
SENATE BILL NO. 52—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

(ON BEHALF OF THE EMPLOYMENT SECURITY
DIVISION OF THE DEPARTMENT OF
EMPLOYMENT, TRAINING AND REHABILITATION)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to unemployment compensation. (BDR 53-226)

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; revising the base period for determining entitlement to unemployment benefits; revising provisions governing the collection of certain debts by the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation; revising provisions concerning the exclusion of compensation and wages with respect to eligibility for unemployment benefits based on service for any educational institution during a period of vacation or recess for holiday or between successive academic years or terms; revising provisions relating to charges to employers' accounts; 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 provided incentive funds to Nevada's account in the Unemployment Trust Fund of
3 the United States Treasury if Nevada law was expanded to provide claims based on
4 an alternative base period. (Dep't of Labor, Empl't and Train. Admin. Sys.,
5 Unempl't Ins. Prog. Letter No. 14-09 (2009)) Federal regulators now authorize
6 states to modify or repeal the alternative base period provisions from state statutes
7 without having to return any incentive funds. (Dep't of Labor, Empl't and Train.
8 Admin. Sys., Unempl't Ins. Prog. Letter No. 14-09, Change 1) **Section 1** of this bill



9 eliminates the alternative base period provision in existing law in accordance with
10 the federal guidance that authorizes such action.

11 Existing Nevada law authorizes the Administrator of the Employment Security
12 Division of the Department of Employment, Training and Rehabilitation to collect
13 overpayments of unemployment benefits, with time periods for collection of 5
14 years for nonfraudulent overpayments and 10 years for fraudulent overpayments.
15 (NRS 612.365) **Section 2** of this bill allows the Administrator to assign the
16 collection of a nonfraudulent or fraudulent overpayment balance remaining after
17 such time periods have expired to a third party for collection. **Section 2** also
18 authorizes the Administrator to report to the State Controller fraudulent
19 overpayments of benefits beginning 2 years after notice of the overpayment for
20 purposes of: (1) offsetting the debt against payments owed by other state entities to
21 the person who is liable for the overpayment; and (2) preventing the renewal of the
22 professional or occupational license of such a person. For the same purposes,
23 **section 6** of this bill authorizes the Administrator to notify the State Controller of
24 any employer against whom a judgment was obtained for failure to pay
25 unemployment contributions. **Section 6** also makes it discretionary instead of
26 mandatory for the Administrator to notify the State Contractors' Board of such
27 judgments against licensed contractors. **Section 7** of this bill requires the State
28 Controller to provide a holder of a professional or occupational license, permit,
29 certificate or registration who owes a debt reported by the Administrator and the
30 applicable licensing agency with certain information regarding the debt and
31 prohibits the licensing agency from renewing the license until the debt is satisfied, a
32 payment plan is executed or the debt is demonstrated to be invalid. Existing law
33 provides the same notification procedures and prohibition on the renewal of
34 professional and occupational licenses, permits, certificates and registration for
35 debts that are assigned to the State Controller for collection. (NRS 353C.1965)

36 Federal law requires that unemployment benefits be denied to employees of
37 educational institutions for any period between successive academic years or terms,
38 a vacation, or a recess for a holiday, if there is reasonable assurance that the
39 employee will return to service in the ensuing academic year for any educational
40 institution. (26 U.S.C. § 3304(a)(6)(A)) If a person serves in more than one
41 capacity with any educational institution, **sections 3 and 4** of this bill require the
42 aggregation of the employment in those capacities. If the person's service in any of
43 those capacities provides reasonable assurance of the person's subsequent return to
44 service with the educational institution, denial of benefits is required regardless of
45 whether service in any of the other capacities does not meet the "reasonable
46 assurance" standard.

47 Existing law contains procedures for charging to an employer's account the
48 benefits paid to a former employee. (NRS 612.551) **Section 5** of this bill clarifies
49 that these procedures apply to employers who make reimbursement payments in
50 lieu of contributions as well as employers who make contributions.

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

1 **Section 1.** NRS 612.025 is hereby amended to read as follows:
2 612.025 1. Except as otherwise provided in this section and
3 in NRS 612.344, "base period" means the first 4 of the last 5
4 completed calendar quarters immediately preceding the first day of a
5 person's benefit year, except that if one calendar quarter of the base
6 period so established has been used in a previous determination of



1 the person's entitlement to benefits the base period is the first 4
2 completed calendar quarters immediately preceding the first day of
3 the person's benefit year.

4 ~~2. If a person is not entitled to benefits using the base period~~
5 ~~as defined in subsection 1 but would be entitled to benefits if the~~
6 ~~base period were the last 4 completed calendar quarters immediately~~
7 ~~preceding the first day of the person's benefit year, "base period"~~
8 ~~means the last 4 completed calendar quarters immediately preceding~~
9 ~~the first day of the person's benefit year.~~

10 ~~—3.1~~ In the case of a combined wage claim pursuant to the
11 reciprocal arrangements provided in NRS 612.295, the base period
12 is that applicable under the unemployment compensation law of the
13 paying state.

14 **Sec. 2.** NRS 612.365 is hereby amended to read as follows:

15 612.365 1. Any person who is overpaid any amount as
16 benefits under this chapter is liable for the amount overpaid unless:

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

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

22 2. The amount of the overpayment must be assessed to the
23 liable person, and the person must be notified of the basis of
24 the assessment. The notice must specify the amount for which the
25 person is liable. In the absence of fraud, misrepresentation or willful
26 nondisclosure, notice of the assessment must be mailed or
27 personally served not later than 1 year after the close of the benefit
28 year in which the overpayment was made.

29 3. Except as otherwise provided in subsection 4, at any time
30 within 5 years after the notice of overpayment, the Administrator
31 may recover the amount of the overpayment by using the same
32 methods of collection provided in NRS 612.625 to 612.645,
33 inclusive, 612.685 and 612.686 for the collection of past due
34 contributions or by deducting the amount of the overpayment from
35 any benefits payable to the liable person under this chapter.

36 4. If the overpayment is due to fraud, misrepresentation or
37 willful nondisclosure, the Administrator may, within 10 years after
38 the notice of overpayment, recover any amounts due in accordance
39 with the provisions of NRS 612.7102 to 612.7116, inclusive.

40 *Beginning 2 years after the notice of overpayment, the*
41 *Administrator may, until the full amount of the debt and all*
42 *interest and penalties thereon has been collected, report such a*
43 *debt to the State Controller for the purpose of:*



1 (a) *Offsetting the debt against payments of money due the*
2 *liable person by other state entities pursuant to NRS 353C.190;*
3 *and*

4 (b) *Preventing the renewal of a license of the liable person*
5 *pursuant to NRS 353C.1965.*

6 *↳ The Administrator shall notify the State Controller when any*
7 *debts reported pursuant to this subsection have been satisfied or*
8 *demonstrated invalid.*

9 5. The Administrator may waive recovery or adjustment of all
10 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 6. *Upon the expiration of the time period set forth in*
15 *subsection 3 or 4, as applicable, if the Administrator has not*
16 *waived collection pursuant to subsection 5, the Administrator may,*
17 *in a manner consistent with the provisions of the Federal*
18 *Unemployment Tax Act, 26 U.S.C. § 3304(a)(4), determine that*
19 *amounts not recovered under this section are no longer collectible*
20 *and may assign collection to a third party.*

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

25 ~~7-1~~ 8. Any person against whom liability is determined under
26 this section may appeal therefrom within 11 days after the date the
27 notice provided for in this section was mailed to, or served upon, the
28 person. An appeal must be made and conducted in the manner
29 provided in this chapter for the appeals from determinations of
30 benefit status. The 11-day period provided for in this subsection
31 may be extended for good cause shown.

32 **Sec. 3.** NRS 612.432 is hereby amended to read as follows:

33 612.432 1. ~~{Benefits}~~ *Except as otherwise provided in*
34 *subsection 2, benefits* based on service in an instructional, research
35 or principal administrative capacity in any educational institution or
36 based on other service in any educational institution must be denied
37 to any person for any week of unemployment which begins during
38 an established and customary vacation or recess for a holiday if the
39 person performs service in the period immediately preceding the
40 vacation or recess and there is reasonable assurance that the person
41 will be provided employment immediately succeeding the vacation
42 or recess.

43 2. *If a person serves in more than one capacity for any*
44 *educational institution, the employment of the person in those*
45 *capacities must be aggregated. Benefits must be denied to such a*



1 *person for any week of unemployment which begins during an*
2 *established and customary vacation or recess for a holiday if the*
3 *person performs service in one of his or her capacities in the*
4 *period immediately preceding the vacation or recess and there is*
5 *reasonable assurance that the person will be provided employment*
6 *immediately succeeding the vacation or recess in any of his or her*
7 *capacities with any educational institution.*

8 3. The provisions of this section apply also to services
9 performed while employed by a governmental agency which is
10 established and operated to provide services to educational
11 institutions and which may make reimbursements in lieu of
12 contributions pursuant to NRS 612.553.

13 **Sec. 4.** NRS 612.434 is hereby amended to read as follows:

14 612.434 1. ~~{Benefits}~~ *Except as otherwise provided in*
15 *subsection 4, benefits* based on service in an instructional, research
16 or principal administrative capacity for any educational institution
17 must be denied to any person for any week of unemployment which
18 begins during the period between two successive academic years, or
19 during a similar period between two regular terms, whether or not
20 successive, or during a period of paid sabbatical leave provided for
21 in the person's contract, if that person performs the service in the
22 first of the academic years or terms and there is a contract or
23 reasonable assurance that the person will be provided employment
24 in any such capacity for an educational institution in the next
25 academic year or term.

26 2. Except as provided in subsection 3, benefits based on service
27 in any other capacity for any educational institution must be denied
28 to any person for any week of unemployment which begins during
29 the period between two successive academic years or terms if the
30 person performed the service in the first of the academic years or
31 terms and there is reasonable assurance that the person will be
32 provided employment to perform that service in the next academic
33 year or term.

34 3. A person who is denied benefits pursuant to subsection 2
35 and not offered an opportunity to perform the service for the
36 educational institution for the second academic year or term is
37 entitled to retroactive payment of his or her benefits for each week
38 for which the person filed a timely claim that was denied pursuant to
39 subsection 2.

40 4. *If a person serves in more than one capacity for any*
41 *educational institution, the employment of the person in those*
42 *capacities must be aggregated. Benefits must be denied to any*
43 *person for any week of unemployment which begins during the*
44 *period between two successive academic years, or during a similar*
45 *period between two regular terms, whether or not successive, or*



1 *during a period of paid sabbatical leave provided for in the*
2 *person's contract, if that person performs the service in one of his*
3 *or her capacities in the first of the academic years or terms and*
4 *there is a contract or reasonable assurance that the person will be*
5 *provided employment in any of his or her capacities for any*
6 *educational institution in the next academic year or term.*

7 5. The provisions of this section apply also to services
8 performed while employed by a governmental agency which is
9 established and operated to provide services to educational
10 institutions and which may make reimbursements in lieu of
11 contributions pursuant to NRS 612.553.

12 **Sec. 5.** NRS 612.551 is hereby amended to read as follows:

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

21 2. Benefits paid pursuant to an elected base period in
22 accordance with NRS 612.344 must not be charged against the
23 record for experience rating of the employer **⊞ or required to be**
24 **reimbursed, as applicable.**

25 3. Except as otherwise provided in subsection 7, if a claimant
26 leaves his or her last or next to last employer to take other
27 employment and leaves or is discharged by the latter employer,
28 benefits paid to the claimant must not be charged against the record
29 for experience rating of **or required to be reimbursed by** the former
30 employer **⊞, as applicable.**

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

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

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

40 ➔ the Administrator shall order that the benefits not be charged
41 against the record for experience rating of the employer **⊞ or**
42 **required to be reimbursed, as applicable.**

43 5. The employer may appeal from the ruling of the
44 Administrator relating to the cause of the termination of the



1 employment of the claimant in the same manner as appeals may be
2 taken from determinations relating to claims for benefits.

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

5 7. If an employer who is given notice of a claim for benefits
6 pursuant to subsection 1 fails to submit timely to the Division all
7 known relevant facts which may affect the claimant's rights to
8 benefits as required by NRS 612.475 ~~the~~ :

9 *(a) The employer's record for experience rating, if the
10 employer pays contributions pursuant to NRS 612.535, is not
11 entitled to be relieved of the amount of any benefits paid to the
12 claimant as a result of such failure that were charged against the
13 employer's record pursuant to NRS 612.550 ~~or 612.553~~; and*

14 *(b) The employer, if the employer has elected pursuant to NRS
15 612.553 to make reimbursement payments in lieu of contributions,
16 is not entitled to be relieved of any obligation to make
17 reimbursement payments for the amount of any benefits paid as a
18 result of such failure.*

19 **Sec. 6.** NRS 612.642 is hereby amended to read as follows:

20 612.642 The Administrator ~~shall~~ **may** notify ~~the~~ :

21 *1. The State Contractors' Board of any licensed contractor
22 against whom a judgment is obtained for failure to pay contributions
23 to the Unemployment Compensation Fund pursuant to this chapter.*

24 *2. The State Controller of any employer against whom a
25 judgment is obtained for failure to pay contributions to the
26 Unemployment Compensation Fund pursuant to this chapter until
27 the full amount of the debt and all interest and penalties thereon
28 has been satisfied for the purpose of:*

29 *(a) Offsetting the debt against payments of money due the
30 employer by other state entities pursuant to NRS 353C.190; and*

31 *(b) Preventing the renewal of a license of the employer
32 pursuant to NRS 353C.1965.*

33 *↳ The Administrator shall report to the State Controller when any
34 judgment of which the State Controller has been notified pursuant
35 to this subsection has been satisfied.*

36 **Sec. 7.** NRS 353C.1965 is hereby amended to read as follows:

37 353C.1965 1. The State Controller shall establish and
38 maintain a list of persons who owe a debt to an agency that has been
39 assigned to the State Controller for collection pursuant to NRS
40 353C.195 ~~H~~ **or a debt that has been reported to the State
41 Controller pursuant to NRS 612.365 or 612.642.**

42 2. A licensing agency shall provide to the State Controller:

43 (a) The name, address and social security number or employer
44 identification number, as applicable, of each licensee; and



1 (b) The business identification number of the licensee, if the
2 licensee has a state business registration.

3 3. A licensing agency shall provide the information described
4 in subsection 2:

5 (a) On or before February 1 of each year for licensees who
6 renewed licenses from July 1 through December 31 of the previous
7 calendar year; or

8 (b) On or before August 1 of each year for licensees who
9 renewed licenses from January 1 through June 30 of the current
10 calendar year.

11 4. If the State Controller determines that the name of any
12 licensee appears on the list established by the State Controller
13 pursuant to subsection 1, the State Controller shall send a written
14 notice to the licensee, which includes, without limitation:

15 (a) The amount of the debt;

16 (b) A request for payment of the debt;

17 (c) Notification that the licensee may enter into an agreement
18 *for the payment of the debt* with the State Controller pursuant to
19 NRS 353C.130 ~~for the payment of the debt;~~ *if the debt has been*
20 *assigned to the State Controller for collection or with the*
21 *Administrator of the Employment Security Division of the*
22 *Department of Employment, Training and Rehabilitation if*
23 *the debt has been reported to the State Controller pursuant to NRS*
24 *612.365 or 612.642;*

25 (d) Notification that the licensee must respond to the notice
26 within 30 days after the date on which the notice was sent;

27 (e) Notification that the licensee may request a hearing to
28 determine the validity of the debt not later than 30 days after the
29 date on which the notice was sent; and

30 (f) Notification that the licensing agency is prohibited from
31 renewing the license of the licensee unless the licensee ~~pays~~ :

32 (1) *Pays* the debt ~~enters~~ ;

33 (2) *Enters* into an agreement for the payment of the debt
34 pursuant to NRS 353C.130 *if the debt has been assigned to the*
35 *State Controller for collection* or ~~demonstrates to the State~~
36 ~~Controller~~ *with the Administrator of the Employment Security*
37 *Division of the Department of Employment, Training and*
38 *Rehabilitation if the debt has been reported to the State Controller*
39 *pursuant to NRS 612.365 or 612.642; or*

40 (3) *Demonstrates* that the debt is not valid.

41 5. The State Controller shall notify the licensing agency if the
42 licensee does not pay the debt that has been assigned to the State
43 Controller for collection, enter into an agreement for the payment of
44 the debt pursuant to NRS 353C.130 or demonstrate that the debt is
45 not valid. A licensing agency shall not renew the license of the



1 licensee who is the subject of the notification until the State
2 Controller notifies the licensing agency that the licensee has:

- 3 (a) Satisfied the debt;
- 4 (b) Entered into an agreement for the payment of the debt
5 pursuant to NRS 353C.130; or
- 6 (c) Demonstrated that the debt is not valid.

7 6. *The State Controller shall notify the licensing agency if the
8 licensee does not pay the debt that has been reported to the State
9 Controller pursuant to NRS 612.365 or 612.642 or demonstrate
10 that the debt is not valid. In addition to any other grounds for the
11 denial of the renewal of a license, a licensing agency shall not
12 renew the license of the licensee who is the subject of the
13 notification until the State Controller notifies the licensing agency
14 that the licensee has:*

- 15 (a) *Satisfied the debt;*
- 16 (b) *Entered into an agreement for the payment of the debt with
17 the Administrator of the Employment Security Division of the
18 Department of Employment, Training and Rehabilitation; or*
- 19 (c) *Demonstrated that the debt is not valid.*

20 7. Information shared between the State Controller and a
21 licensing agency to carry out the provisions of this section is not a
22 public record.

23 ~~7-1~~ 8. A licensing agency may not be held liable in any civil
24 action for any action taken by the licensing agency in good faith to
25 comply with the provisions of this section.

26 ~~8-1~~ 9. The State Controller shall verify with the Secretary of
27 State the information related to the state business registration of
28 each licensee.

29 ~~9-1~~ 10. The State Controller shall adopt such regulations as
30 the State Controller determines necessary or advisable to carry out
31 the provisions of this section.

32 ~~10-1~~ 11. As used in this section:

33 (a) "License" means any license, certification, registration,
34 permit or other authorization that grants a person the authority to
35 engage in a profession or occupation in this State.

36 (b) "Licensee" means a person to whom a license has been
37 issued.

38 (c) "Licensing agency" means any agency, board or commission
39 that regulates an occupation or profession except for the Department
40 of Motor Vehicles, the Division of Insurance of the Department of
41 Business and Industry, the Commissioner of Insurance or any local
42 government.

43 **Sec. 8.** This act becomes effective on July 1, 2017.

