

SENATE BILL NO. 24—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

(ON BEHALF OF THE EMPLOYMENT SECURITY DIVISION)

PREFILED DECEMBER 20, 2014

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing unemployment compensation. (BDR 53-383)

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 unemployment compensation; authorizing the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to make certain information available to the Board of Regents of the University of Nevada and the Director of the Department; revising the manner in which a person who has received certain benefits or money may elect a base period; revising the period within which the Administrator may recover certain overpayments; expanding the circumstances under which a person may commit unemployment insurance fraud; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law calls for the development and oversight of a statewide longitudinal
2 data system to track the effectiveness of this State’s K-12 and postsecondary public
3 education in meeting this State’s workforce needs. (NRS 400.040) As part of this
4 system, the Board of Regents of the University of Nevada is required to submit a
5 written report biennially to the Legislature, which must include information on
6 various subjects including, without limitation, employment statistics of graduates of
7 the Nevada System of Higher Education who have obtained employment within
8 their fields of study and average starting salaries. (NRS 396.531) This information
9 must be based on employment and wage information provided by the Department
10 of Employment, Training and Rehabilitation. Furthermore, the Director of the
11 Department is required to furnish that information to the Board of Regents.



(NRS 232.920) Existing law, however, makes employment information collected by the Employment Security Division of the Department confidential and prohibits the release of that information except for limited specified purposes, including the enforcement of child support obligations or tax obligations, the collection of government debts, the determination of eligibility for public assistance and the furtherance of a criminal investigation. (NRS 612.265)

Section 1 of this bill allows the Administrator of the Division, by cooperative agreement, to make the required employment and wage information available to the Board of Regents and the Director of the Department in order to facilitate the required reporting of statistics to the Legislature.

Existing law provides that the amount of a person's unemployment benefit is based on the person's wages during a base period preceding the unemployment. (NRS 612.340) If a person who has received certain types of compensation relating to a disability or rehabilitative services is subsequently applying for unemployment benefits, existing law provides that the person may elect a base period preceding the disability, so long as such an election is made within 3 years after the initial period of disability began. (NRS 612.344) **Section 2** of this bill amends this requirement so that the election of a base period may be made within 3 years after any period of disability begins.

Existing law authorizes the Administrator of the Division to recover any overpayment of benefits at any time up to 5 years after notice of the overpayment. (NRS 612.365) **Section 3** of this bill extends this period to 10 years in cases involving fraud, misrepresentation or willful nondisclosure.

Existing law prohibits a person from knowingly making a false statement or representation or knowingly failing to disclose a material fact in order to obtain or increase any benefit or other payment under chapter 612 of NRS governing unemployment compensation. A person who violates such a prohibition commits unemployment insurance fraud and is subject to disqualification and repayment of any benefits received by the person. If the person receives benefits in the amount of \$650 or more the person is also subject to prosecution for a felony. (NRS 612.445)

Section 4 of this bill expands the circumstances under which a person may commit unemployment insurance fraud by providing that the person commits such fraud if the person: (1) files a claim for or receives benefits; and (2) fails to disclose, at the time he or she files the claim or receives the benefits, any compensation for certain work-related disabilities or of any money for rehabilitative services received by the person or for which a claim has been submitted.

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

Section 1. NRS 612.265 is hereby amended to read as follows:
612.265 1. Except as otherwise provided in this section and NRS 239.0115 and 612.642, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim



1 in any proceeding pursuant to this chapter. A claimant or an
2 employing unit is not entitled to information from the records of the
3 Division for any other purpose.

4 3. *The Administrator may, in accordance with a cooperative*
5 *agreement among all participants in the statewide longitudinal*
6 *data system developed pursuant to NRS 400.040, make the*
7 *information obtained by the Division available to:*

8 (a) *The Board of Regents of the University of Nevada for the*
9 *purpose of complying with the provisions of subsection 4 of NRS*
10 *396.531; and*

11 (b) *The Director of the Department of Employment, Training*
12 *and Rehabilitation for the purpose of complying with the*
13 *provisions of paragraph (d) of subsection 1 of NRS 232.920.*

14 4. Subject to such restrictions as the Administrator may by
15 regulation prescribe, the information obtained by the Division may
16 be made available to:

17 (a) Any agency of this or any other state or any federal agency
18 charged with the administration or enforcement of laws relating to
19 unemployment compensation, public assistance, workers'
20 compensation or labor and industrial relations, or the maintenance
21 of a system of public employment offices;

22 (b) Any state or local agency for the enforcement of child
23 support;

24 (c) The Internal Revenue Service of the Department of the
25 Treasury;

26 (d) The Department of Taxation; and

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

29 ➔ Information obtained in connection with the administration of the
30 Division may be made available to persons or agencies for purposes
31 appropriate to the operation of a public employment service or a
32 public assistance program.

33 ~~4.~~ 5. Upon written request made by a public officer of a local
34 government, the Administrator shall furnish from the records of the
35 Division the name, address and place of employment of any person
36 listed in the records of employment of the Division. The request
37 must set forth the social security number of the person about whom
38 the request is made and contain a statement signed by the proper
39 authority of the local government certifying that the request is made
40 to allow the proper authority to enforce a law to recover a debt or
41 obligation owed to the local government. Except as otherwise
42 provided in NRS 239.0115, the information obtained by the local
43 government is confidential and may not be used or disclosed for any
44 purpose other than the collection of a debt or obligation owed to that



1 local government. The Administrator may charge a reasonable fee
2 for the cost of providing the requested information.

3 ~~[5.]~~ 6. The Administrator may publish or otherwise provide
4 information on the names of employers, their addresses, their type
5 or class of business or industry, and the approximate number of
6 employees employed by each such employer, if the information
7 released will assist unemployed persons to obtain employment or
8 will be generally useful in developing and diversifying the economic
9 interests of this State. Upon request by a state agency which is able
10 to demonstrate that its intended use of the information will benefit
11 the residents of this State, the Administrator may, in addition to the
12 information listed in this subsection, disclose the number of
13 employees employed by each employer and the total wages paid by
14 each employer. The Administrator may charge a fee to cover the
15 actual costs of any administrative expenses relating to the disclosure
16 of this information to a state agency. The Administrator may require
17 the state agency to certify in writing that the agency will take all
18 actions necessary to maintain the confidentiality of the information
19 and prevent its unauthorized disclosure.

20 ~~[6.]~~ 7. Upon request therefor, the Administrator shall furnish to
21 any agency of the United States charged with the administration of
22 public works or assistance through public employment, and may
23 furnish to any state agency similarly charged, the name, address,
24 ordinary occupation and employment status of each recipient of
25 benefits and the recipient's rights to further benefits pursuant to this
26 chapter.

27 ~~[7.]~~ 8. To further a current criminal investigation, the chief
28 executive officer of any law enforcement agency of this State may
29 submit a written request to the Administrator that the Administrator
30 furnish, from the records of the Division, the name, address and
31 place of employment of any person listed in the records of
32 employment of the Division. The request must set forth the social
33 security number of the person about whom the request is made and
34 contain a statement signed by the chief executive officer certifying
35 that the request is made to further a criminal investigation currently
36 being conducted by the agency. Upon receipt of such a request, the
37 Administrator shall furnish the information requested. The
38 Administrator may charge a fee to cover the actual costs of any
39 related administrative expenses.

40 ~~[8.]~~ 9. In addition to the provisions of subsection ~~[5.]~~ 6, the
41 Administrator shall provide lists containing the names and addresses
42 of employers, and information regarding the wages paid by each
43 employer to the Department of Taxation, upon request, for use in
44 verifying returns for the taxes imposed pursuant to chapters 363A



1 and 363B of NRS. The Administrator may charge a fee to cover the
2 actual costs of any related administrative expenses.

3 ~~19.~~ **10.** A private carrier that provides industrial insurance in
4 this State shall submit to the Administrator a list containing the
5 name of each person who received benefits pursuant to chapters
6 616A to 616D, inclusive, or chapter 617 of NRS during the
7 preceding month and request that the Administrator compare the
8 information so provided with the records of the Division regarding
9 persons claiming benefits pursuant to this chapter for the same
10 period. The information submitted by the private carrier must be in a
11 form determined by the Administrator and must contain the social
12 security number of each such person. Upon receipt of the request,
13 the Administrator shall make such a comparison and, if it appears
14 from the information submitted that a person is simultaneously
15 claiming benefits under this chapter and under chapters 616A to
16 616D, inclusive, or chapter 617 of NRS, the Administrator shall
17 notify the Attorney General or any other appropriate law
18 enforcement agency. The Administrator shall charge a fee to cover
19 the actual costs of any related administrative expenses.

20 ~~10.~~ **11.** The Administrator may request the Comptroller of the
21 Currency of the United States to cause an examination of the
22 correctness of any return or report of any national banking
23 association rendered pursuant to the provisions of this chapter, and
24 may in connection with the request transmit any such report or
25 return to the Comptroller of the Currency of the United States as
26 provided in section 3305(c) of the Internal Revenue Code of 1954.

27 ~~11.~~ **12.** If any employee or member of the Board of Review,
28 the Administrator or any employee of the Administrator, in violation
29 of the provisions of this section, discloses information obtained
30 from any employing unit or person in the administration of this
31 chapter, or if any person who has obtained a list of applicants for
32 work, or of claimants or recipients of benefits pursuant to this
33 chapter uses or permits the use of the list for any political purpose,
34 he or she is guilty of a gross misdemeanor.

35 ~~12.~~ **13.** All letters, reports or communications of any kind,
36 oral or written, from the employer or employee to each other or to
37 the Division or any of its agents, representatives or employees are
38 privileged and must not be the subject matter or basis for any
39 lawsuit if the letter, report or communication is written, sent,
40 delivered or prepared pursuant to the requirements of this chapter.

41 **Sec. 2.** NRS 612.344 is hereby amended to read as follows:

42 612.344 1. A person who has received:

43 (a) Benefits for a temporary total disability or a temporary
44 partial disability pursuant to chapters 616A to 616D, inclusive, or
45 617 of NRS;



1 (b) Money for rehabilitative services pursuant to chapters 616A
2 to 616D, inclusive, or 617 of NRS; or

3 (c) Compensation pursuant to any similar federal law,
4 ➔ may elect a base period consisting of the first 4 of the last 5
5 completed calendar quarters immediately preceding the first day of
6 the calendar week in which the disability began.

7 2. An elected base period may be established only if the person
8 files a claim for benefits within 3 years after ~~the initial~~ any period
9 of disability begins and not later than the fourth calendar week of
10 unemployment after:

11 (a) The end of the period of temporary total disability or
12 temporary partial disability; or

13 (b) The date the person ceases to receive money for
14 rehabilitative services,

15 ➔ whichever occurs later. If one calendar quarter of the described
16 base period has been used in a previous determination of the
17 person's entitlement to benefits, the elected base period must be the
18 first 4 completed calendar quarters immediately preceding the first
19 day of the calendar week in which the disability began.

20 3. A person who has elected a base period pursuant to this
21 section and who had previously established a benefit year may
22 establish a new benefit year consisting of the 52 consecutive weeks
23 beginning with the first day of the first week with respect to which a
24 valid claim is filed after the period of disability ends or payments
25 for rehabilitative services cease, whichever occurs later. The
26 previously established benefit year terminates upon the beginning of
27 the new benefit year.

28 **Sec. 3.** NRS 612.365 is hereby amended to read as follows:

29 612.365 1. Any person who is overpaid any amount as
30 benefits under this chapter is liable for the amount overpaid unless:

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

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

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

43 3. ~~At~~ *Except as otherwise provided in subsection 4, at* any
44 time within 5 years after the notice of overpayment, the
45 Administrator may recover the amount of the overpayment by using



1 the same methods of collection provided in NRS 612.625 to
2 612.645, inclusive, 612.685 and 612.686 for the collection of past
3 due contributions or by deducting the amount of the overpayment
4 from any benefits payable to the liable person under this chapter.

5 **4.** If the overpayment is due to fraud, misrepresentation or
6 willful nondisclosure, the Administrator may , *within 10 years after*
7 *the notice of overpayment*, recover any amounts due in accordance
8 with the provisions of NRS 612.7102 to 612.7116, inclusive.

9 ~~4.~~ **5.** The Administrator may waive recovery or adjustment
10 of all or part of the amount of any such overpayment which the
11 Administrator finds to be uncollectible or the recovery or adjustment
12 of which the Administrator finds to be administratively
13 impracticable.

14 ~~5.~~ **6.** To the extent allowed pursuant to federal law, the
15 Administrator may assess any administrative fee prescribed by an
16 applicable agency of the United States regarding the recovery of
17 such overpayments.

18 ~~6.~~ **7.** Any person against whom liability is determined under
19 this section may appeal therefrom within 11 days after the date the
20 notice provided for in this section was mailed to, or served upon, the
21 person. An appeal must be made and conducted in the manner
22 provided in this chapter for the appeals from determinations of
23 benefit status. The 11-day period provided for in this subsection
24 may be extended for good cause shown.

25 **Sec. 4.** NRS 612.445 is hereby amended to read as follows:

26 612.445 1. A person shall not make a false statement or
27 representation, knowing it to be false, or knowingly fail to disclose a
28 material fact in order to obtain or increase any benefit or other
29 payment under this chapter, including, without limitation, by
30 ~~[[failing]]~~ :

31 (a) *Failing* to properly report earnings ~~[[or by filing]]~~ ;

32 (b) *Filing* a claim for benefits using the social security number,
33 name or other personal identifying information of another person ~~[[~~
34 *;* or

35 (c) *Filing a claim for or receiving benefits and failing to*
36 *disclose, at the time he or she files the claim or receives the*
37 *benefits, any compensation for a temporary total disability or a*
38 *temporary partial disability or money for rehabilitative services*
39 *pursuant to chapters 616A to 616D, inclusive, or 617 of NRS*
40 *received by the person or for which a claim has been submitted*
41 *pursuant to those chapters.*

42 **↪** A person who violates the provisions of this subsection commits
43 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 week in which the
16 Administrator issues a finding that the person has committed
17 unemployment insurance fraud pursuant to subsection 1 and ending
18 not more than 52 consecutive weeks after the week in which it is
19 determined that a claim was filed in violation of subsection 1; or

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

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

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

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

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

35 6. In addition to the repayment of benefits required pursuant to
36 subsection 2, the Administrator:

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

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

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



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

3 (3) If the amount of such benefits is greater than \$2,500, 35
4 percent,

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

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

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

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

