

SENATE BILL NO. 160—SENATOR GUSTAVSON

FEBRUARY 16, 2011

Referred to Committee on Revenue

SUMMARY—Repeals the modified business tax. (BDR 32-573)

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 modified business tax; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 13** of this bill repeals the modified business tax which is an excise
2 tax currently imposed on each employer, other than financial institutions, and
3 repeals all of the provisions relating to the administration and collection of the tax.
4 **Section 14** of this bill provides that the repeal of the modified business tax does not
5 apply to any tax imposed before July 1, 2011.

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



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

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

7 360.2937 1. Except as otherwise provided in this section,
8 NRS 360.320 or any other specific statute, and notwithstanding the
9 provisions of NRS 360.2935, interest must be paid upon an
10 overpayment of any tax provided for in chapter 362, 363A, ~~363B,~~
11 369, 370, 372, 374, 377 or 377A of NRS, any fee provided for in
12 NRS 444A.090 or 482.313, or any assessment provided for in NRS
13 585.497, at the rate of 0.5 percent per month from the last day of the
14 calendar month following the period for which the overpayment was
15 made.

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

19 3. The interest must be paid:

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

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

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

30 360.297 1. A responsible person who fails to collect or pay to
31 the Department any tax or fee imposed by this chapter, chapter
32 363A, ~~363B,~~ 368A, 369, 370, 372 or 374 of NRS, NRS 444A.090
33 or 482.313, or chapter 680B of NRS, or who attempts to evade the
34 payment of any such tax or fee, is jointly and severally liable with
35 any other person who is required to pay such a tax or fee for the tax
36 or fee owed plus interest and all applicable penalties. The
37 responsible person shall pay the tax or fee upon notice from the
38 Department that it is due.

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

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

41 (b) A member or employee of a partnership or limited-liability
42 company,

43 ➔ whose job or duty it is to collect, account for or pay to the
44 Department any tax or fee imposed by this chapter, chapter 363A,



1 ~~[363B,]~~ 368A, 369, 370, 372 or 374 of NRS, NRS 444A.090 or
2 482.313, or chapter 680B of NRS.

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

4 360.300 1. If a person fails to file a return or the Department
5 is not satisfied with the return or returns of any tax, contribution or
6 premium or amount of tax, contribution or premium required to be
7 paid to the State by any person, in accordance with the applicable
8 provisions of this chapter, chapter 360B, 362, 363A, ~~[363B,]~~ 369,
9 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or
10 chapter 585 or 680B of NRS as administered or audited by the
11 Department, it may compute and determine the amount required to
12 be paid upon the basis of:

13 (a) The facts contained in the return;

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

16 (c) Reasonable estimates of the amount.

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

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

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

27 5. When a business is discontinued, a determination may be
28 made at any time thereafter within the time prescribed in NRS
29 360.355 as to liability arising out of that business, irrespective of
30 whether the determination is issued before the due date of the
31 liability.

32 **Sec. 5.** NRS 360.417 is hereby amended to read as follows:

33 360.417 Except as otherwise provided in NRS 360.232 and
34 360.320, and unless a different penalty or rate of interest is
35 specifically provided by statute, any person who fails to pay any tax
36 provided for in chapter 362, 363A, ~~[363B,]~~ 369, 370, 372, 374, 377,
37 377A, 444A or 585 of NRS, or any fee provided for in NRS
38 482.313, and any person or governmental entity that fails to pay any
39 fee provided for in NRS 360.787, to the State or a county within the
40 time required, shall pay a penalty of not more than 10 percent of
41 the amount of the tax or fee which is owed, as determined by the
42 Department, in addition to the tax or fee, plus interest at the rate of 1
43 percent per month, or fraction of a month, from the last day of the
44 month following the period for which the amount or any portion of
45 the amount should have been reported until the date of payment.



1 The amount of any penalty imposed must be based on a graduated
2 schedule adopted by the Nevada Tax Commission which takes into
3 consideration the length of time the tax or fee remained unpaid.

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

5 360.419 1. If the Executive Director or a designated hearing
6 officer finds that the failure of a person to make a timely return or
7 payment of a tax imposed pursuant to NRS 361.320 or chapter
8 361A, 362, 363A, ~~363B,~~ 369, 370, 372, 372A, 374, 375A, 375B,
9 376A, 377 or 377A of NRS, is the result of circumstances beyond
10 his or her control and occurred despite the exercise of ordinary care
11 and without intent, the Department may relieve the person of all or
12 part of any interest or penalty, or both.

13 2. A person seeking relief must file with the Department a
14 statement under oath setting forth the facts upon which the person
15 bases his or her claim.

16 3. The Department shall disclose, upon the request of any
17 person:

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

19 (b) The amount of the relief.

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

23 **Sec. 7.** NRS 360.510 is hereby amended to read as follows:

24 360.510 1. If any person is delinquent in the payment of any
25 tax or fee administered by the Department or if a determination has
26 been made against the person which remains unpaid, the
27 Department may:

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

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

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



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

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

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

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

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

34 7. If any person notified by the notice of the delinquency
35 makes any transfer or other disposition of the property or debts
36 required to be withheld or transmitted, to the extent of the value of
37 the property or the amount of the debts thus transferred or paid, that
38 person is liable to the State for any indebtedness due pursuant to this
39 chapter, or chapter 360B, 362, 363A, ~~363B,~~ 369, 370, 372, 372A,
40 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or
41 680B of NRS from the person with respect to whose obligation the
42 notice was given if solely by reason of the transfer or other
43 disposition the State is unable to recover the indebtedness of the
44 person with respect to whose obligation the notice was given.



1 **Sec. 8.** NRS 360.750 is hereby amended to read as follows:

2 360.750 1. A person who intends to locate or expand a
3 business in this State may apply to the Commission on Economic
4 Development for a partial abatement of one or more of the taxes
5 imposed on the new or expanded business pursuant to chapter 361 ~~§~~
6 ~~363B~~ or 374 of NRS.

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

10 (a) The business is consistent with:

11 (1) The State Plan for Industrial Development and
12 Diversification that is developed by the Commission pursuant to
13 NRS 231.067; and

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

15 (b) The applicant has executed an agreement with the
16 Commission which must:

17 (1) Comply with the requirements of NRS 360.755;

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

24 (3) Bind the successors in interest of the business for the
25 specified period.

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

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

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

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

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



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

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

8 (e) Except as otherwise provided in NRS 361.0687, if the
9 business is a new business in a county whose population is less than
10 100,000 or a city whose population is less than 60,000, the business
11 meets at least two of the following requirements:

12 (1) The business will have 15 or more full-time employees
13 on the payroll of the business by the fourth quarter that it is in
14 operation.

15 (2) Establishing the business will require the business to
16 make a capital investment of at least \$250,000 in this State.

17 (3) The average hourly wage that will be paid by the new
18 business to its employees in this State is at least 100 percent of the
19 average statewide hourly wage or the average countywide hourly
20 wage, whichever is less, as established by the Employment Security
21 Division of the Department of Employment, Training and
22 Rehabilitation on July 1 of each fiscal year and:

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

26 (II) The cost to the business for the benefits the business
27 provides to its employees in this State will meet the minimum
28 requirements for benefits established by the Commission by
29 regulation pursuant to subsection 8.

30 (f) If the business is an existing business, the business meets at
31 least two of the following requirements:

32 (1) The business will increase the number of employees on
33 its payroll by 10 percent more than it employed in the immediately
34 preceding fiscal year or by six employees, whichever is greater.

35 (2) The business will expand by making a capital investment
36 in this State in an amount equal to at least 20 percent of the value of
37 the tangible property possessed by the business in the immediately
38 preceding fiscal year. The determination of the value of the tangible
39 property possessed by the business in the immediately preceding
40 fiscal year must be made by the:

41 (I) County assessor of the county in which the business
42 will expand, if the business is locally assessed; or

43 (II) Department, if the business is centrally assessed.

44 (3) The average hourly wage that will be paid by the existing
45 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 8.

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 8.

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



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

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

6 (a) The Department;

7 (b) The Nevada Tax Commission; and

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

10 5. An applicant for a partial abatement pursuant to this section
11 or an existing business whose partial abatement is in effect shall,
12 upon the request of the Executive Director of the Commission on
13 Economic Development, furnish the Executive Director with copies
14 of all records necessary to verify that the applicant meets the
15 requirements of subsection 2.

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

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

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

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

35 7. A county treasurer:

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

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

42 8. The Commission on Economic Development:

43 (a) Shall adopt regulations relating to the minimum level of
44 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. 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. 9.** NRS 612.265 is hereby amended to read as follows:

21 612.265 1. Except as otherwise provided in this section and
22 NRS 239.0115, information obtained from any employing unit or
23 person pursuant to the administration of this chapter and any
24 determination as to the benefit rights of any person is confidential
25 and may not be disclosed or be open to public inspection in any
26 manner which would reveal the person's or employing unit's
27 identity.

28 2. Any claimant or a legal representative of a claimant is
29 entitled to information from the records of the Division, to the
30 extent necessary for the proper presentation of the claimant's claim
31 in any proceeding pursuant to this chapter. A claimant or an
32 employing unit is not entitled to information from the records of the
33 Division for any other purpose.

34 3. Subject to such restrictions as the Administrator may by
35 regulation prescribe, the information obtained by the Division may
36 be made available to:

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

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

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



1 (d) The Department of Taxation; and

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

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

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

22 5. The Administrator may publish or otherwise provide
23 information on the names of employers, their addresses, their type
24 or class of business or industry, and the approximate number of
25 employees employed by each such employer, if the information
26 released will assist unemployed persons to obtain employment or
27 will be generally useful in developing and diversifying the economic
28 interests of this State. Upon request by a state agency which is able
29 to demonstrate that its intended use of the information will benefit
30 the residents of this State, the Administrator may, in addition to the
31 information listed in this subsection, disclose the number of
32 employees employed by each employer and the total wages paid by
33 each employer. The Administrator may charge a fee to cover the
34 actual costs of any administrative expenses relating to the disclosure
35 of this information to a state agency. The Administrator may require
36 the state agency to certify in writing that the agency will take all
37 actions necessary to maintain the confidentiality of the information
38 and prevent its unauthorized disclosure.

39 6. Upon request therefor, the Administrator shall furnish to any
40 agency of the United States charged with the administration of
41 public works or assistance through public employment, and may
42 furnish to any state agency similarly charged, the name, address,
43 ordinary occupation and employment status of each recipient of
44 benefits and the recipient's rights to further benefits pursuant to this
45 chapter.



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

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

21 9. A private carrier that provides industrial insurance in this
22 State shall submit to the Administrator a list containing the name of
23 each person who received benefits pursuant to chapters 616A to
24 616D, inclusive, or chapter 617 of NRS during the preceding month
25 and request that the Administrator compare the information so
26 provided with the records of the Division regarding persons
27 claiming benefits pursuant to chapter 612 of NRS for the same
28 period. The information submitted by the private carrier must be in a
29 form determined by the Administrator and must contain the social
30 security number of each such person. Upon receipt of the request,
31 the Administrator shall make such a comparison and, if it appears
32 from the information submitted that a person is simultaneously
33 claiming benefits under chapter 612 of NRS and under chapters
34 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator
35 shall notify the Attorney General or any other appropriate law
36 enforcement agency. The Administrator shall charge a fee to cover
37 the actual costs of any related administrative expenses.

38 10. The Administrator may request the Comptroller of the
39 Currency of the United States to cause an examination of the
40 correctness of any return or report of any national banking
41 association rendered pursuant to the provisions of this chapter, and
42 may in connection with the request transmit any such report or
43 return to the Comptroller of the Currency of the United States as
44 provided in section 3305(c) of the Internal Revenue Code of 1954.



1 11. If any employee or member of the Board of Review, the
2 Administrator or any employee of the Administrator, in violation of
3 the provisions of this section, discloses information obtained from
4 any employing unit or person in the administration of this chapter,
5 or if any person who has obtained a list of applicants for work, or of
6 claimants or recipients of benefits pursuant to this chapter uses or
7 permits the use of the list for any political purpose, he or she is
8 guilty of a gross misdemeanor.

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

15 **Sec. 10.** NRS 616B.012 is hereby amended to read as follows:

16 616B.012 1. Except as otherwise provided in this section and
17 NRS 239.0115, 616B.015, 616B.021 and 616C.205, information
18 obtained from any insurer, employer or employee is confidential and
19 may not be disclosed or be open to public inspection in any manner
20 which would reveal the person's identity.

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

25 3. The Division and Administrator are entitled to information
26 from the records of the insurer which is necessary for the
27 performance of their duties. The Administrator may, by regulation,
28 prescribe the manner in which otherwise confidential information
29 may be made available to:

30 (a) Any agency of this or any other state charged with the
31 administration or enforcement of laws relating to industrial
32 insurance, unemployment compensation, public assistance or labor
33 law and industrial relations;

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

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

38 (d) The Department of Taxation; and

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

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



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

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

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

- 29 (a) Lists containing the names and addresses of employers; and
30 (b) Other information concerning employers collected and
31 maintained by the Administrator or the Division to carry out the
32 purposes of chapters 616A to 616D, inclusive, or chapter 617 of
33 NRS,

34 ➔ to the Department for its use in verifying returns for the taxes
35 imposed pursuant to ~~chapters~~ *chapter* 363A ~~and 363B~~ of NRS.
36 The Administrator may charge a reasonable fee to cover any related
37 administrative expenses.

38 7. Any person who, in violation of this section, discloses
39 information obtained from files of claimants or policyholders or
40 obtains a list of claimants or policyholders under chapters 616A to
41 616D, inclusive, or chapter 617 of NRS and uses or permits the use
42 of the list for any political purposes, is guilty of a gross
43 misdemeanor.

44 8. All letters, reports or communications of any kind, oral or
45 written, from the insurer, or any of its agents, representatives or



1 employees are privileged and must not be the subject matter or basis
2 for any lawsuit if the letter, report or communication is written, sent,
3 delivered or prepared pursuant to the requirements of chapters 616A
4 to 616D, inclusive, or chapter 617 of NRS.

5 9. The provisions of this section do not prohibit the
6 Administrator or the Division from disclosing any nonproprietary
7 information relating to an uninsured employer or proof of industrial
8 insurance.

9 **Sec. 11.** NRS 687A.130 is hereby amended to read as follows:

10 687A.130 The Association is exempt from payment of all fees
11 and all taxes levied by this State or any of its subdivisions, except
12 taxes:

13 1. Levied on real or personal property; or

14 2. Imposed pursuant to the provisions of chapter 363A ~~for~~
15 ~~363B~~ of NRS.

16 **Sec. 12.** NRS 694C.450 is hereby amended to read as follows:

17 694C.450 1. Except as otherwise provided in this section, a
18 captive insurer shall pay to the Division, not later than March 1 of
19 each year, a tax at the rate of:

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

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

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

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

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

31 (b) One hundred fifty thousandths of 1 percent on the next
32 \$20,000,000 of revenue from assumed reinsurance premiums; and

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

35 ➤ The tax on reinsurance premiums pursuant to this subsection
36 must not be levied on premiums for risks or portions of risks which
37 are subject to taxation on a direct basis pursuant to subsection 1. A
38 captive insurer is not required to pay any reinsurance premium tax
39 pursuant to this subsection on revenue related to the receipt of assets
40 by the captive insurer in exchange for the assumption of loss
41 reserves and other liabilities of another insurer that is under
42 common ownership and control with the captive insurer, if the
43 transaction is part of a plan to discontinue the operation of the other
44 insurer and the intent of the parties to the transaction is to renew or
45 maintain such business with the captive insurer.



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

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

10 5. Notwithstanding any specific statute to the contrary and
11 except as otherwise provided in this subsection, the tax provided for
12 by this section constitutes all the taxes collectible pursuant to the
13 laws of this State from a captive insurer, and no occupation tax or
14 other taxes may be levied or collected from a captive insurer by this
15 State or by any county, city or municipality within this State, except
16 for taxes imposed pursuant to chapter 363A ~~for 363B~~ of NRS and
17 ad valorem taxes on real or personal property located in this State
18 used in the production of income by the captive insurer.

19 6. Twenty-five percent of the revenues collected from the tax
20 imposed pursuant to this section must be deposited with the State
21 Treasurer for credit to the Account for the Regulation and
22 Supervision of Captive Insurers created pursuant to NRS 694C.460.
23 The remaining 75 percent of the revenues collected must be
24 deposited with the State Treasurer for credit to the State General
25 Fund.

26 7. A captive insurer that is issued a license pursuant to this
27 chapter after July 1, 2003, is entitled to receive a nonrefundable
28 credit of \$5,000 applied against the aggregate taxes owed by the
29 captive insurer for the first year in which the captive insurer incurs
30 any liability for the payment of taxes pursuant to this section. A
31 captive insurer is entitled to a nonrefundable credit pursuant to this
32 section not more than once after the captive insurer is initially
33 licensed pursuant to this chapter.

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

36 (a) "Common ownership and control" means:

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

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

43 (b) "Net direct premiums" means the direct premiums collected
44 or contracted for on policies or contracts of insurance written by a
45 captive insurer during the preceding calendar year, less the amounts



1 paid to policyholders as return premiums, including dividends on
2 unabsorbed premiums or premium deposits returned or credited to
3 policyholders.

4 **Sec. 13.** NRS 363B.010, 363B.015, 363B.020, 363B.030,
5 363B.040, 363B.050, 363B.060, 363B.070, 363B.080, 363B.090,
6 363B.100, 363B.110, 363B.115, 363B.120, 363B.130, 363B.140,
7 363B.150, 363B.160, 363B.170, 363B.180, 363B.190, 363B.200,
8 363B.210, 363B.220, 363B.230, 363B.240 and 363B.250 are hereby
9 repealed.

10 **Sec. 14.** The provisions of this act do not affect any taxes
11 imposed pursuant to NRS 363B.110 before July 1, 2011.

12 **Sec. 15.** This act becomes effective on July 1, 2011.

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. [Effective July 1, 2011.]
- 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.
- 363B.100** Confidentiality of records and files of Department.
- 363B.110** Imposition, amount and payment of tax; filing of return. [Effective July 1, 2011.]
- 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.



