

**EMERGENCY REGULATION OF THE
EMPLOYMENT SECURITY DIVISION OF THE DEPARTMENT OF
EMPLOYMENT, TRAINING AND REHABILITATION**

LCB FILE NO. E003-21A

**The following document is an emergency regulation submitted
by the agency on 02/17/2021**

**EMERGENCY REGULATION OF THE EMPLOYMENT SECURITY DIVISION OF
THE DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION**

EXPLANATION-Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

Filing of Emergency Administrative Regulations

AUTHORITY: NRS 612.220 and NRS 233B. 0613

REGULATIONS relating to unemployment compensation; charging contributions and the treatment of reimbursables.

Legislative Counsel's Digest:

Existing law requires employers to pay contributions or reimbursement in lieu of contributions with respect to wages for employment into the Unemployment Compensation Fund. *See* NRS 612.535 through 612.553. Nevada Administrative Code (NAC) 612.120 and 612.265 address such contributions or reimbursement in lieu of contributions. The proposed temporary changes to NAC 612.120 and NAC 612.265, during the coronavirus disease 2019 (hereafter "COVID-19" or "pandemic") emergency, are expected to have an immediate beneficial economic effect on employers and employing units in Nevada directly impacted financially by COVID-19 due to an illness in the workplace tied to the pandemic, direction by a governmental official to close operations until the pandemic declared emergency is lifted, or the claimant for benefits had good cause to leave work due to the pandemic. NRS 612.730 provides an assurance or safeguard regarding proper disclosures by affected employers or employing units.

The proposed regulatory changes to NAC 612.120 and NAC 612.265 would allow the Department of Employment, Training & Rehabilitation's (DETR) Employment Security Division's (ESD) Administrator to relieve an employing unit or employer from the charging to reduce the reimbursement in lieu of contributions by up to 50%.

Section 1. NAC 612.265, entitled "Reimbursement of Fund in lieu of contributions by former employer. (NRS 612.220, 612.550, 612.553)," is hereby amended to read as follows:

1. Reimbursement for benefit payments made to former employees of employers who elect to reimburse the Fund in lieu of contributions must be charged to that employer. Those reimbursements must be made on the basis of a dollar of reimbursement for each dollar paid in benefits based on the proportion of the claimant's base period wages paid by that employer.

2. If the Division overpays benefits to a claimant, the Division will not credit the amount of the overpayment to the account of an employer who is required to reimburse the Fund pursuant to subsection 1 until the Division recovers the amount of the overpayment from the claimant.

3. For the fourth quarter of 2020, upon the declaration of emergency by the Governor and based on the detrimental effects of the COVID-19 pandemic on Nevada Employers, the Administrator shall reduce the reimbursements in lieu of contributions that are due by up to 50% of the amount owed if:

(Added to NAC by Employm't Security Dep't, eff. 6-3-85; A by Employm't Security Div. by R094-00, 10-18-2000)

Sec. 3. These regulations become effective on:

1. The date on which these amended regulations are filed by the Legislative Counsel with the Secretary of State; or
 2. The day on which LCB File No. ??? is filed by the Legislative Counsel with the Secretary of State,
- whichever occurs later.



February 16, 2021

Statement of Emergency pursuant to Section 3 of Senate Bill No. 3 of the 32nd Special Session of the Nevada Legislature, chapter 7, Statutes of Nevada 2020, 32nd Special Session, at page 81 (NRS 612.242) to implement Temporary regulatory changes (120 days)

On behalf of the Nevada Department of Employment, Training and Rehabilitation's (DETR) Employment Security Division (ESD), and as ESD's Administrator, I submit this Statement of Emergency pursuant to Section 3 of Senate Bill No. 3 of the 32nd Special Session of the Nevada Legislature, chapter 7, Statutes of Nevada 2020, 32nd Special Session, at page 81 (NRS 612.242). This pertains to proposed regulatory changes to Nevada Administrative Code (NAC) Chapter 612, relating to unemployment insurance benefits (hereafter "benefits"). The attached proposed changes to NAC Chapter 612 would allow the Department of Employment, Training & Rehabilitation's (DETR) Employment Security Division's (ESD) Administrator to relieve an employing unit or employer from the charging of benefits to its experience record or to reduce the reimbursement in lieu of contributions by up to 50% for the 4th Quarter of 2020.

On March 12, 2020, the Governor of the State of Nevada issued a Declaration of Emergency to facilitate the State of Nevada's response to the COVID-19 pandemic. On March 13, 2020, President of the United States Donald J. Trump declared a nationwide emergency pursuant to Sec. 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"). A public health emergency exists throughout the State of Nevada as a result of the COVID-19 outbreak. The financial impact on Nevadans has been significant and severe with initial unemployment claims exceeding 1,500,000 as of December of 2020. NRS 414.070(7) provides that, given the COVID-19 emergency, the Governor may exercise powers and duties as are necessary to promote and secure the safety and protection of the civilian population. Pursuant to NRS 233B.0613, I declare that an emergency exists and request the Governor of the State of Nevada to endorse this Statement of Emergency so the amendments to the regulations above may take effect immediately.

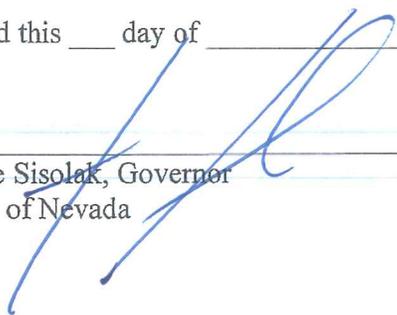
Dated this 16th day of February, 2021.


Elisa P. Cafferata, Director
Department of Employment Training and Rehabilitation


Lynda Parven, Administrator
Employment Security Division

I hereby endorse the Statement of Emergency prepared by the Administrator of the Employment Security Division, Department of Employment, Training and Rehabilitation.

Dated this ___ day of _____, 2021.



Steve Sisolak, Governor
State of Nevada

INFORMATIONAL STATEMENT OF ADOPTED REGULATIONS
AS REQUIRED BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO.
FEBRUARY 17, 2020

The following informational statement is submitted for adopted amendments to Chapter 612 of the Nevada Administrative Code (NAC):

1. A clear and concise explanation of the need for the adopted regulations

Due to the Coronavirus 2019 (hereafter "COVID-19" or "pandemic"), there has been a dramatic increase in unemployment in Nevada and related onerous or burdensome financial effects on employers or employing units who are required to pay contributions or make reimbursement in lieu of contributions with respect to wages for employment. The proposed (120 days) emergency regulatory changes would allow the Department of Employment, Training & Rehabilitation's (DETR) Employment Security Division's (ESD) Administrator some temporary flexibility in relieving an employing unit or employer from the contributions or reimbursement in lieu of contributions obligations. This money is related to wages for employment and is paid into the Unemployment Compensation Fund.

2. The estimated economic effect of the adopted regulatory changes on businesses which are regulated thereby and on the public. These must be stated separately, and each case must include:

Business:

a. Both adverse and beneficial effects; and

Adverse: ESD does not foresee any adverse economic impact on businesses.

Beneficial: ESD sees the temporary flexibility under the proposed regulatory changes potentially affording financial relief to businesses affected by COVID-19.

b. Both immediate and long-term effects.

Same as above.

Public:

a. Both adverse and beneficial effects; and

Adverse: ESD does not foresee any adverse economic impact on the public.

Beneficial: ESD does not foresee any economic benefit to the public, except to the extent that the temporary flexibility under the proposed regulatory changes potentially affording

financial relief to businesses affected by COVID-19 and thereby keeping employing businesses viable.

b. Both immediate and long-term effects.

Same as above.

3. The estimated cost to the agency for enforcement of the proposed regulations as amended.

There is not an additional cost to ESD for the enforcement or application of the proposed regulations as amended.

4. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or federal government agency regulations which are duplicated or overlapped by the proposed regulatory changes. However, H.R. 748 Coronavirus Aid, Relief, and Economic Security Act (CARES Act) at Title II, entitled "Assistance For American Workers, Families, and Businesses" at Sec. 2103, provides:

The Secretary of Labor may issue clarifying guidance to allow States to interpret their State unemployment compensations laws in a manner that would provide maximum flexibility to reimbursing employers as it relates to timely payment and assessment of penalties and interest pursuant to such State laws.

CARES Act, Sec. 2103. 20 C.F.R. § 602.1 addresses a Quality Control (QC) program for the Federal-State unemployment compensation (UC) system. Among other things, the QC program is designed to identify errors in revenue collections. Accordingly, guidance from the U.S. Department of Labor should be sought.

5. If the regulations include provisions which are more stringent than a federal regulation which regulated the same activity, a summary of such provisions.

The provisions in the regulatory changes are not more stringent than the federal regulations.

- 6. If the regulations provide a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The proposed regulatory changes do not provide new or increases in any existing fees.