

SENATE BILL NO. 385—SENATORS ROBERSON, DENIS, ATKINSON,
HARDY, BROWER; PARKS AND SMITH (BY REQUEST)

MARCH 18, 2013

Referred to Committee on Revenue and
Economic Development

SUMMARY—Authorizes certain businesses to apply to the Office of Economic Development for a partial abatement from certain taxes. (BDR 32-822)

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 taxation; authorizing certain qualified businesses in this State that own, operate, manufacture, service or utilize aircraft or a component of an aircraft to apply to the Office of Economic Development for a partial abatement from certain property and sales and use taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides for the assessment of ad valorem taxes on certain real
2 property and the assessment of certain taxes on the gross receipts from the sale,
3 storage, use and other consumption of certain personal property. (Chapters 361 and
4 374 of NRS) **Section 1** of this bill authorizes an owner of a qualified business or a
5 person who intends to locate or expand a qualified business in this State to apply to
6 the Office of Economic Development for a partial abatement of ad valorem taxes
7 on property imposed pursuant to chapter 361 of NRS and of sales and use taxes
8 imposed pursuant to chapter 374 of NRS. **Section 1** requires the Office of
9 Economic Development to grant a partial abatement for a period of not more than
10 10 years to certain qualified new and existing businesses that own, operate,
11 manufacture, service or utilize aircraft or components of aircraft.



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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An owner of a business or a person who intends to locate or expand a business in this State may apply to the Office of Economic Development for a partial abatement from one or more of the taxes imposed on an aircraft or a component of an aircraft pursuant to chapters 361 and 374 of NRS.

2. Notwithstanding the provisions of any law to the contrary and except as otherwise provided in subsection 3, the Office of Economic Development shall approve an application for a partial abatement if the Office makes the following determinations:

(a) The applicant has executed an agreement with the Office which:

(1) Complies with the requirements of NRS 360.755; and

(2) States that the business will, after the date on which a certificate of eligibility for the partial abatement is issued pursuant to subsection 4, continue in operation in this State for a period specified by the Office, which must be not less than 5 years;

(b) The business is registered pursuant to the laws of this State or the applicant commits to obtaining a valid business license and all other permits required by the county, city or town in which the business operates;

(c) The business owns, operates, manufactures, services or utilizes aircraft or components of aircraft;

(d) If the business is:

(1) A new business, that it will have five or more full-time employees on the payroll of the business not later than 1 year after receiving its certificate of eligibility for a partial abatement; or

(2) An existing business, that it will increase its number of full-time employees on the payroll of the business in this State by 3 percent or three employees, whichever is greater, not later than 1 year after receiving its certificate of eligibility for a partial abatement; and

(e) The business meets at least one of the following requirements:

(1) The business will make a new capital investment of at least \$250,000 in this State not later than 1 year after receiving its certificate of eligibility for a partial abatement;

(2) The business will maintain and possess in this State tangible personal property having a value of not less than \$5,000,000 during the period of partial abatement;



(3) The average hourly wage that will be paid by the business to its employees in this State during the period of partial abatement is not less than 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; or

(4) The business develops, refines or owns a patent or other intellectual property, or has been issued a supplemental type certificate.

3. The Office of Economic Development:

(a) Shall approve or deny an application submitted pursuant to this section and notify the applicant of its decision not later than 45 days after receiving the application.

(b) Shall not:

(1) Consider an application for a partial abatement unless the Office has requested a letter of acknowledgment of the request for the partial abatement from any affected county, school district, city or town and has complied with the requirements of NRS 360.757; or

(2) Approve a partial abatement for any applicant for a period of more than 10 years.

4. If the Office of Economic Development approves an application for a partial abatement, the Office shall immediately forward a certificate of eligibility for the partial 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 appropriate 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 Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

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

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

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

↳ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the appropriate county treasurer, the amount of the partial abatement that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax



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1 *Commission determines that the business has substantially*
2 *complied with the requirements of this section. Except as*
3 *otherwise provided in NRS 360.232 and 360.320, the business*
4 *shall, in addition to the amount of the partial abatement required*
5 *to be repaid pursuant to this subsection, pay interest on the*
6 *amount due at the rate most recently established pursuant to NRS*
7 *99.040 for each month, or portion thereof, from the last day of the*
8 *month following the period for which the payment would have*
9 *been made had the partial abatement not been approved until the*
10 *date of payment of the tax.*

11 *7. The Office of Economic Development may adopt such*
12 *regulations as the Office determines to be necessary to carry out*
13 *the provisions of this section.*

14 *8. The Nevada Tax Commission may adopt such regulations*
15 *as the Commission determines are necessary to carry out the*
16 *provisions of this section.*

17 *9. An applicant for a partial abatement who is aggrieved by a*
18 *final decision of the Office of Economic Development may petition*
19 *a court of competent jurisdiction to review the decision in the*
20 *manner provided in chapter 233B of NRS.*

21 *10. If the Office of Economic Development approves an*
22 *application for a partial abatement of local sales and use taxes*
23 *imposed pursuant to chapter 374 of NRS pursuant to this section:*

24 *(a) The partial abatement must be equal to that portion of the*
25 *combined rate of all the local sales and use taxes payable by the*
26 *business each year which exceeds 0.25 percent.*

27 *(b) The Department shall issue to the business a document*
28 *certifying the partial abatement which can be presented to*
29 *retailers at the time of sale. The document must clearly state that*
30 *the purchaser is only required to pay sales and use taxes imposed*
31 *in this State at the rate of 2.25 percent.*

32 *(c) The State Controller shall allocate, transfer and remit an*
33 *amount equal to all the sales and use taxes imposed in this State*
34 *and collected from the business for the period of the partial*
35 *abatement in the same manner as if that amount consisted solely*
36 *of the proceeds of taxes imposed by NRS 374.110 and 374.190.*

37 *11. As used in this section:*

38 *(a) "Aircraft" means any fixed-wing, rotary-wing or*
39 *unmanned aerial vehicle.*

40 *(b) "Component of an aircraft" means any:*

- 41 *(1) Component of the physical structure of an aircraft;*
42 *(2) Mechanical, electrical or other system of an aircraft,*
43 *including, without limitation, any component thereof; and*



1 (3) *Part, engine, machinery, tool, chemical, gas or*
2 *equipment used to manufacture, maintain, test, repair, overhaul or*
3 *assemble an aircraft or component of an aircraft.*

4 (c) *“Local sales and use taxes” means any taxes imposed on*
5 *the gross receipts of any retailer from the sale of tangible personal*
6 *property sold at retail, or stored, used or otherwise consumed, in*
7 *any political subdivision of this State, except the taxes imposed by*
8 *the Sales and Use Tax Act.*

9 **Sec. 2.** NRS 360.755 is hereby amended to read as follows:

10 360.755 1. If the Office of Economic Development approves
11 an application by a business for a partial abatement pursuant to NRS
12 360.750 **H** *or section 1 of this act*, the agreement with the Office
13 must provide that the business:

14 (a) Agrees to allow the Department to conduct audits of the
15 business to determine whether the business is in compliance with
16 the requirements for the partial abatement; and

17 (b) Consents to the disclosure of the audit reports in the manner
18 set forth in this section.

19 2. If the Department conducts an audit of the business to
20 determine whether the business is in compliance with the
21 requirements for the partial abatement, the Department shall, upon
22 request, provide the audit report to the Office of Economic
23 Development.

24 3. Until the business has exhausted all appeals to the
25 Department and the Nevada Tax Commission relating to the audit,
26 the information contained in the audit report provided to the Office
27 of Economic Development:

28 (a) Is confidential proprietary information of the business;

29 (b) Is not a public record; and

30 (c) Must not be disclosed to any person who is not an officer or
31 employee of the Office of Economic Development unless the
32 business consents to the disclosure.

33 4. After the business has exhausted all appeals to the
34 Department and the Nevada Tax Commission relating to the audit:

35 (a) The audit report provided to the Office of Economic
36 Development is a public record; and

37 (b) Upon request by any person, the Executive Director of the
38 Office of Economic Development shall disclose the audit report to
39 the person who made the request, except for any information in the
40 audit report that is protected from disclosure pursuant to
41 subsection 5.

42 5. Before the Executive Director of the Office of Economic
43 Development discloses the audit report to the public, the business
44 may submit a request to the Executive Director to protect from
45 disclosure any information in the audit report which, under



1 generally accepted business practices, would be considered a trade
2 secret or other confidential proprietary information of the business.
3 After consulting with the business, the Executive Director shall
4 determine whether to protect the information from disclosure. The
5 decision of the Executive Director is final and is not subject to
6 judicial review. If the Executive Director determines to protect the
7 information from disclosure, the protected information:

- 8 (a) Is confidential proprietary information of the business;
- 9 (b) Is not a public record;
- 10 (c) Must be redacted by the Executive Director from any audit
11 report that is disclosed to the public; and
- 12 (d) Must not be disclosed to any person who is not an officer or
13 employee of the Office of Economic Development unless the
14 business consents to the disclosure.

15 **Sec. 3.** NRS 360.757 is hereby amended to read as follows:

16 360.757 1. The Office of Economic Development shall not
17 take any action on an application for any abatement of taxes
18 pursuant to NRS 274.310, 274.320, 274.330 or 360.750 *or section 1*
19 *of this act* or any other specific statute unless the Office:

20 (a) Takes that action at a public hearing conducted for that
21 purpose; and

22 (b) At least 30 days before the hearing, provides notice of the
23 application to:

24 (1) The governing body of the county, the board of trustees
25 of the school district and the governing body of the city or town, if
26 any, in which the pertinent business is or will be located;

27 (2) The governing body of any other political subdivision
28 that could be affected by the abatement; and

29 (3) The general public.

30 2. The notice required by this section must set forth the date,
31 time and location of the hearing at which the Office of Economic
32 Development will consider the application.

33 3. The Office of Economic Development shall adopt
34 regulations relating to the notice required by this section.

35 **Sec. 4.** NRS 218D.355 is hereby amended to read as follows:

36 218D.355 1. ~~Any~~ *Except as otherwise provided in section*
37 *1 of this act, any* state legislation enacted on or after July 1, 2012,
38 which authorizes or requires the Office of Economic Development
39 to approve any abatement of taxes or increases the amount of any
40 abatement of taxes which the Office is authorized or required to
41 approve:

42 (a) Expires by limitation 10 years after the effective date of that
43 legislation.

44 (b) Does not apply to:



(1) Any taxes imposed pursuant to NRS 374.110 or 374.190;
or

(2) Any entity that receives:

(I) Any funding from a governmental entity, other than any private activity bonds as defined in 26 U.S.C. § 141; or

(II) Any real or personal property from a governmental entity at no cost or at a reduced cost.

(c) Requires each recipient of the abatement to submit to the Department of Taxation, on or before the last day of each even-numbered year, a report on whether the recipient is in compliance with the terms of the abatement. The Department of Taxation shall establish a form for the report and may adopt such regulations as it determines to be appropriate to carry out this paragraph. The report must include, without limitation:

(1) The date the recipient commenced operation in this State;

(2) The number of employees actually employed by the recipient and the average hourly wage of those employees;

(3) An accounting of any fees paid by the recipient to the State and to local governmental entities;

(4) An accounting of the property taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(5) An accounting of the sales and use taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(6) An accounting of the total capital investment made in connection with the project to which the abatement applies; and

(7) An accounting of the total investment in personal property made in connection with the project to which the abatement applies.

2. On or before January 15 of each odd-numbered year, the Department of Taxation shall:

(a) Based upon the information submitted to the Department of Taxation pursuant to paragraph (c) of subsection 1, prepare a written report of its findings regarding whether the costs of the abatement exceed the benefits of the abatement; and

(b) Submit the report to the Director for transmittal to the Legislature.

Sec. 5. NRS 231.0685 is hereby amended to read as follows:

231.0685 The Office shall, on or before January 15 of each odd-numbered year, prepare and submit to the Director of the Legislative Counsel Bureau for transmission to the Legislature a report concerning the abatements from taxation that the Office approved pursuant to NRS 274.310, 274.320, 274.330 or 360.750 **H**
or section 1 of this act. The report must set forth, for each



1 abatement from taxation that the Office approved in the 2-year
2 period immediately preceding the submission of the report:

- 3 1. The dollar amount of the abatement;
- 4 2. The location of the business for which the abatement was
5 approved;
- 6 3. If applicable, the number of employees that the business for
7 which the abatement was approved employs or will employ;
- 8 4. Whether the business for which the abatement was approved
9 is a new business or an existing business; and
- 10 5. Any other information that the Office determines to be
11 useful.

12 **Sec. 6.** The Legislature hereby finds that each exemption
13 provided by this act from any ad valorem tax on property or excise
14 tax on the sale, storage, use or other consumption of tangible
15 personal property sold at retail:

- 16 1. Will achieve a bona fide social or economic purpose and the
17 benefits of the exemption are expected to exceed any adverse effect
18 of the exemption on the provision of services to the public by the
19 State or a local government that would otherwise receive revenue
20 from the tax from which the exemption would be granted; and
- 21 2. Will not impair adversely the ability of the State or a local
22 government to pay, when due, all interest and principal on any
23 outstanding bonds or any other obligations for which revenue from
24 the tax from which the exemption would be granted was pledged.

25 **Sec. 7.** This act becomes effective on July 1, 2013, and expires
26 by limitation on June 30, 2033.

