

SENATE BILL NO. 36—COMMITTEE ON  
COMMERCE, LABOR AND ENERGY

(ON BEHALF OF THE EMPLOYMENT SECURITY DIVISION)

PREFILED DECEMBER 20, 2012

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Makes various changes concerning unemployment compensation. (BDR 53-371)

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 employment; establishing provisions for the collection of money owed to the Employment Security Division of the Department of Employment, Training and Rehabilitation; establishing a waiting period of 1 week as an additional condition of eligibility for unemployment compensation benefits; revising provisions concerning unemployment compensation fraud; providing for the transfer of an employer's liabilities to the Division upon the transfer of the employer's trade or business; prohibiting the relief of an employer's record for experience rating of charges for benefits under certain circumstances; assigning liability for the payment of money owed to the Division upon the transfer of certain assets; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 Under existing law, the Administrator of the Employment Security Division of
- 2 the Department of Employment, Training and Rehabilitation is authorized
- 3 to bring actions in district court for the repayment of fraudulently obtained
- 4 benefits or to recover amounts owed to the Division by persons who commit
- 5 unemployment insurance fraud. (NRS 612.365, 612.445) **Sections 12-19 and**
- 6 **21** of this bill establish an additional method for the collection of such money. This
- 7 method is modeled after the method used by the Division of Welfare and
- 8 Supportive Services of the Department of Health and Human Services to



\* S B 3 6 R 1 \*

9 enforce a court order that requires a person to make payments for the support of a  
10 child. (NRS 31A.025-31A.190) **Section 12** provides that if the Administrator  
11 obtains a judgment against a person who has fraudulently obtained benefits or  
12 committed unemployment compensation fraud, the Administrator may, in addition  
13 to any other manner of executing the judgment provided by law, require  
14 each employer of the person to withhold income from the person's wages and pay it  
15 to the Division. **Sections 13-19** establish provisions for: (1) notifying a person  
16 whose income is to be withheld; (2) issuing a notice to withhold income to a  
17 person's employer; (3) establishing an employer's duties with respect to the  
18 withholding of income; (4) providing penalties for an employer's violation of those  
19 duties; and (5) providing an employer with immunity from any civil action for any  
20 conduct taken in compliance with a notice to withhold income. **Section 23** of this  
21 bill revises existing law concerning unemployment insurance fraud by: (1)  
22 providing that, in general, the Administrator may issue an initial determination  
23 finding that a person has committed such fraud at any time within 4 years after the  
24 first day of the benefit year in which the person committed the fraud; and (2)  
25 revising other provisions concerning the period during which the person is  
26 disqualified from receiving further benefits and the amount of the penalties that  
27 may be imposed.

28 Existing law provides that an unemployed person is not eligible to receive  
29 benefits unless the Administrator finds that the person satisfies certain conditions.  
30 (NRS 612.375) **Section 22** of this bill adds an additional condition for such  
31 eligibility: the person must have been unemployed and otherwise eligible for  
32 benefits for a waiting period of 1 week within the person's current benefit year,  
33 during which no benefits were paid. All but 12 states currently include such a  
34 waiting period in their unemployment compensation laws.

35 Under existing law, an employer's contribution rate is based on the employer's  
36 experience rating, which reflects the amount of unemployment compensation  
37 benefits that are paid to former employees and charged to the employer's record for  
38 experience rating. Existing law also provides for the transfer of some or all of an  
39 employer's record for experience rating when the employer transfers its trade or  
40 business to another employer. (NRS 612.550) **Section 24** of this bill provides that if  
41 the transferring employer is liable to the Division for unpaid contributions, interest  
42 or forfeits, a percentage of that liability must also be transferred to the other  
43 employer. The percentage of liability transferred must be the same as the  
44 percentage of the experience record transferred.

45 Under existing law, an employer who receives notice that a former employee  
46 has filed a claim for benefits is required to provide the Division with all relevant  
47 facts which may affect the claimant's rights to benefits within 11 days after the  
48 Division mails the notice of the claim. (NRS 612.475) The amounts of any benefits  
49 paid to that claimant are charged to the employer's record for experience rating  
50 unless circumstances exist which entitle the record to be relieved of such charges.  
51 (NRS 612.551) **Section 25** of this bill provides that an employer's record for  
52 experience rating is not entitled to be relieved of charges for the amount of any  
53 benefits erroneously paid to a claimant if the employer failed to submit timely all  
54 the information as required. This change is required to comply with federal law.  
55 (Trade Adjustment Assistance Extension Act of 2011, Pub. L. No. 112-40, § 252,  
56 125 Stat. 402, 421-22)

57 Under existing law, an employer who, outside the usual course of  
58 business, sells certain assets and quits business is required to pay to the Division the  
59 amount of all contributions, interest or forfeits accrued and unpaid on account of  
60 wages paid by the employer up to the date of the sale. If the seller fails to do so  
61 within 10 days after the sale, the purchaser of the assets becomes personally liable  
62 for the payment of those amounts. (NRS 612.695) **Section 26** of this bill extends



63 those provisions to apply in cases of the transfer of the assets of a business by  
64 means other than a sale.

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

1     **Section 1.** Chapter 612 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 19, inclusive, of this  
3 act.

4     **Sec. 2.** (Deleted by amendment.)

5     **Sec. 3.** (Deleted by amendment.)

6     **Sec. 4.** (Deleted by amendment.)

7     **Sec. 5.** (Deleted by amendment.)

8     **Sec. 6.** (Deleted by amendment.)

9     **Sec. 7.** (Deleted by amendment.)

10    **Sec. 8.** (Deleted by amendment.)

11    **Sec. 9.** (Deleted by amendment.)

12    **Sec. 10.** (Deleted by amendment.)

13    **Sec. 11.** (Deleted by amendment.)

14    **Sec. 12.** *If the Administrator obtains a judgment against a*  
15 *person for:*

16    1. *The repayment of benefits obtained due to the person's*  
17 *fraud, misrepresentation or willful nondisclosure pursuant to*  
18 *NRS 612.365; or*

19    2. *The recovery of amounts owed to the Division for*  
20 *committing unemployment insurance fraud in violation of*  
21 *NRS 612.445,*

22    ↳ *the Administrator may, in addition to any other manner*  
23 *of executing the judgment provided by law, require each employer*  
24 *of the person to withhold income from the person's wages and pay*  
25 *it over to the Division in accordance with the provisions of*  
26 *sections 12 to 19, inclusive of this act.*

27    **Sec. 13.** *The Administrator shall provide to a person who is*  
28 *subject to the withholding of income pursuant to section 12 of this*  
29 *act a notice sent by first-class mail to the person's last known*  
30 *address:*

31    1. *That his or her income is being withheld;*

32    2. *That a notice to withhold income applies to any current or*  
33 *subsequent employer;*

34    3. *That a notice to withhold income has been mailed to his or*  
35 *her employer;*

36    4. *Of the information provided to his or her employer*  
37 *pursuant to section 14 of this act;*

38    5. *That he or she may contest the withholding; and*



1       6. *Of the grounds and procedures for contesting the*  
2 *withholding.*

3       **Sec. 14.** *1. The Administrator shall mail, by first-class mail,*  
4 *a notice to withhold income pursuant to section 12 of this act to*  
5 *each employer of the person who is subject to the withholding.*

6       *2. If an employer does not begin to withhold income from the*  
7 *person in accordance with section 15 of this act after receiving the*  
8 *notice to withhold income that was mailed pursuant to subsection*  
9 *1, the Administrator shall, by certified mail, return receipt*  
10 *requested, mail to the employer another notice to withhold income.*

11       *3. A notice to withhold income pursuant to section 12 of this*  
12 *act may be issued electronically and must:*

13       *(a) Contain the social security number of the person;*

14       *(b) Specify the total amount to be withheld from the income of*  
15 *the person, including any interest, penalties or assessments*  
16 *accrued pursuant to the provisions of this chapter;*

17       *(c) Describe the limitation for withholding income prescribed*  
18 *in NRS 31.295;*

19       *(d) Describe the prohibition against terminating the*  
20 *employment of a person because of withholding and the penalties*  
21 *for wrongfully refusing to withhold in accordance with the notice*  
22 *to withhold income; and*

23       *(e) Explain the duties of an employer upon the receipt of the*  
24 *notice to withhold income.*

25       **Sec. 15.** *An employer who receives a notice to withhold*  
26 *income pursuant to section 12 of this act shall:*

27       *1. Withhold the amount stated in the notice from the income*  
28 *due to the person beginning with the first pay period that occurs*  
29 *within 14 days after the date the notice was mailed to the employer*  
30 *and continuing until:*

31       *(a) The Administrator notifies the employer to discontinue the*  
32 *withholding; or*

33       *(b) The full amount required to be paid to the Administrator*  
34 *has been paid, as indicated by a written statement to the employer*  
35 *from the Administrator;*

36       *2. Calculate the amount of income to be withheld from a*  
37 *person's wages during each pay period in accordance with the*  
38 *provisions of NRS 31.295 and subject to the limitation on*  
39 *withholding prescribed in that section. For the purposes of this*  
40 *subsection, a withholding of income shall be deemed a*  
41 *garnishment of earnings.*

42       *3. Deliver the money withheld to the Administrator within 7*  
43 *days after the date of each payment of the regularly scheduled*  
44 *payroll of the employer; and*



1       4. *Notify the Administrator when the person subject to*  
2 *withholding terminates his or her employment and provide the last*  
3 *known address of the person and the name of any new employer of*  
4 *the person, if known.*

5       **Sec. 16.** 1. *A notice to withhold income pursuant to section*  
6 *12 of this act is binding upon any employer of the person to whom*  
7 *it is mailed. To reimburse the employer for his or her costs in*  
8 *making the withholding, the employer may deduct \$3 from the*  
9 *amount paid to the person each time the employer makes a*  
10 *withholding.*

11       2. *Except as otherwise provided in subsection 3, if an*  
12 *employer receives notices to withhold income pursuant to section*  
13 *12 of this act for more than one employee, the employer may*  
14 *consolidate the amounts of money that are payable to the*  
15 *Administrator and pay those amounts with one check, but the*  
16 *employer shall attach to each check a statement identifying by*  
17 *name and social security number each person for whom payment*  
18 *is made and the amount transmitted for that person.*

19       3. *If the provisions of NRS 353.1467 apply, the employer*  
20 *shall make payment to the Administrator by any method of*  
21 *electronic transfer of money allowed by the Administrator. If an*  
22 *employer makes such payment by electronic transfer of money, the*  
23 *employer shall transmit separately the name and appropriate*  
24 *identification number, if any, of each person for whom payment is*  
25 *made and the amount transmitted for that person.*

26       4. *As used in this section, "electronic transfer of money" has*  
27 *the meaning ascribed to it in NRS 353.1467.*

28       **Sec. 17.** 1. *It is unlawful for an employer to use the*  
29 *withholding of income to collect an obligation to pay money to the*  
30 *Administrator as a basis for refusing to hire a potential employee,*  
31 *discharging an employee or taking disciplinary action against an*  
32 *employee. Any employer who violates this section shall hire or*  
33 *reinstate any such employee with no loss of pay or benefits, is*  
34 *liable for any amounts not withheld and shall be fined \$1,000. If*  
35 *an employee prevails in an action based on this section, the*  
36 *employer is liable, in an amount not less than \$2,500, for payment*  
37 *of the employee's costs and attorney's fees incurred in that action.*

38       2. *If an employer wrongfully refuses to withhold income as*  
39 *required pursuant to sections 12 to 19, inclusive, of this act or*  
40 *knowingly misrepresents the income of an employee, the employer*  
41 *shall pay the amount the employer refused to withhold to the*  
42 *Administrator and may be ordered to pay punitive damages to the*  
43 *Administrator in an amount not to exceed \$1,000 for each pay*  
44 *period the employer failed to withhold income as required or*  
45 *knowingly misrepresented the income of the employee.*



1       **Sec. 18. 1.** *If an employer wrongfully refuses to withhold*  
2 *income as required pursuant to sections 12 to 19, inclusive, of this*  
3 *act, after receiving a notice to withhold income that was sent by*  
4 *certified mail pursuant to section 14 of this act, or knowingly*  
5 *misrepresents the income of an employee, the Administrator may*  
6 *apply for and the court may issue an order directing the employer*  
7 *to appear and show cause why he or she should not be subject to*  
8 *the penalties prescribed in subsection 2 of section 17 of this act.*

9       2. *At the hearing on the order to show cause, the court, upon*  
10 *a finding that the employer wrongfully refused to withhold income*  
11 *as required or knowingly misrepresented an employee's income:*

12       (a) *May order the employer to comply with the requirements of*  
13 *sections 12 to 19, inclusive, of this act;*

14       (b) *May order the employer to provide accurate information*  
15 *concerning the employee's income;*

16       (c) *May fine the employer pursuant to subsection 2 of section*  
17 *17 of this act; and*

18       (d) *Shall require the employer to pay the amount the employer*  
19 *failed or refused to withhold from the employee's income.*

20       **Sec. 19. 1.** *An employer who complies with a notice to*  
21 *withhold income pursuant to section 12 of this act that is regular*  
22 *on its face may not be held liable in any civil action for any*  
23 *conduct taken in compliance with the notice.*

24       2. *Compliance by an employer with a notice to withhold*  
25 *income pursuant to section 12 of this act is a discharge of the*  
26 *employer's liability to the person as to that portion of the income*  
27 *affected.*

28       3. *If a court issues an order to stay a withholding of income,*  
29 *the Administrator may not be held liable in any civil action to the*  
30 *person who is the subject of the withholding of income for any*  
31 *money withheld before the stay becomes effective.*

32       **Sec. 20.** NRS 612.350 is hereby amended to read as follows:

33       612.350 1. ~~Each~~ *An eligible person who is unemployed and*  
34 *otherwise entitled to receive benefits* in any week must be paid for  
35 that week a benefit in an amount equal to the person's weekly  
36 benefit amount, less 75 percent of the remuneration payable to him  
37 or her for that week.

38       2. The benefit, if not a multiple of \$1, must be computed to the  
39 next lower multiple of \$1.

40       **Sec. 21.** NRS 612.365 is hereby amended to read as follows:

41       612.365 1. Any person who is overpaid any amount as  
42 benefits under this chapter is liable for the amount overpaid unless:

43       (a) The overpayment was not due to fraud, misrepresentation or  
44 willful nondisclosure on the part of the recipient; and



1 (b) The overpayment was received without fault on the part of  
2 the recipient, and its recovery would be against equity and good  
3 conscience, as determined by the Administrator.

4 2. The amount of the overpayment must be assessed to the  
5 liable person, and the person must be notified of the basis of  
6 the assessment. The notice must specify the amount for which the  
7 person is liable. In the absence of fraud, misrepresentation or willful  
8 nondisclosure, notice of the assessment must be mailed or  
9 personally served not later than 1 year after the close of the benefit  
10 year in which the overpayment was made.

11 3. At any time within 5 years after the notice of overpayment,  
12 the Administrator may recover the amount of the overpayment by  
13 using the same methods of collection provided in NRS 612.625 to  
14 612.645, inclusive, 612.685 and 612.686 for the collection of past  
15 due contributions or by deducting the amount of the overpayment  
16 from any benefits payable to the liable person under this chapter. *If*  
17 *the overpayment is due to fraud, misrepresentation or willful*  
18 *nondisclosure, the Administrator may recover any amounts due in*  
19 *accordance with the provisions of sections 12 to 19, inclusive, of*  
20 *this act.*

21 4. The Administrator may waive recovery or adjustment of all  
22 or part of the amount of any such overpayment which the  
23 Administrator finds to be uncollectible or the recovery or adjustment  
24 of which the Administrator finds to be administratively  
25 impracticable.

26 5. To the extent allowed pursuant to federal law, the  
27 Administrator may assess any administrative fee prescribed by an  
28 applicable agency of the United States regarding the recovery of  
29 such overpayments.

30 6. Any person against whom liability is determined under this  
31 section may appeal therefrom within 11 days after the date the  
32 notice provided for in this section was mailed to, or served upon, the  
33 person. An appeal must be made and conducted in the manner  
34 provided in this chapter for the appeals from determinations of  
35 benefit status. The 11-day period provided for in this subsection  
36 may be extended for good cause shown.

37 **Sec. 22.** NRS 612.375 is hereby amended to read as follows:

38 612.375 1. Except as otherwise provided in subsection 2 of  
39 NRS 612.3774, an unemployed person is eligible to receive benefits  
40 with respect to any week only if the Administrator finds that:

41 (a) The person has registered for work at, and thereafter has  
42 continued to report at, an office of the Division in such a manner as  
43 the Administrator prescribes, except that the Administrator may by  
44 regulation waive or alter either or both of the requirements of this  
45 paragraph for persons attached to regular jobs and in other types of



1 cases or situations with respect to which the Administrator finds that  
2 compliance with those requirements would be oppressive or  
3 inconsistent with the purposes of this chapter.

4 (b) The person has made a claim for benefits in accordance with  
5 the provisions of NRS 612.450 and 612.455.

6 (c) The person is able to work, and is available for work, but no  
7 claimant may be considered ineligible with respect to any week of  
8 unemployment for failure to comply with the provisions of this  
9 paragraph if the failure is because of an illness or disability which  
10 occurs during an uninterrupted period of unemployment with  
11 respect to which benefits are claimed and no work has been offered  
12 the claimant which would have been suitable before the beginning  
13 of the illness and disability. No otherwise eligible person may be  
14 denied benefits for any week in which the person is engaged in  
15 training approved pursuant to 19 U.S.C. § 2296 or by the  
16 Administrator by reason of any provisions of this chapter relating to  
17 availability for work or failure to apply for, or a refusal to accept,  
18 suitable work.

19 (d) The person has within his or her base period been paid  
20 wages from employers:

21 (1) Equal to or exceeding 1 1/2 times the person's total  
22 wages for employment by employers during the quarter of the  
23 person's base period in which the person's total wages were highest;  
24 or

25 (2) In each of at least three of the four quarters in the  
26 person's base period.

27 *(e) The person has been unemployed and otherwise eligible for*  
28 *benefits for a waiting period of 1 week, within the person's current*  
29 *benefit year, during which no benefits were paid. For the purposes*  
30 *of this paragraph, a person is unemployed in any week during*  
31 *which the amount of any wages earned by the person is less than*  
32 *the person's weekly benefit amount.*

33 ~~➤ If a person fails to qualify for a weekly benefit amount of one~~  
34 ~~twenty-fifth of the person's high-quarter wages but can qualify for a~~  
35 ~~weekly benefit amount of \$1 less than one twenty-fifth of his or her~~  
36 ~~high-quarter wages, the person's weekly benefit amount must be \$1~~  
37 ~~less than one twenty-fifth of his or her high-quarter wages.~~

38 person may receive benefits in a benefit year unless, after the  
39 beginning of the next preceding benefit year during which the  
40 person received benefits, he or she performed service, whether or  
41 not in "employment" as defined in this chapter and earned  
42 remuneration for that service in an amount equal to not less than 3  
43 times his or her basic weekly benefit amount as determined for the  
44 next preceding benefit year.





1 2. In addition to fulfilling the requirements set forth in  
2 subsection 1, an unemployed person who has been determined to be  
3 likely to exhaust his or her regular benefits and to need services to  
4 assist in his or her reemployment, pursuant to the system of  
5 profiling established by the Administrator pursuant to 42 U.S.C. §  
6 503, is eligible to receive benefits with respect to any week only if  
7 the person participates in those services to assist in his or her  
8 reemployment, unless the Administrator determines that:

9 (a) The unemployed person has completed his or her  
10 participation in those services; or

11 (b) There is a justifiable cause for the person's failure to  
12 participate in those services.

13 3. For any week in which a claimant receives any pension or  
14 other payment for retirement, including a governmental or private  
15 pension, annuity or other, similar periodic payment, except as  
16 otherwise provided in subsection 4, the amount payable to the  
17 claimant under a plan maintained by a base-period employer or an  
18 employer whose account is chargeable with benefit payments must:

19 (a) Not be reduced by the amount of the pension or other  
20 payment if the claimant made any contribution to the pension or  
21 retirement plan; or

22 (b) Be reduced by the entire proportionate weekly amount of the  
23 pension or other payment if the employer contributed the entire  
24 amount to the pension or retirement plan.

25 4. The amount of the weekly benefit payable to a claimant  
26 must not be reduced by the pension offset in subsection 3 if the  
27 services performed by the claimant during the base period, or the  
28 compensation the claimant received for those services, from that  
29 employer did not affect the claimant's eligibility for, or increase the  
30 amount of, the pension or other payment, except for a pension paid  
31 pursuant to the Social Security Act or Railroad Retirement Act of  
32 1974, or the corresponding provisions of prior law, which is not  
33 eligible for the exclusion provided in this subsection and is subject  
34 to the offset provisions of subsection 3.

35 5. As used in this section, "regular benefits" has the meaning  
36 ascribed to it in NRS 612.377.

37 **Sec. 23.** NRS 612.445 is hereby amended to read as follows:

38 612.445 1. A person shall not make a false statement or  
39 representation, knowing it to be false, or knowingly fail to disclose a  
40 material fact in order to obtain or increase any benefit or other  
41 payment under this chapter, including, without limitation, by failing  
42 to properly report earnings or by filing a claim for benefits using the  
43 social security number, name or other personal identifying  
44 information of another person. A person who violates the provisions  
45 of this subsection commits unemployment insurance fraud.



1 2. When the Administrator finds that a person has committed  
2 unemployment insurance fraud pursuant to subsection 1, the person  
3 shall repay to the Administrator for deposit in the Fund a sum equal  
4 to all of the benefits received by or paid to the person for each week  
5 with respect to which the false statement or representation was made  
6 or to which the person failed to disclose a material fact in addition to  
7 any interest, penalties and costs related to that sum. *Except as*  
8 *otherwise provided in subsection 3 of NRS 612.480, the*  
9 *Administrator may make an initial determination finding that a*  
10 *person has committed unemployment insurance fraud pursuant to*  
11 *subsection 1 at any time within 4 years after the first day of the*  
12 *benefit year in which the person committed the unemployment*  
13 *insurance fraud.*

14 3. Except as otherwise provided in this subsection and  
15 subsection 8, the person is disqualified from receiving  
16 unemployment compensation benefits under this chapter:

17 (a) For a period beginning with the ~~first week claimed in~~  
18 ~~violation of~~ *week in which the Administrator issues a finding that*  
19 *the person has committed unemployment insurance fraud*  
20 *pursuant to* subsection 1 and ending not more than 52 consecutive  
21 weeks after the week in which it is determined that a claim was filed  
22 in violation of subsection 1; or

23 (b) Until the sum described in subsection 2, in addition to any  
24 interest, penalties or costs related to that sum, is repaid to the  
25 Administrator,

26 ↪ whichever is longer. The Administrator shall fix the period of  
27 disqualification according to the circumstances in each case.

28 4. It is a violation of subsection 1 for a person to file a claim,  
29 or to cause or allow a claim to be filed on his or her behalf, if:

30 (a) The person is incarcerated in the state prison or any county  
31 or city jail or detention facility or other correctional facility in this  
32 State; and

33 (b) The claim does not expressly disclose his or her  
34 incarceration.

35 5. A person who obtains benefits of \$650 or more in violation  
36 of subsection 1 shall be punished in the same manner as theft  
37 pursuant to subsection 3 or 4 of NRS 205.0835.

38 6. In addition to the repayment of benefits required pursuant to  
39 subsection 2, ~~if the amount of benefits which must be repaid is~~  
40 ~~greater than \$1,000,] the Administrator [may] :~~

41 (a) *Shall impose a penalty equal to 15 percent of the total*  
42 *amount of benefits received by the person in violation of*  
43 *subsection 1. Money recovered by the Administrator pursuant to*  
44 *this paragraph must be deposited in the Unemployment Trust*  
45 *Fund in accordance with the provisions of NRS 612.590.*



1 (b) May impose a penalty equal to not more than:

2 ~~[(a)]~~ (1) If the amount of such benefits is greater than \$25 but  
3 not greater than \$1,000, 5 percent;

4 (2) If the amount of such benefits is greater than \$1,000 but  
5 not greater than \$2,500, ~~[(25)]~~ 10 percent; or

6 ~~[(b)]~~ (3) If the amount of such benefits is greater than \$2,500,  
7 ~~[(50)]~~ 35 percent,

8 → of the total amount of benefits received by the person in violation  
9 of subsection 1 or any other provision of this chapter. *Money*  
10 *recovered by the Administrator pursuant to this paragraph must*  
11 *be deposited in the Employment Security Fund in accordance with*  
12 *the provisions of NRS 612.615.*

13 7. Except as otherwise provided in subsection 8, a person may  
14 not pay benefits as required pursuant to subsection 2 by using  
15 benefits which would otherwise be due and payable to the person if  
16 he or she was not disqualified.

17 8. The Administrator may waive the period of disqualification  
18 prescribed in subsection 3 for good cause shown or if the person  
19 adheres to a repayment schedule authorized by the Administrator  
20 that is designed to fully repay benefits received from an improper  
21 claim, in addition to any related interest, penalties and costs, within  
22 18 months. If the Administrator waives the period of  
23 disqualification pursuant to this subsection, the person may repay  
24 benefits as required pursuant to subsection 2 by using any benefits  
25 which are due and payable to the person, except that benefits which  
26 are due and payable to the person may not be used to repay any  
27 related interest, penalties and costs.

28 9. The Administrator may recover any money required to be  
29 paid pursuant to this section in accordance with the provisions of  
30 NRS 612.365 and may collect interest on any such money in  
31 accordance with the provisions of NRS 612.620.

32 **Sec. 23.5.** NRS 612.475 is hereby amended to read as follows:

33 612.475 1. The last employing unit of any unemployed  
34 claimant and the next to last employing unit of an unemployed  
35 claimant who has not earned remuneration with his or her last  
36 covered employer equal to or exceeding his or her weekly benefit  
37 amount in each of 16 weeks must be notified of any new claim or  
38 additional claim filed by the unemployed claimant following his or  
39 her separation.

40 2. The notice of the filing of a claim must contain the  
41 claimant's name and social security number, the reason for  
42 separation from the employing unit affected as given by the  
43 claimant, the date of separation and such other information as is  
44 deemed proper.



1 3. Upon receipt of a notice of the filing of a claim, the  
2 employing unit shall, within 11 days after the date of the mailing of  
3 the notice, submit to the Division all *known* relevant facts which  
4 may affect the claimant's rights to benefits.

5 4. Any employing unit that receives a notice of the filing of a  
6 claim may protest payment of benefits to the unemployed claimant  
7 if the protest is filed within 11 days after the notice is filed.

8 5. Any employing unit which has filed a protest in accordance  
9 with the provisions of this section must be notified in writing of the  
10 determination arrived at by the Administrator or the Administrator's  
11 Deputy, and the notice must contain a statement setting forth the  
12 right of appeal.

13 6. As used in this section:

14 (a) "Additional claim" means a claim filed during the benefit  
15 year when a break of 1 week or more has occurred in the series of  
16 claims with intervening employment.

17 (b) "New claim" means an application for a determination of  
18 eligibility and benefits, benefit amount and duration of benefits  
19 which certifies to the beginning date of a first period of  
20 unemployment in a benefit year or the continuance of a period of  
21 unemployment into a new benefit year.

22 **Sec. 24.** NRS 612.550 is hereby amended to read as follows:  
23 612.550 1. As used in this section:

24 (a) "Average actual duration" means the number of weeks  
25 obtained by dividing the number of weeks of benefits paid for weeks  
26 of total unemployment in a consecutive 12-month period by the  
27 number of first payments made in the same 12-month period.

28 (b) "Average annual payroll" for each calendar year means the  
29 annual average of total wages paid by an employer subject to  
30 contributions for the 3 consecutive calendar years immediately  
31 preceding the computation date. The average annual payroll for  
32 employers first qualifying as eligible employers must be computed  
33 on the total amount of wages paid, subject to contributions, for not  
34 less than 10 consecutive quarters and not more than 12 consecutive  
35 quarters ending on December 31, immediately preceding the  
36 computation date.

37 (c) "Beneficiary" means a person who has received a first  
38 payment.

39 (d) "Computation date" for each calendar year means June 30 of  
40 the preceding calendar year.

41 (e) "Covered worker" means a person who has worked in  
42 employment subject to this chapter.

43 (f) "First payment" means the first weekly unemployment  
44 insurance benefit paid to a person in the person's benefit year.



1 (g) "Reserve balance" means the excess, if any, of total  
2 contributions paid by each employer over total benefit charges to  
3 that employer's experience rating record.

4 (h) "Reserve ratio" means the percentage ratio that the reserve  
5 balance bears to the average annual payroll.

6 (i) "Total contributions paid" means the total amount of  
7 contributions, due on wages paid on or before the computation date,  
8 paid by an employer not later than the last day of the second month  
9 immediately following the computation date.

10 (j) "Unemployment risk ratio" means the ratio obtained by  
11 dividing the number of first payments issued in any consecutive 12-  
12 month period by the average monthly number of covered workers in  
13 employment as shown on the records of the Division for the same  
14 12-month period.

15 2. The Administrator shall, as of the computation date for each  
16 calendar year, classify employers in accordance with their actual  
17 payrolls, contributions and benefit experience, and shall determine  
18 for each employer the rate of contribution which applies to that  
19 employer for each calendar year in order to reflect his or her  
20 experience and classification. The contribution rate of an employer  
21 may not be reduced below 2.95 percent, unless there have been 12  
22 consecutive calendar quarters immediately preceding the  
23 computation date throughout which the employer has been subject  
24 to this chapter and his or her account as an employer could have  
25 been charged with benefit payments, except that an employer who  
26 has not been subject to the law for a sufficient period to meet this  
27 requirement may qualify for a rate less than 2.95 percent if his or  
28 her account has been chargeable throughout a lesser period not less  
29 than the 10-consecutive-calendar-quarter period ending on the  
30 computation date.

31 3. Any employer who qualifies under paragraph (b) of  
32 subsection 9 and receives the experience record of a predecessor  
33 employer must be assigned the contribution rate of the predecessor.

34 4. Benefits paid to a person up to and including the  
35 computation date must be charged against the records, for  
36 experience rating, of the person's base-period employers in the same  
37 percentage relationship that wages reported by individual employers  
38 represent to total wages reported by all base period employers,  
39 except that:

40 (a) If one of the base period employers has paid 75 percent or  
41 more of the wages paid to the person during the person's base  
42 period, and except as otherwise provided in NRS 612.551, the  
43 benefits, less a proportion equal to the proportion of wages paid  
44 during the base period by employers who make reimbursement in  
45 lieu of contributions, must be charged to the records for experience



1 rating of that employer. The proportion of benefits paid which is  
2 equal to the part of the wages of the claimant for the base period  
3 paid by an employer who makes reimbursement must be charged to  
4 the record of that employer.

5 (b) No benefits paid to a multistate claimant based upon  
6 entitlement to benefits in more than one state may be charged to the  
7 experience rating record of any employer when no benefits would  
8 have been payable except pursuant to NRS 612.295.

9 (c) Except for employers who have been given the right to make  
10 reimbursement in lieu of contributions, extended benefits paid to a  
11 person must not be charged against the accounts of the person's  
12 base-period employers.

13 5. The Administrator shall, as of the computation date for each  
14 calendar year, compute the reserve ratio for each eligible employer  
15 and shall classify those employers on the basis of their individual  
16 reserve ratios. The contribution rate assigned to each eligible  
17 employer for the calendar year must be determined by the range  
18 within which the employer's reserve ratio falls. The Administrator  
19 shall, by regulation, prescribe the contribution rate schedule to apply  
20 for each calendar year by designating the ranges of reserve ratios to  
21 which must be assigned the various contribution rates provided in  
22 subsection 6. The lowest contribution rate must be assigned to the  
23 designated range of highest reserve ratios and each succeeding  
24 higher contribution rate must be assigned to each succeeding  
25 designated range of lower reserve ratios, except that, within the  
26 limits possible, the differences between reserve ratio ranges must be  
27 uniform.

28 6. Each employer eligible for a contribution rate based upon  
29 experience and classified in accordance with this section must be  
30 assigned a contribution rate by the Administrator for each calendar  
31 year according to the following classes:  
32

33	Class 1 .....	0.25 percent
34	Class 2 .....	0.55 percent
35	Class 3 .....	0.85 percent
36	Class 4 .....	1.15 percent
37	Class 5 .....	1.45 percent
38	Class 6 .....	1.75 percent
39	Class 7 .....	2.05 percent
40	Class 8 .....	2.35 percent
41	Class 9 .....	2.65 percent
42	Class 10 .....	2.95 percent
43	Class 11 .....	3.25 percent
44	Class 12 .....	3.55 percent
45	Class 13 .....	3.85 percent



1	Class 14 .....	4.15 percent
2	Class 15 .....	4.45 percent
3	Class 16 .....	4.75 percent
4	Class 17 .....	5.05 percent
5	Class 18 .....	5.40 percent

6  
7 7. On September 30 of each year, the Administrator shall  
8 determine:

9 (a) The highest of the unemployment risk ratios experienced in  
10 the 109 consecutive 12-month periods in the 10 years ending on  
11 March 31;

12 (b) The potential annual number of beneficiaries found by  
13 multiplying the highest unemployment risk ratio by the average  
14 monthly number of covered workers in employment as shown on  
15 the records of the Division for the 12 months ending on March 31;

16 (c) The potential annual number of weeks of benefits payable  
17 found by multiplying the potential number of beneficiaries by the  
18 highest average actual duration experienced in the 109 consecutive  
19 12-month periods in the 10 years ending on September 30; and

20 (d) The potential maximum annual benefits payable found by  
21 multiplying the potential annual number of weeks of benefits  
22 payable by the average payment made to beneficiaries for weeks of  
23 total unemployment in the 12 months ending on September 30.

24 8. The Administrator shall issue an individual statement,  
25 itemizing benefits charged during the 12-month period ending on  
26 the computation date, total benefit charges, total contributions paid,  
27 reserve balance and the rate of contributions to apply for that  
28 calendar year, for each employer whose account is in active status  
29 on the records of the Division on January 1 of each year and whose  
30 account is chargeable with benefit payments on the computation  
31 date of that year.

32 9. If an employer transfers its trade or business, or a portion  
33 thereof, to another employer:

34 (a) And there is substantially common ownership, management  
35 or control of the employers, the experience record attributable to the  
36 transferred trade or business must be transferred to the employer to  
37 whom the trade or business is transferred. The rates of both  
38 employers must be recalculated, and the recalculated rates become  
39 effective on the date of the transfer of the trade or business. If the  
40 Administrator determines, following the transfer of the experience  
41 record pursuant to this paragraph, that the sole or primary purpose  
42 of the transfer of the trade or business was to obtain a reduced  
43 liability for contributions, the Administrator shall combine the  
44 experience rating records of the employers involved into a single  
45 account and assign a single rate to the account.



1 (b) And there is no substantially common ownership,  
2 management or control of the employers, the experience record of  
3 an employer may be transferred to a successor employer as of the  
4 effective date of the change of ownership if:

5 (1) The successor employer acquires the entire or a severable  
6 and distinct portion of the business, or substantially all of the assets,  
7 of the employer;

8 (2) The successor employer notifies the Division of the  
9 acquisition in writing within 90 days after the date of the  
10 acquisition;

11 (3) The employer and successor employer submit a joint  
12 application to the Administrator requesting the transfer; and

13 (4) The joint application is approved by the Administrator.

14 ➔ The joint application must be submitted within 1 year after the  
15 date of issuance by the Division of official notice of eligibility to  
16 transfer.

17 (c) Except as otherwise provided in paragraph (a), a transfer of  
18 the experience record must not be completed if the Administrator  
19 determines that the acquisition was effected solely or primarily to  
20 obtain a more favorable contribution rate.

21 *(d) Any liability to the Division for unpaid contributions,*  
22 *interest or forfeit attributable to the transferred trade or business*  
23 *must be transferred to the successor employer. The percentage of*  
24 *liability transferred must be the same as the percentage of the*  
25 *experience record transferred.*

26 10. Whenever an employer has paid no wages in employment  
27 for 8 consecutive calendar quarters following the last calendar  
28 quarter in which the employer paid wages for employment, the  
29 Administrator shall terminate the employer's experience rating  
30 account, and the account must not thereafter be used in any rate  
31 computation.

32 11. The Administrator may adopt reasonable accounting  
33 methods to account for those employers which are in a category for  
34 providing reimbursement in lieu of contributions.

35 **Sec. 25.** NRS 612.551 is hereby amended to read as follows:

36 612.551 1. Except as otherwise provided in subsections 2, 3,  
37 and ~~3, 4~~ 7, if the Division determines that a claimant has earned 75  
38 percent or more of his or her wages during his or her base period  
39 from one employer, it shall notify the employer of its determination  
40 and advise him or her that he or she has a right to protest the  
41 charging of benefits to his or her account pursuant to subsection 4 of  
42 NRS 612.550.

43 2. Benefits paid pursuant to an elected base period in  
44 accordance with NRS 612.344 must not be charged against the  
45 record for experience rating of the employer.





1 3. ~~HH~~ *Except as otherwise provided in subsection 7, if* a  
2 claimant leaves his or her last or next to last employer to take other  
3 employment and leaves or is discharged by the latter employer,  
4 benefits paid to the claimant must not be charged against the record  
5 for experience rating of the former employer.

6 4. If the employer provides evidence within 10 working days  
7 after the notice required by subsection 1 was mailed which satisfies  
8 the Administrator that the claimant:

9 (a) Left his or her employment voluntarily without good cause  
10 or was discharged for misconduct connected with the employment;  
11 or

12 (b) Was the spouse of an active member of the Armed Forces of  
13 the United States and left his or her employment because the spouse  
14 was transferred to a different location,

15 ➔ the Administrator shall order that the benefits not be charged  
16 against the record for experience rating of the employer.

17 5. The employer may appeal from the ruling of the  
18 Administrator relating to the cause of the termination of the  
19 employment of the claimant in the same manner as appeals may be  
20 taken from determinations relating to claims for benefits.

21 6. A determination made pursuant to this section does not  
22 constitute a basis for disqualifying a claimant to receive benefits.

23 7. *If an employer who is given notice of a claim for benefits*  
24 *pursuant to subsection 1 fails to submit timely to the Division all*  
25 *known relevant facts which may affect the claimant's rights to*  
26 *benefits as required by NRS 612.475, the employer's record for*  
27 *experience rating is not entitled to be relieved of the amount of*  
28 *any benefits paid to the claimant as a result of such failure that*  
29 *were charged against the employer's record pursuant to NRS*  
30 *612.550 or 612.553.*

31 **Sec. 26.** NRS 612.615 is hereby amended to read as follows:

32 612.615 1. There is hereby created the Employment Security  
33 Fund as a special revenue fund.

34 2. ~~HH~~ *Except as otherwise provided in paragraph (a) of*  
35 *subsection 6 of NRS 612.445, all interest and forfeits collected*  
36 *under NRS 612.618 to 612.675, inclusive, and 612.740 and sections*  
37 *12 to 19, inclusive, of this act must be paid into the Fund.*

38 3. All money which is deposited or paid into the Fund is  
39 hereby appropriated and made available to the Administrator or for  
40 any other purpose authorized by the Legislature. The money may  
41 not be expended or made available for expenditure in any manner  
42 which would permit its substitution for, or a corresponding  
43 reduction in, federal payments which would, in the absence of this  
44 money, be available to finance expenditures for the administration  
45 of the employment security laws of the State of Nevada.



1 4. This section does not prevent this money from being used as  
2 a revolving fund to cover expenditures, necessary and proper under  
3 the law, for which federal payments have been duly requested but  
4 not yet received, subject to the repayment to the Fund of such  
5 expenditures when received.

6 5. ~~The~~ *Except as otherwise provided in this section*, money  
7 in this Fund available to the Administrator must be used by the  
8 Administrator for the payment of costs of:

9 (a) Administration which are found not to have been properly  
10 and validly chargeable against federal grants received for or in the  
11 Unemployment Compensation Administration Fund; or

12 (b) Any program or the implementation of procedures deemed  
13 necessary by the Administrator to ensure the proper payment of  
14 benefits and collection of contributions and reimbursements  
15 pursuant to this chapter or for any other purpose authorized by the  
16 Legislature.

17 6. *The Administrator may use money deposited in this Fund*  
18 *from a penalty imposed pursuant to paragraph (b) of subsection 6*  
19 *of NRS 612.445 for any purpose that furthers the integrity of the*  
20 *system of unemployment compensation established pursuant to*  
21 *this chapter.*

22 7. Any balances in this Fund do not lapse at any time, but are  
23 continuously available to the Administrator for expenditure  
24 consistent with this chapter.

25 ~~7.1~~ 8. Money in this Fund must not be commingled with other  
26 state money, but must be maintained in a separate account on the  
27 books of the depository.

28 **Sec. 27.** NRS 612.655 is hereby amended to read as follows:

29 612.655 1. Where a payment of contributions, forfeit or  
30 interest has been erroneously collected, an employer may, not later  
31 than 3 years after the date on which such payments became due,  
32 make application for an adjustment thereof in connection with  
33 subsequent contributions, forfeit or interest payments or for a  
34 refund. All such adjustments or refunds will be made without  
35 interest. An adjustment or refund will not be made in any case with  
36 respect to contributions on wages which have been included in the  
37 determination of an eligible claim for benefits, unless it is shown to  
38 the satisfaction of the Administrator that such determination was  
39 due entirely to the fault or mistake of the Division.

40 2. Refunds of interest and forfeit collected under NRS 612.618  
41 to 612.675, inclusive, and 612.740 *and sections 12 to 19, inclusive,*  
42 *of this act* and paid into the Employment Security Fund established  
43 by NRS 612.615 must be made only from the Employment Security  
44 Fund.



1     **Sec. 28.** NRS 612.695 is hereby amended to read as follows:

2     612.695 1. Any employer who, outside the usual course of  
3 the employer's business, sells *or transfers* substantially all or any  
4 one of the classes of assets enumerated in subsection 1 of NRS  
5 612.690 and quits business, shall within 10 days after the sale *or*  
6 *transfer* file such reports as the Administrator may prescribe and  
7 pay the contributions, interest or forfeits required by this chapter  
8 with respect to wages for employment to the date of the sale ~~H~~ *or*  
9 *transfer*.

10    2. *In the case of a sale:*

11    (a) The purchaser shall withhold sufficient of the purchase  
12 money to cover the amount of all contributions, *interest* and forfeits  
13 due and unpaid until such time as the seller produces a receipt from  
14 the Administrator showing that the contributions, *interest* and  
15 forfeits have been paid or a certificate showing that no contributions  
16, *interest* or forfeits are due.

17    ~~3.~~ (b) If the seller fails, within the 10-day period, to produce  
18 the receipt or certificate, the purchaser shall pay the sum so withheld  
19 to the Administrator upon demand.

20    ~~4.~~ (c) If the purchaser fails to withhold purchase money as  
21 provided in ~~subsection 2~~ *paragraph (a)* and the contributions,  
22 interest and forfeits are not paid within the 10 days specified in this  
23 section, the purchaser is personally liable for the payment of the  
24 contributions, *interest* and forfeits accrued and unpaid on account  
25 of the operation of the business by the former owner.

26    3. *In the case of a transfer other than a sale, if the*  
27 *contributions, interest and forfeits are not paid within the 10 days*  
28 *specified in this section, the transferee is personally liable for the*  
29 *payment of the contributions, interest and forfeits accrued and*  
30 *unpaid on account of the operation of the business by the former*  
31 *owner.*

32    **Sec. 29.** (Deleted by amendment.)

33    **Sec. 30.** The provisions of NRS 612.551, as amended by  
34 section 25 of this act, do not apply to a claim for benefits paid  
35 before October 21, 2013.

36    **Sec. 31.** (Deleted by amendment.)

37    **Sec. 32.** 1. This section and sections 1, 12 to 19, inclusive,  
38 21 to 28, inclusive, and 30 of this act become effective upon passage  
39 and approval.

40    2. Sections 2 to 11, inclusive, and 20 of this act become  
41 effective:

42    (a) Upon passage and approval for the purposes of adopting  
43 regulations and performing any other preparatory administrative  
44 tasks that are necessary to carry out the provisions of those sections;  
45 and



1 (b) For all other purposes, on the first day of the quarter after the  
2 date on which the Secretary of Labor approves the program of  
3 shared work unemployment compensation established pursuant to  
4 section 5 of this act as a short-time compensation program.

5 3. Sections 29 and 31 of this act become effective:

6 (a) Upon passage and approval for the purposes of adopting  
7 regulations and performing any other preparatory administrative  
8 tasks that are necessary to carry out the provisions of this act; and

9 (b) For all other purposes, if and only if the amendatory  
10 provisions of section 4 of chapter 476, Statutes of Nevada 2011, at  
11 page 2891, or substantially similar provisions, are in effect on the  
12 first day of the quarter after the date on which the Secretary of  
13 Labor approves the program of shared work unemployment  
14 compensation established pursuant to section 5 of this act as a short-  
15 time compensation program.

16 4. Section 29 of this act expires by limitation on the date on  
17 which the amendatory provisions of section 4 of chapter 476,  
18 Statutes of Nevada 2011, at page 2891, or substantially similar  
19 provisions, expire.

③

