

ASSEMBLY BILL NO. 469—COMMITTEE ON WAYS AND MEANS

MARCH 16, 2009

Referred to Committee on Ways and Means

SUMMARY—Revises provisions governing unemployment compensation. (BDR 53-1275)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to unemployment compensation; adopting an alternate base period for determining entitlement to unemployment benefits; temporarily authorizing the payment of unemployment benefits for an extended period and increasing the total extended benefit payable under certain circumstances; requiring the Department of Employment, Training and Rehabilitation to take any additional actions necessary to ensure receipt by the State of Nevada of the benefits available for unemployment compensation pursuant to the American Recovery and Reinvestment Act of 2009; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5,
2 (ARRA) provides for additional money being made available to states for their
3 unemployment compensation programs. To qualify for the additional money,
4 certain provisions must be included in state law. **Section 1** of this bill amends the
5 definition of "base period" for the purpose of determining a person's entitlement to
6 benefits. **Sections 2 and 3** of this bill temporarily revise the definition of an "on"
7 indicator for the purposes of extended unemployment benefits and revises the total
8 extended benefit amount a person may receive in a benefit year during periods of
9 high unemployment. These changes will allow Nevada to qualify for additional
10 money under the ARRA for modernization of unemployment insurance and for
11 payment of extended unemployment benefits. **Section 4** of this bill requires the
12 Director of the Department of Employment, Training and Rehabilitation and the
13 Administrator of the Employment Security Division of the Department of
14 Employment, Training and Rehabilitation to take such actions as are necessary to
15 ensure that Nevada receives the additional benefits provided under the ARRA for
16 unemployment compensation.



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

Section 1. NRS 612.025 is hereby amended to read as follows:

612.025 1. Except as otherwise provided *in this section and*
in NRS 612.344, “base period” means the first 4 of the last 5
completed calendar quarters immediately preceding the first day of a
person’s benefit year, except that if one calendar quarter of the base
period so established has been used in a previous determination of
his entitlement to benefits the base period is the first 4 completed
calendar quarters immediately preceding the first day of his benefit
year.

2. *If a person is not entitled to benefits using the base period
as defined in subsection 1 but would be entitled to benefits if the
base period were the last 4 completed calendar quarters
immediately preceding the first day of the person’s benefit year,
“base period” means the last 4 completed calendar quarters
immediately preceding the first day of the person’s benefit year.*

3. In the case of a combined wage claim pursuant to the
reciprocal arrangements provided in NRS 612.295, the base period
is that applicable under the unemployment compensation law of the
paying state.

Sec. 2. NRS 612.377 is hereby amended to read as follows:

612.377 As used in NRS 612.377 to 612.3786, inclusive,
unless the context clearly requires otherwise:

1. “Extended benefit period” means a period which begins with
the third week after a week for which there is a Nevada “on”
indicator and ends with the third week after the first week for which
there is a Nevada “off” indicator or the 13th consecutive week after
it began, except that no extended benefit period may begin by
reason of a Nevada “on” indicator before the 14th week following
the end of a prior extended benefit period which was in effect for
Nevada.

2. There is a “Nevada ‘on’ indicator” for a week if the
Administrator determines, in accordance with the regulations of the
Secretary of Labor, that ~~for~~:

(a) *For* the period consisting of that week and the immediately
preceding 12 weeks, the rate of insured unemployment in Nevada
(not seasonally adjusted) under NRS 612.377 to 612.3786,
inclusive:

~~(a)~~ (1) Equalled or exceeded 120 percent of the average of
those rates for the corresponding 13-week period ending in each of



the preceding 2 calendar years and equaled or exceeded 5 percent;
or

~~(b)~~ (2) Equaled or exceeded 6 percent ~~(1)~~; or

(b) For weeks of unemployment beginning on or after February 1, 2009, and ending on or before December 12, 2009, or the week ending 3 weeks before the last week for which federal sharing is authorized by section 2005(a) of Public Law No. 111-5, whichever is later, the average rate of total seasonally adjusted unemployment in Nevada, as determined by the Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of such week:

(1) Equaled or exceeded 6.5 percent; and

(2) Equaled or exceeded 110 percent of the average rate for the corresponding 3-month period ending in either of the 2 preceding calendar years.

3. There is a "Nevada 'off' indicator" for a week if the Administrator determines, in accordance with the regulations of the Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in Nevada (not seasonally adjusted):

(a) Was less than 120 percent of the average of those rates for the corresponding 13-week period ending in each of the preceding 2 calendar years; or

(b) Was less than 5 percent.

4. "Rate of insured unemployment," for purposes of subsections 2 and 3, means the percentage derived by dividing the average weekly number of persons filing claims in this State for the weeks of unemployment for the most recent period of 13 consecutive weeks, as determined by the Administrator on the basis of his reports to the Secretary of Labor using the average monthly employment covered under this chapter as determined by the Administrator and recorded in the records of the Division for the first four of the most recent six completed calendar quarters ending before the end of the 13-week period.

5. "Regular benefits" means benefits payable to a person under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. §§ 8501 et seq.) other than extended benefits.

6. "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. §§ 8501 et seq.) payable to a person under the provisions of NRS 612.377 to 612.3786, inclusive, for the weeks of unemployment in his eligibility period.



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1 7. "Additional benefits" means benefits payable to exhaustees
2 by reason of conditions of high unemployment or by reason of other
3 special factors under the provisions of any state law. Any person
4 who is entitled to both additional and extended benefits for the same
5 week must be given the choice of electing which type of benefit to
6 claim regardless of whether his rights to additional and extended
7 benefits arise under the law of the same state or different states.

8 8. "Eligibility period" of a person means the period consisting
9 of the weeks in his benefit year under this chapter which begin in an
10 extended benefit period and, if his benefit year ends within the
11 extended benefit period, any weeks thereafter which begin in that
12 period.

13 9. "Exhaustee" means a person who, with respect to any week
14 of unemployment in his eligibility period:

15 (a) Has received, before that week, all of the regular, seasonal or
16 nonseasonal benefits that were available to him under this chapter or
17 any other state law (including augmented weekly benefits for
18 dependents and benefits payable to federal civilian employees and
19 ex-servicemen under 5 U.S.C. §§ 8501 et seq.) in his current benefit
20 year which includes that week, except that, for the purposes of this
21 paragraph, a person shall be deemed to have received all of the
22 regular benefits that were available to him, although as a result of a
23 pending appeal with respect to wages that were not considered in the
24 original monetary determination in his benefit year, he may
25 subsequently be determined to be entitled to added regular benefits;
26 or

27 (b) His benefit year having expired before that week, has no, or
28 insufficient, wages on the basis of which he could establish a new
29 benefit year which would include that week,

30 ➡ and has no right to unemployment benefits or allowances, as the
31 case may be, under the Railroad Unemployment Insurance Act, 45
32 U.S.C. §§ 351 et seq., the Trade Expansion Act of 1962, 19 U.S.C.
33 §§ 1801 et seq., the Automotive Products Trade Act of 1965, 19
34 U.S.C. §§ 2001 et seq. and such other federal laws as are specified
35 in regulations issued by the Secretary of Labor, and has not received
36 and is not seeking unemployment benefits under the unemployment
37 compensation law of Canada. If he is seeking such benefits and the
38 appropriate agency finally determines that he is not entitled to
39 benefits under that law he is considered an exhaustee.

40 10. "State law" means the unemployment insurance law of any
41 state, approved by the Secretary of Labor under Section 3304 of the
42 Internal Revenue Code of 1954.



1 **Sec. 3.** NRS 612.378 is hereby amended to read as follows:

2 612.378 1. ~~[The]~~ *Except as otherwise provided in subsection*
3 *2, the* total extended benefit amount payable to any eligible person
4 for his applicable benefit year is the lesser of the following amounts:

5 (a) Fifty percent of the basic benefits which were payable to him
6 in his benefit year. If the amount computed is not a multiple of \$1, it
7 must be computed to the next lower multiple of \$1.

8 (b) Thirteen times his average weekly benefit amount which was
9 payable to him under this chapter for a week of total unemployment
10 in the applicable benefit year. If the amount computed is not a
11 multiple of \$1, it must be computed to the next lower multiple of \$1.

12 2. *In weeks beginning in a high unemployment period on or*
13 *after February 1, 2009, and ending on or before December 12,*
14 *2009, or the week ending 3 weeks before the last week for which*
15 *federal sharing is authorized by section 2005(a) of Public Law No.*
16 *111-5, whichever is later, the total extended benefit amount*
17 *payable to any eligible person for his applicable benefit year is the*
18 *lesser of the following amounts:*

19 (a) *Eighty percent of the basic benefits which were payable to*
20 *him in his benefit year. If the amount computed is not a multiple*
21 *of \$1, it must be computed to the next lower multiple of \$1.*

22 (b) *Twenty times his average weekly benefit amount which was*
23 *payable to him under this chapter for a week of total*
24 *unemployment in the applicable benefit year. If the amount*
25 *computed is not a multiple of \$1, it must be computed to the next*
26 *lower multiple of \$1.*

27 3. If the benefit year of any person ends within an extended
28 benefit period, the remaining balance of extended benefits that he
29 would, but for this subsection, be entitled to receive in that period,
30 with respect to weeks of unemployment beginning after the end of
31 the benefit year, must be reduced by the product of the number of
32 weeks for which he received any amounts as trade readjustment
33 allowances pursuant to 19 U.S.C. § 2291 within that benefit year,
34 multiplied by his weekly benefit amount of extended benefits, but
35 the balance must not be reduced below zero.

36 4. *As used in this section, "high unemployment period"*
37 *means any period during which the average rate of total*
38 *seasonally adjusted unemployment in Nevada, as determined by*
39 *the Secretary of Labor, for the period consisting of the most recent*
40 *3 months for which data for all states are published before the*
41 *close of such week:*

42 (a) *Equalled or exceeded 8 percent; and*

43 (b) *Equalled or exceeded 110 percent of the average rate for*
44 *the corresponding 3-month period ending in either of the 2*
45 *preceding calendar years.*



1 **Sec. 4.** The Director of the Department of Employment,
2 Training and Rehabilitation and the Administrator of the
3 Employment Security Division of the Department of Employment,
4 Training and Rehabilitation shall enter into any necessary
5 agreements and take whatever additional action is necessary to carry
6 out the provisions of this act and to ensure that the State of Nevada
7 receives the benefits available pursuant to Subtitle A of Title II of
8 Division B of the American Recovery and Reinvestment Act of
9 2009, Pub. L. No. 111-5, § 2000 et seq. (2009).

10 **Sec. 5.** 1. This act becomes effective upon passage and
11 approval.

12 2. Sections 2 and 3 of this act expire by limitation on
13 January 1, 2010, or the date that federal sharing is no longer
14 authorized pursuant to section 2005(a) of Public Law No. 111-5,
15 whichever is later.

