

Amendment No. 649

Assembly Amendment to Senate Bill No. 36 First Reprint (BDR 53-371)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

WBD/DY



Date: 5/19/2013

S.B. No. 36—Makes various changes concerning unemployment compensation.
(BDR 53-371)



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:

Under existing law, the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation is authorized to bring actions in district court for the repayment of fraudulently obtained benefits or to recover amounts owed to the Division by persons who commit unemployment insurance fraud. (NRS 612.365, 612.445) **Sections 12-19 and 21** of this bill establish an additional method for the collection of such money. This method is modeled after the method used by the Division of Welfare and Supportive Services of the Department of Health and Human Services to enforce a court order that requires a person to make payments for the support of a child. (NRS 31A.025-31A.190) **Section 12** provides that if the Administrator obtains a judgment against a person who has fraudulently obtained benefits or committed unemployment compensation fraud, the Administrator may, in addition to any other manner of executing the judgment provided by law, require each employer of the person to withhold income from the person's wages and pay it to the Division. **Sections 13-19** establish provisions for: (1) notifying a person whose income is to be withheld; (2) issuing a notice to withhold income to a person's employer; (3) establishing an employer's duties with respect to the withholding of income; (4) providing penalties for an employer's violation of those duties; and (5) providing an employer with

immunity from any civil action for any conduct taken in compliance with a notice to withhold income. **Section 23** of this bill revises existing law concerning unemployment insurance fraud by: (1) providing that, in general, the Administrator may issue an initial determination finding that a person has committed such fraud at any time within 4 years after the first day of the benefit year in which the person committed the fraud; and (2) revising other provisions concerning the period during which the person is disqualified from receiving further benefits and the amount of the penalties that may be imposed.

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

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

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

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

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

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

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

1 Sec. 11. (Deleted by amendment.)

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

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

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

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

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

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

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

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

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

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

21 6. *Of the grounds and procedures for contesting the withholding.*

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

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

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

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

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

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

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

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

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

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

47 (a) *The Administrator notifies the employer to discontinue the withholding;*
48 *or*

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

51 2. *Calculate the amount of income to be withheld from a person's wages*
52 *during each pay period in accordance with the provisions of NRS 31.295 and*
53 *subject to the limitation on withholding prescribed in that section. For the*

1 *purposes of this subsection, a withholding of income shall be deemed a*
2 *garnishment of earnings.*

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

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

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

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

20 *3. If the provisions of NRS 353.1467 apply, the employer shall make*
21 *payment to the Administrator by any method of electronic transfer of money*
22 *allowed by the Administrator. If an employer makes such payment by electronic*
23 *transfer of money, the employer shall transmit separately the name and*
24 *appropriate 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 the meaning*
27 *ascribed to it in NRS 353.1467.*

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

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

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

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

1 *(a) May order the employer to comply with the requirements of sections 12 to*
2 *19, inclusive, of this act;*

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

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

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

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

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

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

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

20 612.350 1. ~~Each~~ *An* eligible person who is unemployed *and otherwise*
21 *entitled to receive benefits* in any week must be paid for that week a benefit in an
22 amount equal to the person's weekly benefit amount, less 75 percent of the
23 remuneration payable to him or her for that week.

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

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

27 612.365 1. Any person who is overpaid any amount as benefits under this
28 chapter is liable for the amount overpaid unless:

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

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

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

40 3. At any time within 5 years after the notice of overpayment, the
41 Administrator may recover the amount of the overpayment by using the same
42 methods of collection provided in NRS 612.625 to 612.645, inclusive, 612.685 and
43 612.686 for the collection of past due contributions or by deducting the amount of
44 the overpayment from any benefits payable to the liable person under this chapter.
45 *If the overpayment is due to fraud, misrepresentation or willful nondisclosure,*
46 *the Administrator may recover any amounts due in accordance with the*
47 *provisions of sections 12 to 19, inclusive, of this act.*

48 4. The Administrator may waive recovery or adjustment of all or part of the
49 amount of any such overpayment which the Administrator finds to be uncollectible
50 or the recovery or adjustment of which the Administrator finds to be
51 administratively impracticable.

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

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

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

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

~~(a) The person has registered for work at, and thereafter has continued to report at, an office of the Division in such a manner as the Administrator prescribes, except that the Administrator may by regulation waive or alter either or both of the requirements of this paragraph for persons attached to regular jobs and in other types of cases or situations with respect to which the Administrator finds that compliance with these requirements would be oppressive or inconsistent with the purposes of this chapter.~~

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

~~(c) The person is able to work, and is available for work, but no claimant may be considered ineligible with respect to any week of unemployment for failure to comply with the provisions of this paragraph if the failure is because of an illness or disability which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work has been offered the claimant which would have been suitable before the beginning of the illness and disability. No otherwise eligible person may be denied benefits for any week in which the person is engaged in training approved pursuant to 19 U.S.C. § 2206 or by the Administrator by reason of any provisions of this chapter relating to availability for work or failure to apply for, or a refusal to accept, suitable work.~~

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

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

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

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

~~[If a person fails to qualify for a weekly benefit amount of one twenty fifth of the person's high quarter wages but can qualify for a weekly benefit amount of \$1 less than one twenty fifth of his or her high quarter wages, the person's weekly benefit amount must be \$1 less than one twenty fifth of his or her high quarter wages.] No person may receive benefits in a benefit year unless, after the beginning of the next preceding benefit year during which the person received benefits, he or she performed service, whether or not in "employment" as defined in this chapter and earned remuneration for that service in an amount equal to not less than 3 times his or her basic weekly benefit amount as determined for the next preceding benefit year.~~

~~2. In addition to fulfilling the requirements set forth in subsection 1, an unemployed person who has been determined to be likely to exhaust his or her regular benefits and to need services to assist in his or her reemployment, pursuant to the system of profiling established by the Administrator pursuant to 42 U.S.C. § 502, is eligible to receive benefits with respect to any week only if the person participates in those services to assist in his or her reemployment, unless the Administrator determines that:~~

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

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

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

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

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

~~4. The amount of the weekly benefit payable to a claimant must not be reduced by the pension offset in subsection 2 if the services performed by the claimant during the base period, or the compensation the claimant received for those services, from that employer did not affect the claimant's eligibility for, or increase the amount of, the pension or other payment, except for a pension paid pursuant to the Social Security Act or Railroad Retirement Act of 1974, or the corresponding provisions of prior law, which is not eligible for the exclusion provided in this subsection and is subject to the offset provisions of subsection 3.~~

~~5. As used in this section, "regular benefits" has the meaning ascribed to it in NRS 612.377.~~ **(Deleted by amendment.)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b)~~ *(3) If the amount of such benefits is greater than \$2,500, 35 percent, of the total amount of benefits received by the person in violation of subsection 1 or any other provision of this chapter. Money recovered by the Administrator pursuant to this paragraph must be deposited in the Employment Security Fund in accordance with the provisions of NRS 612.615.*

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

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

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

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

612.475 1. The last employing unit of any unemployed claimant and the next to last employing unit of an unemployed claimant who has not earned remuneration with his or her last covered employer equal to or exceeding his or her

1 weekly benefit amount in each of 16 weeks must be notified of any new claim or
2 additional claim filed by the unemployed claimant following his or her separation.

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

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

10 4. Any employing unit that receives a notice of the filing of a claim may
11 protest payment of benefits to the unemployed claimant if the protest is filed within
12 11 days after the notice is filed.

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

17 6. As used in this section:

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

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

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

26 612.550 1. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

21 4. Benefits paid to a person up to and including the computation date must be
22 charged against the records, for experience rating, of the person's base-period
23 employers in the same percentage relationship that wages reported by individual
24 employers represent to total wages reported by all base period employers, except
25 that:

26 (a) If one of the base period employers has paid 75 percent or more of the
27 wages paid to the person during the person's base period, and except as otherwise
28 provided in NRS 612.551, the benefits, less a proportion equal to the proportion of
29 wages paid during the base period by employers who make reimbursement in lieu
30 of contributions, must be charged to the records for experience rating of that
31 employer. The proportion of benefits paid which is equal to the part of the wages of
32 the claimant for the base period paid by an employer who makes reimbursement
33 must be charged to the record of that employer.

34 (b) No benefits paid to a multistate claimant based upon entitlement to benefits
35 in more than one state may be charged to the experience rating record of any
36 employer when no benefits would have been payable except pursuant to NRS
37 612.295.

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

41 5. The Administrator shall, as of the computation date for each calendar year,
42 compute the reserve ratio for each eligible employer and shall classify those
43 employers on the basis of their individual reserve ratios. The contribution rate
44 assigned to each eligible employer for the calendar year must be determined by the
45 range within which the employer's reserve ratio falls. The Administrator shall, by
46 regulation, prescribe the contribution rate schedule to apply for each calendar year
47 by designating the ranges of reserve ratios to which must be assigned the various
48 contribution rates provided in subsection 6. The lowest contribution rate must be
49 assigned to the designated range of highest reserve ratios and each succeeding
50 higher contribution rate must be assigned to each succeeding designated range of
51 lower reserve ratios, except that, within the limits possible, the differences between
52 reserve ratio ranges must be uniform.

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

Class 1.....	0.25 percent
Class 2.....	0.55 percent
Class 3.....	0.85 percent
Class 4.....	1.15 percent
Class 5.....	1.45 percent
Class 6.....	1.75 percent
Class 7.....	2.05 percent
Class 8.....	2.35 percent
Class 9.....	2.65 percent
Class 10.....	2.95 percent
Class 11.....	3.25 percent
Class 12.....	3.55 percent
Class 13.....	3.85 percent
Class 14.....	4.15 percent
Class 15.....	4.45 percent
Class 16.....	4.75 percent
Class 17.....	5.05 percent
Class 18.....	5.40 percent

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

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

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

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

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

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

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

(a) And there is substantially common ownership, management or control of the employers, the experience record attributable to the transferred trade or business must be transferred to the employer to whom the trade or business is transferred. The rates of both employers must be recalculated, and the recalculated rates become effective on the date of the transfer of the trade or business. If the Administrator determines, following the transfer of the experience record pursuant to this paragraph, that the sole or primary purpose of the transfer of the trade or

business was to obtain a reduced liability for contributions, the Administrator shall combine the experience rating records of the employers involved into a single account and assign a single rate to the account.

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

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

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

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

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

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

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

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

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

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

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

612.551 1. Except as otherwise provided in subsections 2, 3 and ~~13~~, **7**, if the Division determines that a claimant has earned 75 percent or more of his or her wages during his or her base period from one employer, it shall notify the employer of its determination and advise him or her that he or she has a right to protest the charging of benefits to his or her account pursuant to subsection 4 of NRS 612.550.

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

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

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

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

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

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

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

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

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

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

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

2. ~~1A44~~ *Except as otherwise provided in paragraph (a) of subsection 6 of NRS 612.445, all interest and forfeits collected under NRS 612.618 to 612.675, inclusive, and 612.740 and sections 12 to 19, inclusive, of this act* must be paid into the Fund.

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

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

5. ~~1A44~~ *Except as otherwise provided in this section,* money in this Fund available to the Administrator must be used by the Administrator for the payment of costs of:

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

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

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

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

~~1A44~~ 8. Money in this Fund must not be commingled with other state money, but must be maintained in a separate account on the books of the depository.

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

612.655 1. Where a payment of contributions, forfeit or interest has been erroneously collected, an employer may, not later than 3 years after the date on which such payments became due, make application for an adjustment thereof in connection with subsequent contributions, forfeit or interest payments or for a refund. All such adjustments or refunds will be made without interest. An

adjustment or refund will not be made in any case with respect to contributions on wages which have been included in the determination of an eligible claim for benefits, unless it is shown to the satisfaction of the Administrator that such determination was due entirely to the fault or mistake of the Division.

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

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

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

2. *In the case of a sale:*

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

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

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

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

Sec. 29. (Deleted by amendment.)

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

Sec. 31. (Deleted by amendment.)

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

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

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

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

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

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

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

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