

ASSEMBLY BILL NO. 450—ASSEMBLYMEN GUSTAVSON;
COBB, GOICOECHEA, HAMBRICK AND MCARTHUR

MARCH 16, 2009

Referred to Committee on Taxation

SUMMARY—Repeals the business excise tax. (BDR 32-953)

FISCAL NOTE: Effect on Local Government: No.
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; repealing the business excise tax; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 12** of this bill prospectively repeals the business tax which is an excise
2 tax currently imposed on each employer, other than financial institutions, at the rate
3 of 0.63 percent of the wages paid by the employer. **Section 13** of this bill provides
4 that repealing the tax does not affect any tax imposed before the effective date of
5 this bill, which is July 1, 2009. **Sections 1-11** of this bill delete references to the
6 repealed tax in other sections of NRS.

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

1 **Section 1.** NRS 360.225 is hereby amended to read as follows:
2 360.225 1. During the course of an investigation undertaken
3 pursuant to NRS 360.130 of a person claiming:
4 (a) A partial abatement of property taxes pursuant to
5 NRS 361.0687;
6 (b) ~~[An exemption from taxes pursuant to NRS 363B.120;~~
7 ~~—(e)]~~ A deferral of the payment of taxes on the sale of capital
8 goods pursuant to NRS 372.397 or 374.402; or
9 ~~[(d)]~~ (c) An abatement of taxes on the gross receipts from the
10 sale, storage, use or other consumption of eligible machinery or
11 equipment pursuant to NRS 374.357,



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

4 2. If the Department finds that the person does not meet the
5 eligibility requirements for the abatement, exemption or deferral
6 which the person is claiming, the Department shall report its
7 findings to the Commission on Economic Development and take
8 any other necessary actions.

9 **Sec. 2.** NRS 360.2937 is hereby amended to read as follows:

10 360.2937 1. Except as otherwise provided in this section,
11 NRS 360.320 or any other specific statute, and notwithstanding the
12 provisions of NRS 360.2935, interest must be paid upon an
13 overpayment of any tax provided for in chapter 362, 363A, ~~363B,~~
14 369, 370, 372, 374, 377 or 377A, any fee provided for in NRS
15 444A.090 or 482.313, or any assessment provided for in NRS
16 585.497, at the rate of 0.5 percent per month from the last day of the
17 calendar month following the period for which the overpayment was
18 made.

19 2. No refund or credit may be made of any interest imposed on
20 the person making the overpayment with respect to the amount
21 being refunded or credited.

22 3. The interest must be paid:

23 (a) In the case of a refund, to the last day of the calendar month
24 following the date upon which the person making the overpayment,
25 if he has not already filed a claim, is notified by the Department that
26 a claim may be filed or the date upon which the claim is certified to
27 the State Board of Examiners, whichever is earlier.

28 (b) In the case of a credit, to the same date as that to which
29 interest is computed on the tax or the amount against which the
30 credit is applied.

31 **Sec. 3.** NRS 360.297 is hereby amended to read as follows:

32 360.297 1. A responsible person who fails to collect or pay to
33 the Department any tax or fee imposed by this chapter, chapter
34 363A, ~~363B,~~ 368A, 369, 370, 372 or 374 of NRS, NRS 444A.090
35 or 482.313, or chapter 680B of NRS, or who attempts to evade the
36 payment of any such tax or fee, is jointly and severally liable with
37 any other person who is required to pay such a tax or fee for the tax
38 or fee owed plus interest and all applicable penalties. The
39 responsible person shall pay the tax or fee upon notice from the
40 Department that it is due.

41 2. As used in this section, "responsible person" includes:

42 (a) An officer or employee of a corporation; and

43 (b) A member or employee of a partnership or limited-liability
44 company,



↳ whose job or duty it is to collect, account for or pay to the Department any tax or fee imposed by this chapter, chapter 363A, ~~363B,~~ 368A, 369, 370, 372 or 374 of NRS, NRS 444A.090 or 482.313, or chapter 680B of NRS.

Sec. 4. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 360B, 362, 363A, ~~363B,~~ 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

(a) The facts contained in the return;

(b) Any information within its possession or that may come into its possession; or

(c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.

3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.

4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

Sec. 4.5. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, ~~363B,~~ 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the



1 month following the period for which the amount or any portion of
2 the amount should have been reported until the date of payment.
3 The amount of any penalty imposed must be based on a graduated
4 schedule adopted by the Nevada Tax Commission which takes into
5 consideration the length of time the tax or fee remained unpaid.

6 **Sec. 5.** NRS 360.419 is hereby amended to read as follows:

7 360.419 1. If the Executive Director or a designated hearing
8 officer finds that the failure of a person to make a timely return or
9 payment of a tax imposed pursuant to NRS 361.320 or chapter
10 361A, 362, 363A, ~~363B,~~ 369, 370, 372, 372A, 374, 375A, 375B,
11 376A, 377 or 377A of NRS, is the result of circumstances beyond
12 his control and occurred despite the exercise of ordinary care and
13 without intent, the Department may relieve him of all or part of any
14 interest or penalty, or both.

15 2. A person seeking this relief must file with the Department a
16 statement under oath setting forth the facts upon which he bases his
17 claim.

18 3. The Department shall disclose, upon the request of any
19 person:

20 (a) The name of the person to whom relief was granted; and

21 (b) The amount of the relief.

22 4. The Executive Director or a designated hearing officer shall
23 act upon the request of a taxpayer seeking relief pursuant to NRS
24 361.4835 which is deferred by a county treasurer or county assessor.

25 **Sec. 6.** NRS 360.510 is hereby amended to read as follows:

26 360.510 1. If any person is delinquent in the payment of any
27 tax or fee administered by the Department or if a determination has
28 been made against him which remains unpaid, the Department may:

29 (a) Not later than 3 years after the payment became delinquent
30 or the determination became final; or

31 (b) Not later than 6 years after the last recording of an abstract
32 of judgment or of a certificate constituting a lien for tax owed,

33 ➤ give a notice of the delinquency and a demand to transmit
34 personally or by registered or certified mail to any person,
35 including, without limitation, any officer or department of this State
36 or any political subdivision or agency of this State, who has in his
37 possession or under his control any credits or other personal
38 property belonging to the delinquent, or owing any debts to the
39 delinquent or person against whom a determination has been made
40 which remains unpaid, or owing any debts to the delinquent or that
41 person. In the case of any state officer, department or agency, the
42 notice must be given to the officer, department or agency before
43 the Department presents the claim of the delinquent taxpayer to the
44 State Controller.



2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his possession or under his control at the time he received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his possession, under his control or owing by him within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him to continue to transmit payments to the Department or that his duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he is liable to the State for any indebtedness due pursuant to this chapter, or chapter 360B, 362, 363A, ~~363B,~~ 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.



Sec. 7. 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 5, 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:



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(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.

(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 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



1 the average hourly wage required to be paid by businesses pursuant
2 to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of
3 NRS 361.0687, whichever is applicable, and:

4 (I) The business will provide a health insurance plan for
5 all new employees that includes an option for health insurance
6 coverage for dependents of the employees; and

7 (II) The cost to the business for the benefits the business
8 provides to its new employees in this State will meet the minimum
9 requirements for benefits established by the Commission by
10 regulation pursuant to subsection 9.

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

16 (1) The business will have 10 or more full-time employees
17 on the payroll of the business by the fourth quarter that it is in
18 operation.

19 (2) Establishing the business will require the business to
20 make a capital investment of at least \$500,000 in this State.

21 (3) The average hourly wage that will be paid by the new
22 business to its employees in this State is at least the amount of the
23 average hourly wage required to be paid by businesses pursuant to
24 subparagraph (2) of either paragraph (a) or (b) of subsection 2 of
25 NRS 361.0687, whichever is applicable, and:

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

29 (II) The cost to the business for the benefits the business
30 provides to its employees in this State will meet with minimum
31 requirements established by the Commission by regulation pursuant
32 to subsection 9.

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

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

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

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

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



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

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

5. 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.

6. 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.

7. If a business whose partial abatement has been approved pursuant to this section and 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 (b) 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 county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved 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



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1 government of the county pursuant to NRS 354.6113 or 354.6115;
2 and

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

5 9. The Commission on Economic Development:

6 (a) Shall adopt regulations relating to:

7 (1) The minimum level of benefits that a business must
8 provide to its employees if the business is going to use benefits paid
9 to employees as a basis to qualify for a partial abatement; and

10 (2) The notice that must be provided pursuant to
11 subsection 4.

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

15 10. The Nevada Tax Commission:

16 (a) Shall adopt regulations regarding:

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

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

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

25 11. An applicant for an abatement who is aggrieved by a final
26 decision of the Commission on Economic Development may
27 petition for judicial review in the manner provided in chapter 233B
28 of NRS.

29 **Sec. 8.** NRS 612.265 is hereby amended to read as follows:

30 612.265 1. Except as otherwise provided in this section and
31 NRS 239.0115, information obtained from any employing unit or
32 person pursuant to the administration of this chapter and any
33 determination as to the benefit rights of any person is confidential
34 and may not be disclosed or be open to public inspection in any
35 manner which would reveal the person's or employing unit's
36 identity.

37 2. Any claimant or his legal representative is entitled to
38 information from the records of the Division, to the extent necessary
39 for the proper presentation of his claim in any proceeding pursuant
40 to this chapter. A claimant or an employing unit is not entitled to
41 information from the records of the Division for any other purpose.

42 3. Subject to such restrictions as the Administrator may by
43 regulation prescribe, the information obtained by the Division may
44 be made available to:



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(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➔ Information obtained in connection with the administration of the Employment Service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

4. Upon written request made by a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

5. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all



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1 actions necessary to maintain the confidentiality of the information
2 and prevent its unauthorized disclosure.

3 6. Upon request therefor, the Administrator shall furnish to any
4 agency of the United States charged with the administration of
5 public works or assistance through public employment, and may
6 furnish to any state agency similarly charged, the name, address,
7 ordinary occupation and employment status of each recipient of
8 benefits and the recipient's rights to further benefits pursuant to this
9 chapter.

10 7. To further a current criminal investigation, the chief
11 executive officer of any law enforcement agency of this State may
12 submit a written request to the Administrator that he furnish, from
13 the records of the Division, the name, address and place of
14 employment of any person listed in the records of employment of
15 the Division. The request must set forth the social security number
16 of the person about whom the request is made and contain a
17 statement signed by the chief executive officer certifying that the
18 request is made to further a criminal investigation currently being
19 conducted by the agency. Upon receipt of such a request, the
20 Administrator shall furnish the information requested. He may
21 charge a fee to cover the actual costs of any related administrative
22 expenses.

23 8. In addition to the provisions of subsection 5, the
24 Administrator shall provide lists containing the names and addresses
25 of employers, and information regarding the wages paid by each
26 employer to the Department of Taxation, upon request, for use in
27 verifying returns for the taxes imposed pursuant to ~~chapters~~
28 ~~chapter~~ 363A ~~and 363B~~ of NRS. The Administrator may charge a
29 fee to cover the actual costs of any related administrative expenses.

30 9. A private carrier that provides industrial insurance in this
31 State shall submit to the Administrator a list containing the name of
32 each person who received benefits pursuant to chapters 616A to
33 616D, inclusive, or chapter 617 of NRS during the preceding month
34 and request that he compare the information so provided with the
35 records of the Division regarding persons claiming benefits pursuant
36 to chapter 612 of NRS for the same period. The information
37 submitted by the private carrier must be in a form determined by the
38 Administrator and must contain the social security number of each
39 such person. Upon receipt of the request, the Administrator shall
40 make such a comparison and, if it appears from the information
41 submitted that a person is simultaneously claiming benefits under
42 chapter 612 of NRS and under chapters 616A to 616D, inclusive, or
43 chapter 617 of NRS, the Administrator shall notify the Attorney
44 General or any other appropriate law enforcement agency. The



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1 Administrator shall charge a fee to cover the actual costs of any
2 related administrative expenses.

3 10. The Administrator may request the Comptroller of the
4 Currency of the United States to cause an examination of the
5 correctness of any return or report of any national banking
6 association rendered pursuant to the provisions of this chapter, and
7 may in connection with the request transmit any such report or
8 return to the Comptroller of the Currency of the United States as
9 provided in section 3305(c) of the Internal Revenue Code of 1954.

10 11. If any employee or member of the Board of Review, the
11 Administrator or any employee of the Administrator, in violation of
12 the provisions of this section, discloses information obtained from
13 any employing unit or person in the administration of this chapter,
14 or if any person who has obtained a list of applicants for work, or of
15 claimants or recipients of benefits pursuant to this chapter uses or
16 permits the use of the list for any political purpose, he is guilty of a
17 gross misdemeanor.

18 12. All letters, reports or communications of any kind, oral or
19 written, from the employer or employee to each other or to the
20 Division or any of its agents, representatives or employees are
21 privileged and must not be the subject matter or basis for any
22 lawsuit if the letter, report or communication is written, sent,
23 delivered or prepared pursuant to the requirements of this chapter.

24 **Sec. 9.** NRS 616B.012 is hereby amended to read as follows:

25 616B.012 1. Except as otherwise provided in this section and
26 NRS 239.0115, 616B.015, 616B.021 and 616C.205, information
27 obtained from any insurer, employer or employee is confidential and
28 may not be disclosed or be open to public inspection in any manner
29 which would reveal the person's identity.

30 2. Any claimant or his legal representative is entitled to
31 information from the records of the insurer, to the extent necessary
32 for the proper presentation of a claim in any proceeding under
33 chapters 616A to 616D, inclusive, or chapter 617 of NRS.

34 3. The Division and Administrator are entitled to information
35 from the records of the insurer which is necessary for the
36 performance of their duties. The Administrator may, by regulation,
37 prescribe the manner in which otherwise confidential information
38 may be made available to:

39 (a) Any agency of this or any other state charged with the
40 administration or enforcement of laws relating to industrial
41 insurance, unemployment compensation, public assistance or labor
42 law and industrial relations;

43 (b) Any state or local agency for the enforcement of child
44 support;



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(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➔ Information obtained in connection with the administration of a program of industrial insurance may be made available to persons or agencies for purposes appropriate to the operation of a program of industrial insurance.

4. Upon written request made by a public officer of a local government, an insurer shall furnish from its records the name, address and place of employment of any person listed in its records. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to the local government. The insurer may charge a reasonable fee for the cost of providing the requested information.

5. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit to the Administrator a written request for the name, address and place of employment of any person listed in the records of an insurer. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of a request, the Administrator shall instruct the insurer to furnish the information requested. Upon receipt of such an instruction, the insurer shall furnish the information requested. The insurer may charge a reasonable fee to cover any related administrative expenses.

6. Upon request by the Department of Taxation, the Administrator shall provide:

(a) Lists containing the names and addresses of employers; and

(b) Other information concerning employers collected and maintained by the Administrator or the Division to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS,

➔ to the Department for its use in verifying returns for the taxes imposed pursuant to ~~chapters~~ *chapter* 363A ~~and 363B~~ of NRS.



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1 The Administrator may charge a reasonable fee to cover any related
2 administrative expenses.

3 7. Any person who, in violation of this section, discloses
4 information obtained from files of claimants or policyholders or
5 obtains a list of claimants or policyholders under chapters 616A to
6 616D, inclusive, or chapter 617 of NRS and uses or permits the use
7 of the list for any political purposes, is guilty of a gross
8 misdemeanor.

9 8. All letters, reports or communications of any kind, oral or
10 written, from the insurer, or any of its agents, representatives or
11 employees are privileged and must not be the subject matter or basis
12 for any lawsuit if the letter, report or communication is written, sent,
13 delivered or prepared pursuant to the requirements of chapters 616A
14 to 616D, inclusive, or chapter 617 of NRS.

15 9. The provisions of this section do not prohibit the
16 Administrator or the Division from disclosing any nonproprietary
17 information relating to an uninsured employer or proof of industrial
18 insurance.

19 **Sec. 10.** NRS 687A.130 is hereby amended to read as follows:

20 687A.130 The Association is exempt from payment of all fees
21 and all taxes levied by this State or any of its subdivisions, except
22 taxes:

23 1. Levied on real or personal property; or

24 2. Imposed pursuant to the provisions of chapter 363A ~~for~~
25 ~~363B~~ of NRS.

26 **Sec. 11.** NRS 694C.450 is hereby amended to read as follows:

27 694C.450 1. Except as otherwise provided in this section, a
28 captive insurer shall pay to the Division, not later than March 1 of
29 each year, a tax at the rate of:

30 (a) Two-fifths of 1 percent on the first \$20,000,000 of its net
31 direct premiums;

32 (b) One-fifth of 1 percent on the next \$20,000,000 of its net
33 direct premiums; and

34 (c) Seventy-five thousandths of 1 percent on each additional
35 dollar of its net direct premiums.

36 2. Except as otherwise provided in this section, a captive
37 insurer shall pay to the Division, not later than March 1 of each
38 year, a tax at a rate of:

39 (a) Two hundred twenty-five thousandths of 1 percent on the
40 first \$20,000,000 of revenue from assumed reinsurance premiums;

41 (b) One hundred fifty thousandths of 1 percent on the next
42 \$20,000,000 of revenue from assumed reinsurance premiums; and

43 (c) Twenty-five thousandths of 1 percent on each additional
44 dollar of revenue from assumed reinsurance premiums.



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1 ➤ The tax on reinsurance premiums pursuant to this subsection
2 must not be levied on premiums for risks or portions of risks which
3 are subject to taxation on a direct basis pursuant to subsection 1. A
4 captive insurer is not required to pay any reinsurance premium tax
5 pursuant to this subsection on revenue related to the receipt of assets
6 by the captive insurer in exchange for the assumption of loss
7 reserves and other liabilities of another insurer that is under
8 common ownership and control with the captive insurer, if the
9 transaction is part of a plan to discontinue the operation of the other
10 insurer and the intent of the parties to the transaction is to renew or
11 maintain such business with the captive insurer.

12 3. If the sum of the taxes to be paid by a captive insurer
13 calculated pursuant to subsections 1 and 2 is less than \$5,000 in any
14 given year, the captive insurer shall pay a tax of \$5,000 for that
15 year. The maximum aggregate tax for any year must not exceed
16 \$175,000. The maximum aggregate tax to be paid by a sponsored
17 captive insurer applies only to each protected cell and does not
18 apply to the sponsored captive insurer as a whole.

19 4. Two or more captive insurers under common ownership and
20 control must be taxed as if they were a single captive insurer.

21 5. Notwithstanding any specific statute to the contrary and
22 except as otherwise provided in this subsection, the tax provided for
23 by this section constitutes all the taxes collectible pursuant to the
24 laws of this State from a captive insurer, and no occupation tax or
25 other taxes may be levied or collected from a captive insurer by this
26 State or by any county, city or municipality within this State, except
27 for taxes imposed pursuant to chapter 363A ~~for 363B~~ of NRS and
28 ad valorem taxes on real or personal property located in this State
29 used in the production of income by the captive insurer.

30 6. Twenty-five percent of the revenues collected from the tax
31 imposed pursuant to this section must be deposited with the State
32 Treasurer for credit to the Account for the Regulation and
33 Supervision of Captive Insurers created pursuant to NRS 694C.460.
34 The remaining 75 percent of the revenues collected must be
35 deposited with the State Treasurer for credit to the State General
36 Fund.

37 7. A captive insurer that is issued a license pursuant to this
38 chapter after July 1, 2003, is entitled to receive a nonrefundable
39 credit of \$5,000 applied against the aggregate taxes owed by the
40 captive insurer for the first year in which the captive insurer incurs
41 any liability for the payment of taxes pursuant to this section. A
42 captive insurer is entitled to a nonrefundable credit pursuant to this
43 section not more than once after the captive insurer is initially
44 licensed pursuant to this chapter.



8. As used in this section, unless the context otherwise requires:

(a) "Common ownership and control" means:

(1) In the case of a stock insurer, the direct or indirect ownership of 80 percent or more of the outstanding voting stock of two or more corporations by the same member or members.

(2) In the case of a mutual insurer, the direct or indirect ownership of 80 percent or more of the surplus and the voting power of two or more corporations by the same member or members.

(b) "Net direct premiums" means the direct premiums collected or contracted for on policies or contracts of insurance written by a captive insurer during the preceding calendar year, less the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

Sec. 12. NRS 363B.010, 363B.015, 363B.020, 363B.030, 363B.040, 363B.050, 363B.060, 363B.070, 363B.080, 363B.090, 363B.100, 363B.110, 363B.115, 363B.120, 363B.130, 363B.140, 363B.150, 363B.160, 363B.170, 363B.180, 363B.190, 363B.200, 363B.210, 363B.220, 363B.230, 363B.240 and 363B.250 are hereby repealed.

Sec. 13. The provisions of this act do not affect any taxes imposed pursuant to NRS 363B.110 before July 1, 2009.

Sec. 14. This act becomes effective on July 1, 2009.

LEADLINES OF REPEALED SECTIONS

363B.010 Definitions.

363B.015 "Business activity" defined.

363B.020 "Commission" defined.

363B.030 "Employer" defined.

363B.040 "Employment" defined.

363B.050 "Taxpayer" defined.

363B.060 Duties of Department.

363B.070 Maintenance and availability of records of taxpayer; penalty.

363B.080 Examination of records by Department; payment of expenses of Department for examination of records outside State.

363B.090 Authority of Executive Director to request information to carry out chapter.



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363B.100 Confidentiality of records and files of Department.

363B.110 Imposition, amount and payment of tax; filing of return.

363B.115 Deduction of certain amounts paid for health insurance or health benefit plan for employees.

363B.120 Partial abatement of tax during initial period of operation of employer.

363B.130 Extension of time for payment; payment of interest during period of extension.

363B.140 Certification of excess amount collected; credit and refund.

363B.150 Limitations on claims for refund or credit; form and contents of claim; failure to file claim constitutes waiver; service of notice of rejection of claim.

363B.160 Interest on overpayments; disallowance of interest.

363B.170 Injunction or other process to prevent collection of tax prohibited; filing of claim is condition precedent to maintaining action for refund.

363B.180 Action for refund: Period for commencement; venue; waiver.

363B.190 Rights of claimant upon failure of Department to mail notice of action on claim; allocation of judgment for claimant.

363B.200 Allowance of interest in judgment for amount illegally collected.

363B.210 Standing to recover.

363B.220 Action for recovery of erroneous refund: Jurisdiction; venue; prosecution.

363B.230 Cancellation of illegal determination.

363B.240 Prohibited acts; penalty.

363B.250 Remedies of State are cumulative.

