

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; 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
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



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

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

50 Under existing law, an employer who, outside the usual course of
51 business, sells certain assets and quits business is required to pay to the Division the
52 amount of all contributions, interest or forfeits accrued and unpaid on account of
53 wages paid by the employer up to the date of the sale. If the seller fails to do so
54 within 10 days after the sale, the purchaser of the assets becomes personally liable
55 for the payment of those amounts. (NRS 612.695) **Section 26** of this bill extends
56 those provisions to apply in cases of the transfer of the assets of a business by
57 means other than a sale.



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*

39 6. *Of the grounds and procedures for contesting the*
40 *withholding.*



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

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

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

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

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

15 **(c) Describe the limitation for withholding income prescribed**
16 *in NRS 31.295;*

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

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

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

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

29 **(a) The Administrator notifies the employer to discontinue the**
30 *withholding; or*

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

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

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

43 **4. Notify the Administrator when the person subject to**
44 *withholding terminates his or her employment and provide the last*



1 *known address of the person and the name of any new employer of*
2 *the person, if known.*

3 **Sec. 16.** 1. *A notice to withhold income pursuant to section*
4 *12 of this act is binding upon any employer of the person to whom*
5 *it is mailed. To reimburse the employer for his or her costs in*
6 *making the withholding, the employer may deduct \$3 from the*
7 *amount paid to the person each time the employer makes a*
8 *withholding.*

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

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

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

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

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

44 **Sec. 18.** 1. *If an employer wrongfully refuses to withhold*
45 *income as required pursuant to sections 12 to 19, inclusive, of this*



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

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

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

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

14 *(c) May fine the employer pursuant to subsection 2 of section*
15 *17 of this act; and*

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

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

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

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

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

31 612.350 1. ~~Each~~ *An eligible person who is unemployed and*
32 *otherwise entitled to receive benefits in any week must be paid for*
33 *that week a benefit in an amount equal to the person's weekly*
34 *benefit amount, less 75 percent of the remuneration payable to him*
35 *or her for that week.*

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

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

39 612.365 1. Any person who is overpaid any amount as
40 benefits under this chapter is liable for the amount overpaid unless:

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

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



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

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

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

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

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

34 **Sec. 22.** (Deleted by amendment.)

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

36 612.445 1. A person shall not make a false statement or
37 representation, knowing it to be false, or knowingly fail to disclose a
38 material fact in order to obtain or increase any benefit or other
39 payment under this chapter, including, without limitation, by failing
40 to properly report earnings or by filing a claim for benefits using the
41 social security number, name or other personal identifying
42 information of another person. A person who violates the provisions
43 of this subsection commits unemployment insurance fraud.

44 2. When the Administrator finds that a person has committed
45 unemployment insurance fraud pursuant to subsection 1, the person



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

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

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

21 (b) Until the sum described in subsection 2, in addition to any
22 interest, penalties or costs related to that sum, is repaid to the
23 Administrator,
24 ↪ whichever is longer. The Administrator shall fix the period of
25 disqualification according to the circumstances in each case.

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

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

31 (b) The claim does not expressly disclose his or her
32 incarceration.

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

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

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

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



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

3 (2) If the amount of such benefits is greater than \$1,000 but
4 not greater than \$2,500, ~~12.5~~ 10 percent; or

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

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

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

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

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

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

32 612.475 1. The last employing unit of any unemployed
33 claimant and the next to last employing unit of an unemployed
34 claimant who has not earned remuneration with his or her last
35 covered employer equal to or exceeding his or her weekly benefit
36 amount in each of 16 weeks must be notified of any new claim or
37 additional claim filed by the unemployed claimant following his or
38 her separation.

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

44 3. Upon receipt of a notice of the filing of a claim, the
45 employing unit shall, within 11 days after the date of the mailing of



1 the notice, submit to the Division all *known* relevant facts which
2 may affect the claimant's rights to benefits.

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

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

11 6. As used in this section:

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

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

20 **Sec. 24.** NRS 612.550 is hereby amended to read as follows:

21 612.550 1. As used in this section:

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

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

35 (c) "Beneficiary" means a person who has received a first
36 payment.

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

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

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

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



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

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

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

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

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

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

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



1 paid by an employer who makes reimbursement must be charged to
2 the record of that employer.

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

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

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

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

30	
31	Class 10.25 percent
32	Class 20.55 percent
33	Class 30.85 percent
34	Class 41.15 percent
35	Class 51.45 percent
36	Class 61.75 percent
37	Class 72.05 percent
38	Class 82.35 percent
39	Class 92.65 percent
40	Class 102.95 percent
41	Class 113.25 percent
42	Class 123.55 percent
43	Class 133.85 percent
44	Class 144.15 percent
45	Class 154.45 percent



1	Class 16	4.75 percent
2	Class 17	5.05 percent
3	Class 18	5.40 percent

4
5 7. On September 30 of each year, the Administrator shall
6 determine:

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

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

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

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

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

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

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

44 (b) And there is no substantially common ownership,
45 management or control of the employers, the experience record of



1 an employer may be transferred to a successor employer as of the
2 effective date of the change of ownership if:

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

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

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

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

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

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

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

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

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

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

34 612.551 1. Except as otherwise provided in subsections 2, 3
35 and ~~3, 4~~ 7, if the Division determines that a claimant has earned 75
36 percent or more of his or her wages during his or her base period
37 from one employer, it shall notify the employer of its determination
38 and advise him or her that he or she has a right to protest the
39 charging of benefits to his or her account pursuant to subsection 4 of
40 NRS 612.550.

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

44 3. ~~##~~ *Except as otherwise provided in subsection 7, if*
45 *a claimant leaves his or her last or next to last employer to take other*



1 employment and leaves or is discharged by the latter employer,
2 benefits paid to the claimant must not be charged against the record
3 for experience rating of the former employer.

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

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

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

13 → the Administrator shall order that the benefits not be charged
14 against the record for experience rating of the employer.

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

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

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

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

30 612.615 1. There is hereby created the Employment Security
31 Fund as a special revenue fund.

32 2. ~~1A11~~ *Except as otherwise provided in paragraph (a) of*
33 *subsection 6 of NRS 612.445, all interest and forfeits collected*
34 *under NRS 612.618 to 612.675, inclusive, and 612.740 and sections*
35 *12 to 19, inclusive, of this act must be paid into the Fund.*

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

44 4. This section does not prevent this money from being used as
45 a revolving fund to cover expenditures, necessary and proper under



1 the law, for which federal payments have been duly requested but
2 not yet received, subject to the repayment to the Fund of such
3 expenditures when received.

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

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

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

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

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

23 ~~{7-}~~ 8. Money in this Fund must not be commingled with other
24 state money, but must be maintained in a separate account on the
25 books of the depository.

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

27 612.655 1. Where a payment of contributions, forfeit or
28 interest has been erroneously collected, an employer may, not later
29 than 3 years after the date on which such payments became due,
30 make application for an adjustment thereof in connection with
31 subsequent contributions, forfeit or interest payments or for a
32 refund. All such adjustments or refunds will be made without
33 interest. An adjustment or refund will not be made in any case with
34 respect to contributions on wages which have been included in the
35 determination of an eligible claim for benefits, unless it is shown to
36 the satisfaction of the Administrator that such determination was
37 due entirely to the fault or mistake of the Division.

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

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

44 612.695 1. Any employer who, outside the usual course of
45 the employer's business, sells *or transfers* substantially all or any



1 one of the classes of assets enumerated in subsection 1 of NRS
2 612.690 and quits business, shall within 10 days after the sale *or*
3 *transfer* file such reports as the Administrator may prescribe and
4 pay the contributions, interest or forfeits required by this chapter
5 with respect to wages for employment to the date of the sale ~~†~~ *or*
6 *transfer*.

7 2. *In the case of a sale:*

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

14 ~~†~~ (b) If the seller fails, within the 10-day period, to produce
15 the receipt or certificate, the purchaser shall pay the sum so withheld
16 to the Administrator upon demand.

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

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

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

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

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

34 **Sec. 32.** This act becomes effective upon passage and
35 approval.



