Research Trust Fund created*
20 *pursuant to section 6 of this act.*

21 **Sec. 6.** 1. *The Nevada System of Higher Education Science*
22 *Technology and Research Trust Fund is hereby created in the*
23 *State Treasury.*

24 2. *The Trust Fund is a continuing fund without reversion.*
25 *The money in the Trust Fund must be invested as the money in*
26 *other state funds is invested. The interest and income earned on*
27 *the money in the Trust Fund, after deducting any applicable*
28 *charges, must be credited to the Trust Fund. Claims against the*



1 *Trust Fund must be paid as other claims against the State are*
2 *paid.*

3 3. *Any gifts, grants and donations received for the Trust*
4 *Fund by the Board of Regents from any source must be deposited*
5 *in the Trust Fund.*

6 4. *Money in the Trust Fund must be used for the purposes set*
7 *forth in sections 2 to 10, inclusive, of this act.*

8 **Sec. 7.** 1. *The Board of Regents shall:*

9 (a) *Ensure that money in the Trust Fund is used by the*
10 *research universities and the Desert Research Institute for the*
11 *purposes set forth in sections 2 to 10, inclusive, of this act.*

12 (b) *Allocate money in the Trust Fund to the research*
13 *universities and the Desert Research Institute for the funding of*
14 *research teams in accordance with the provisions of section 9 of*
15 *this act and for the commercialization of new research and*
16 *technology developed at the research universities and the Desert*
17 *Research Institute; and*

18 (c) *Verify that the activities conducted using money from the*
19 *Trust Fund are being enhanced by research grants.*

20 2. *The Board of Regents may:*

21 (a) *Apply for and receive grants, gifts and donations to the*
22 *Trust Fund from public and private sources, including, without*
23 *limitation, the Federal Government, to carry out the objectives of*
24 *the programs established pursuant to sections 2 to 10, inclusive, of*
25 *this act; and*

26 (b) *Enter into any agreements necessary to obtain private*
27 *equity investment in the programs established pursuant to sections*
28 *2 to 10, inclusive, of this act.*

29 **Sec. 8.** 1. *The Board of Regents shall use money in the*
30 *Trust Fund to establish a technology outreach program.*

31 2. *The Board of Regents shall ensure that the technology*
32 *outreach program acts as a resource to:*

33 (a) *Enhance and support the efforts of existing technology*
34 *transfer programs at the research universities and the Desert*
35 *Research Institute;*

36 (b) *Broker ideas, new technologies and services to*
37 *entrepreneurs and businesses throughout a defined service area;*

38 (c) *Engage local entrepreneurs and students, faculty and staff*
39 *at state colleges and community colleges by connecting them to the*
40 *research universities and the Desert Research Institute;*

41 (d) *Connect market ideas and technologies in new or existing*
42 *businesses or industries or in state colleges, community colleges*
43 *with the expertise of the research universities and the Desert*
44 *Research Institute;*



(e) Assist the research universities, the state colleges, the community colleges and the Desert Research Institute in developing commercial applications for their research; and

(f) Disseminate and share discoveries and technologies emanating from the research universities and the Desert Research Institute to local entrepreneurs, businesses, state colleges and community colleges.

3. In designing and operating the technology outreach program, the Board of Regents shall work cooperatively with the technology transfer offices at the research universities and the Desert Research Institute.

Sec. 9. In addition to establishing a technology outreach program pursuant to section 8 of this act, the Board of Regents shall allocate money in the Trust Fund to the research universities and the Desert Research Institute to provide funding for:

1. The recruitment and hiring of research teams to conduct science and technology research which the Board of Regents determines has the potential to contribute to the economic development of this State;

2. Research laboratories and related equipment located or to be located in this State;

3. The establishment of a research center which enhances research and innovation in pharmaceuticals, medical devices and chemistry by students, researchers and faculty at the research universities and the Desert Research Institute; and

4. The construction of research clinics, institutes and facilities and related buildings located or to be located in this State.

Sec. 10. In consideration of the money and services provided or agreed to be provided, the State of Nevada, the research universities and the Desert Research Institute covenant and agree that they will allocate commercialization revenues as follows:

1. For the first \$15,000,000 received:

(a) \$10,000,000 to the research universities and the Desert Research Institute, with the money distributed proportionately based upon which entity conducted the research that generated the commercialization revenues; and

(b) \$5,000,000 to the Trust Fund; and

2. For all subsequent money received:

(a) Fifty percent to the research universities and the Desert Research Institute, with the money distributed proportionately based upon which entity conducted the research and generated the commercialization revenues; and

(b) Fifty percent to the Trust Fund to be used for the purposes set forth in sections 2 to 10, inclusive, of this act.



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Sec. 11. NRS 231.067 is hereby amended to read as follows:
231.067 The Commission on Economic Development shall:

1. Develop a State Plan for Industrial Development and Diversification.

2. Except as otherwise provided in this subsection, promote, encourage and aid the development of commercial, industrial, agricultural, mining and other vital economic interests of this State, except for travel and tourism. In a county whose population is less than 50,000, the county may include community development and the development of the nongaming recreation and tourism industry in its economic development efforts.

3. Identify sources of financing to assist businesses and industries which wish to locate or expand in Nevada.

4. Provide and administer grants of money to political subdivisions of the State and to local or regional organizations for economic development to assist them in promoting the advantages of their communities, in expanding and retaining businesses in those communities and in recruiting businesses to those communities. Each recipient must provide an amount of money, at least equal to the grant, for the same purpose, except in a county whose population is less than 50,000, the Commission may, if convinced that the recipient is financially unable to do so, provide such a grant with less than equal matching money provided by the recipient.

5. Encourage and assist state, county and city agencies in planning and preparing projects for community, economic and industrial development and financing those projects with revenue bonds or community development block grants.

6. Except as otherwise provided in this subsection, coordinate and assist the activities of counties, cities, local and regional organizations for economic development in the State which affect economic and industrial development, except for travel and tourism. In a county whose population is less than 50,000, the county may include community development and the development of the nongaming recreation and tourism industry in its economic development efforts.

7. Arrange by cooperative agreements with local governments to serve as the single agency in the State where relocating or expanding businesses may obtain all required permits.

8. Promote close cooperation between public agencies and private persons who have an interest in industrial development and diversification in Nevada.

9. Organize and coordinate the activities of a group of volunteers which will aggressively select and recruit businesses and industries, especially small industries, to locate their offices and facilities in Nevada.



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10. *Provide assistance to faculty, researchers and students at institutions of higher education in this State for the commercialization of research and innovations.*

11. As used in this section, "community development block grant" means a grant administered or made available by the United States Department of Housing and Urban Development pursuant to 24 C.F.R. Part 570.

Sec. 12. NRS 360.225 is hereby amended to read as follows:

360.225 1. During the course of an investigation undertaken pursuant to NRS 360.130 of a person claiming:

(a) A partial abatement of property taxes pursuant to NRS 361.0687;

(b) An exemption from taxes pursuant to NRS 363B.120;

(c) A deferral of the payment of taxes on the sale of capital goods pursuant to NRS 372.397 or 374.402; or

(d) An abatement of taxes on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment pursuant to NRS 374.357,

the Department shall investigate whether the person meets the eligibility requirements for the abatement, partial abatement, exemption or deferral that the person is claiming.

2. If the Department finds that the person does not meet the eligibility requirements for the abatement, exemption or deferral which the person is claiming ~~§~~ *and the requirements of subsection 6 of NRS 360.750*, the Department shall report its findings to the Commission on Economic Development and take any other necessary actions.

Sec. 13. NRS 360.750 is hereby amended to read as follows:

360.750 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, 363B 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 must:

(1) Comply with the requirements of NRS 360.755;



(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) 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 100,000 or more or a city whose population is 60,000 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 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 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 ~~8.~~ 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 100,000 or a city whose population is less than 60,000, the business 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 ~~8.1~~ 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 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 ~~8.1~~ 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 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 ~~8.1~~ 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(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;

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

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. 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.

5. 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.

6. *On or before July 1 of the year following the year in which a partial abatement of the taxes imposed on the business pursuant to chapters 361 and 374 of NRS becomes effective and on or*



1 *before July 1 of each year thereafter, up to and including the year*
2 *following the year in which the partial abatement ends, the*
3 *business receiving the partial abatement shall pay to the Nevada*
4 *System of Higher Education Science Technology and Research*
5 *Trust Fund created pursuant to section 6 of this act an amount*
6 *equal to 3 percent of the dollar amount by which the abatement*
7 *reduced the taxes imposed on the business pursuant to chapters*
8 *361 and 374 of NRS during the preceding year. If a business fails*
9 *to comply with this subsection, the business shall, in addition to*
10 *the amount required to be paid pursuant to this subsection, pay*
11 *interest on the amount due at the rate most recently established*
12 *pursuant to NRS 99.040 for each month, or portion thereof, from*
13 *the last day of the month following the date on which the payment*
14 *was due.*

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

17 (a) To meet the requirements set forth in subsection 2 ~~6~~ or 6; or

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

20 ➔ the business shall repay to the Department or, if the partial
21 abatement was from the property tax imposed pursuant to chapter
22 361 of NRS, to the county treasurer, the amount of the exemption
23 that was allowed pursuant to this section before the failure of the
24 business to comply *with credit for any amount paid to the Nevada*
25 *System of Higher Education pursuant to subsection 6* unless the
26 Nevada Tax Commission determines that the business has
27 substantially complied with the requirements of this section. Except
28 as otherwise provided in NRS 360.232 and 360.320, the business
29 shall, in addition to the amount of the exemption required to be paid
30 pursuant to this subsection, pay interest on the amount due at the
31 rate most recently established pursuant to NRS 99.040 for each
32 month, or portion thereof, from the last day of the month following
33 the period for which the payment would have been made had the
34 partial abatement not been approved until the date of payment of the
35 tax.

36 ~~7~~ 8. A county treasurer:

37 (a) Shall deposit any money that he or she receives pursuant to
38 subsection ~~6~~ 7 in one or more of the funds established by a local
39 government of the county pursuant to NRS 354.6113 or 354.6115;
40 and

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

43 ~~8~~ 9. The Commission on Economic Development:

44 (a) Shall adopt regulations relating to the minimum level of
45 benefits that a business must provide to its employees if the business



1 is going to use benefits paid to employees as a basis to qualify for a
2 partial abatement; and

3 (b) May adopt such other regulations as the Commission on
4 Economic Development determines to be necessary to carry out the
5 provisions of this section and NRS 360.755.

6 ~~9-1~~ 10. The Nevada Tax Commission:

7 (a) Shall adopt regulations regarding:

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

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

13 (b) May adopt such other regulations as the Nevada Tax
14 Commission determines to be necessary to carry out the provisions
15 of this section and NRS 360.755.

16 10. An applicant for an abatement who is aggrieved by a final
17 decision of the Commission on Economic Development may
18 petition for judicial review in the manner provided in chapter 233B
19 of NRS.

20 **Sec. 14.** This act becomes effective on July 1, 2011.

