
SENATE BILL NO. 3—COMMITTEE OF THE WHOLE

AUGUST 2, 2020

Referred to Committee of the Whole

SUMMARY—Revises provisions relating to unemployment compensation. (BDR 53-10)

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; authorizing the electronic transmission of certain documents and communications relating to unemployment compensation; revising the procedures for the adoption of an emergency regulation by the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation; revising provisions relating to eligibility for unemployment benefits in certain circumstances; authorizing the Administrator to suspend, modify, amend or waive certain requirements under certain circumstances; revising provisions governing the payment of unemployment benefits for an extended period and increasing the total extended benefits payable under certain circumstances; revising provisions relating to disqualification for unemployment compensation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires various notices or other documents or communications
2 relating to unemployment insurance to be mailed to or served upon persons. (NRS
3 612.365, 612.500, 612.515, 612.551, 612.630) **Section 2** of this bill authorizes the
4 Administrator of the Employment Security Division of the Department of
5 Employment, Training and Rehabilitation or the Division to provide such
6 documents or communications electronically to a person who has requested to
7 receive such documents or communications electronically. **Section 2** additionally
8 provides that an electronic communication does not satisfy or relieve the
9 Administrator or Division from a requirement of federal or state law to provide a
10 document or communication in the manner required by the applicable law.



11 Existing law authorizes an agency to adopt an emergency regulation if the
12 agency determines, and the Governor agrees, that an emergency exists. (NRS
13 233B.0613) **Section 3** of this bill: (1) creates a similar process for the
14 Administrator to adopt an emergency regulation; (2) provides for the review of an
15 emergency regulation of the Administrator by the Legislative Commission; and (3)
16 authorizes such an emergency regulation to be adopted more than once. **Section 14**
17 of this bill makes a conforming change.

18 Existing law generally deems a person to be unemployed, and therefore eligible
19 for unemployment benefits, in any week during which the person: (1) performs no
20 services and receives no remuneration for services; or (2) performs less than full-
21 time work, but is paid remuneration that is less than the amount the person would
22 otherwise receive in unemployment benefits. (NRS 612.185) **Section 4** of this bill
23 expands the eligibility for a person who performs less than full-time work to be
24 deemed to be unemployed to include persons who are paid remuneration that is less
25 than one and one-half times the amount the person would otherwise receive in
26 unemployment benefits.

27 **Section 5** of this bill authorizes the Administrator, by regulation, to suspend,
28 modify, amend or waive any provision of the Unemployment Compensation Law
29 for the duration of a state of emergency or declaration of disaster and for any
30 additional period of time during which the emergency or disaster directly affects
31 the requirements of the Unemployment Compensation Law if the Administrator
32 makes certain determinations and the action is approved by the Governor. **Sections**
33 **12 and 13** of this bill provide, for the purpose of compliance with federal law,
34 similar authority for the Administrator, by regulation, to suspend, modify, amend or
35 waive specific provisions of the Unemployment Compensation Law relating to
36 rates of contribution for employers and charging of benefits to the account of an
37 employer.

38 The Families First Coronavirus Response Act, Pub. L. No. 116-127, provides
39 for additional money being made available to states for their unemployment
40 compensation programs. To qualify for the additional money, certain provisions
41 must be included in state law. **Sections 6 and 7** of this bill temporarily revise the
42 definition of an "on" indicator for the purposes of extended unemployment benefits
43 and revises the total extended benefit amount a person may receive in a benefit year
44 during periods of high unemployment, which will allow Nevada to qualify for
45 additional money under the Families First Coronavirus Response Act. **Section 7**
46 also requires the Governor to determine whether any subsequent federal law
47 similarly provides for additional money to be made available to states for their
48 unemployment compensation programs and to issue a proclamation to that effect,
49 and the revisions in **sections 6 and 7** become effective for the period of time
50 identified in the proclamation by the Governor.

51 Existing law prohibits a person from receiving unemployment benefits for a
52 week in which the claimant received certain payments, including, without
53 limitation, severance pay or vacation pay. (NRS 612.420, 612.425, 612.430)
54 **Sections 8-10** of this bill authorize the Administrator, by regulation, to waive or
55 modify the period in which a person is disqualified from benefits for receiving
56 certain payments for good cause or upon the making of certain determinations.

57 **Section 11** of this bill requires certain filings relating to judicial review of a
58 decision by the Board of Review to be served or filed within a certain period of
59 time.

60 Existing law requires a person to be disqualified from receiving unemployment
61 benefits if the Administrator determines the person has failed to apply for or accept
62 suitable work without good cause. (NRS 612.390) **Section 15** of this bill requires
63 the Administrator to establish, by regulation, justifications related to the outbreak of
64 the disease identified by the Centers for Disease Control and Prevention of the



65 United States Department of Health and Human Services as COVID-19 that
66 constitute good cause for a person to refuse suitable work.

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

1 **Section 1.** Chapter 612 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *Except as otherwise provided by federal or state*
4 *law, the Administrator or the Division may electronically provide a*
5 *form, notice, claim, bill or other document or communication to a*
6 *person if the person has requested to receive communications by*
7 *electronic transmission, by electronic mail or other electronic*
8 *communication.*

9 **2.** *The electronic provision of a form, notice, claim, bill or*
10 *other document or communication pursuant to subsection 1 does*
11 *not satisfy or relieve the Administrator or Division of any*
12 *obligation under federal or state law to provide the form, notice,*
13 *claim, bill or other document or communication in the manner*
14 *required by the applicable state or federal law.*

15 **Sec. 3. 1.** *If the Administrator determines that an*
16 *emergency exists, the Administrator shall submit to the Governor*
17 *a written statement of the emergency which sets forth the reasons*
18 *for the determination. If the Governor endorses the statement of*
19 *the emergency by written endorsement at the end of the full text of*
20 *the statement of emergency on the original copy of a proposed*
21 *regulation, the regulation may be adopted. If the Administrator*
22 *adopts the regulation, the Administrator shall submit the adopted*
23 *emergency regulation to the Legislative Counsel for transmission*
24 *to the Legislative Commission to determine whether the*
25 *emergency regulation conforms to statutory authority and carries*
26 *out the intent of the Legislature in granting that authority. The*
27 *statement of the emergency endorsed by the Governor must be*
28 *included as a part of the regulation for all purposes.*

29 **2.** *If practicable, the Administrator shall, not later than 9*
30 *a.m. on the first working day before the date on which the*
31 *emergency regulation is submitted to the Legislative Counsel*
32 *pursuant to subsection 1, make the emergency regulation*
33 *available to the public by:*

34 **(a)** *Providing a copy of the emergency regulation to a member*
35 *of the public upon request; and*

36 **(b)** *Making a copy of the emergency regulation available on its*
37 *website on the Internet, if any.*

38 **3.** *If practicable, the Administrator shall, not later than 9*
39 *a.m. on the first working day before the date of any hearing at*



1 *which the agency considers the emergency regulation, make the*
2 *version of the proposed emergency regulation that will be*
3 *considered at the hearing available to the public by:*

4 *(a) Providing a copy of the proposed emergency regulation to a*
5 *member of the public upon request; and*

6 *(b) Making a copy of the proposed emergency regulation*
7 *available on its website on the Internet, if any.*

8 *4. The Legislative Commission has 15 days after the*
9 *submission of an emergency regulation to the Legislative Counsel*
10 *by the Administrator pursuant to subsection 1 to consider the*
11 *emergency regulation. If the Legislative Commission:*

12 *(a) Does not consider the emergency regulation during the 15-*
13 *day period, the emergency regulation is deemed approved and the*
14 *Legislative Counsel shall promptly file the emergency regulation*
15 *with the Secretary of State and notify the Administrator of the*
16 *filing.*

17 *(b) Considers the emergency regulation during the 15-day*
18 *period and:*

19 *(1) Approves the emergency regulation, the Legislative*
20 *Counsel shall promptly file the emergency regulation with the*
21 *Secretary of State and notify the Administrator of the filing.*

22 *(2) Objects to the emergency regulation after finding that*
23 *the emergency regulation does not conform to statutory authority*
24 *or carry out legislative intent, the Legislative Counsel shall attach*
25 *to the emergency regulation a written notice of the objection and*
26 *shall promptly return the emergency regulation to the*
27 *Administrator. An emergency regulation returned to the*
28 *Administrator pursuant to this subparagraph or any substantially*
29 *identical regulation does not become effective until the regulation,*
30 *including any amendment to the regulation determined to be*
31 *necessary by the Administrator to address the objection of the*
32 *Legislative Commission, is approved by the Legislative*
33 *Commission at a subsequent meeting.*

34 *5. An emergency regulation adopted pursuant to this section*
35 *becomes effective when the Legislative Counsel files with the*
36 *Secretary of State the original of the final draft or revision of the*
37 *emergency regulation, together with the informational statement*
38 *prepared pursuant to NRS 233B.066. The Secretary of State shall*
39 *maintain the original of the final draft or revision of each such*
40 *emergency regulation in a permanent file to be used only for the*
41 *preparation of official copies.*

42 *6. A regulation adopted pursuant to this section may be*
43 *effective for a period of not longer than 120 days.*

44 *7. A regulation may be adopted by this emergency procedure*
45 *more than once by the Administrator.*



1 **8. If the Administrator adopts, after providing notice and the**
2 **opportunity for a hearing as required in chapter 233B of NRS, a**
3 **permanent or temporary regulation which becomes effective and is**
4 **substantially identical to an effective emergency regulation, the**
5 **emergency regulation expires automatically on the effective date**
6 **of the temporary or permanent regulation.**

7 **Sec. 4.** NRS 612.185 is hereby amended to read as follows:

8 612.185 1. A person shall be deemed “unemployed” in any
9 week during which the person performs no services and with respect
10 to which no remuneration is payable to the person or in any week of
11 less than full-time work if the remuneration payable to the person
12 with respect to such week is less than **one and one-half times** the
13 person’s weekly benefit amount if the person has no dependents or
14 less than **one and one-half times** the person’s augmented weekly
15 benefit amount if the person has dependents.

16 2. The Administrator shall adopt regulations applicable to
17 unemployed persons, making such distinctions in the procedures as
18 to total unemployment, partial unemployment of persons who were
19 totally unemployed, partial unemployment of persons who retain
20 their regular employment and other forms of part-time work, as the
21 Administrator deems necessary.

22 3. No person shall be deemed to be unemployed in any week in
23 which the person:

24 (a) Is self-employed;

25 (b) Receives benefits for a temporary total disability or a
26 temporary partial disability pursuant to chapters 616A to 616D,
27 inclusive, or 617 of NRS; or

28 (c) Receives money for rehabilitative services pursuant to
29 chapters 616A to 616D, inclusive, or 617 of NRS.

30 **Sec. 5.** NRS 612.220 is hereby amended to read as follows:

31 612.220 The Administrator:

32 1. Shall administer this chapter.

33 2. Is responsible for the administration, through the
34 Administrator of the Commission on Postsecondary Education, of
35 the provisions of NRS 394.383 to 394.560, inclusive.

36 3. Has power and authority to adopt, amend or rescind such
37 rules and regulations, to employ, in accordance with the provisions
38 of this chapter, such persons, make such expenditures, require such
39 reports, make such investigations, and take such other action as the
40 Administrator deems necessary or suitable to that end.

41 4. Shall determine his or her own organization and methods of
42 procedure for the Division in accordance with the provisions of this
43 chapter.

44 **5. May, by regulation, suspend, modify, amend or waive any**
45 **requirement of this chapter for the duration of a state of**



1 *emergency or declaration of disaster proclaimed pursuant to NRS*
2 *414.070 and for any additional period of time during which the*
3 *emergency or disaster directly affects the requirement of this*
4 *chapter if:*

5 *(a) The Administrator determines the action is:*

6 *(1) In the best interest of the Division, this State or the*
7 *general health, safety and welfare of the citizens of this State; or*

8 *(2) Necessary to comply with instructions received from the*
9 *Department of Labor; and*

10 *(b) The action of the Administrator is approved by the*
11 *Governor.*

12 **Sec. 6.** NRS 612.377 is hereby amended to read as follows:

13 612.377 As used in NRS 612.377 to 612.3786, inclusive,
14 unless the context clearly requires otherwise:

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

23 2. There is a "Nevada 'on' indicator" for a week if the
24 Administrator determines, in accordance with the regulations of the
25 Secretary of Labor, that ~~for~~:

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

30 ~~(a)~~ (1) Equaled or exceeded 120 percent of the average of
31 those rates for the corresponding 13-week period ending in each of
32 the preceding 2 calendar years and equaled or exceeded 5 percent;
33 or

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

35 *(b) For weeks of unemployment beginning on or after March*
36 *18, 2020, and ending on or before the week ending 4 weeks before*
37 *the last week for which full federal sharing is authorized by*
38 *section 4105(a) of Public Law No. 116-127, or which occur during*
39 *a period of time specified by the Governor in a proclamation*
40 *issued pursuant to subsection 4 of NRS 612.378, the average rate*
41 *of total seasonally adjusted unemployment in Nevada, as*
42 *determined by the Secretary of Labor, for the period consisting of*
43 *the most recent 3 months for which data for all states are*
44 *published before the close of such week:*



- 1 (1) *Equaled or exceeded 6.5 percent; and*
- 2 (2) *Equaled or exceeded 110 percent of the average rate for*
- 3 *the corresponding 3-month period ending in either of the 2*
- 4 *preceding calendar years.*

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

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

13 (b) Was less than 5 percent.

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

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

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

34 7. "Additional benefits" means benefits payable to exhaustees
35 by reason of conditions of high unemployment or by reason of other
36 special factors under the provisions of any state law. Any person
37 who is entitled to both additional and extended benefits for the same
38 week must be given the choice of electing which type of benefit to
39 claim regardless of whether his or her rights to additional and
40 extended benefits arise under the law of the same state or different
41 states.

42 8. "Eligibility period" of a person means the period consisting
43 of the weeks in the person's benefit year under this chapter which
44 begin in an extended benefit period and, if that benefit year ends



1 within the extended benefit period, any weeks thereafter which
2 begin in that period.

3 9. "Exhaustee" means a person who, with respect to any week
4 of unemployment in the person's eligibility period:

5 (a) Has received, before that week, all of the regular, seasonal or
6 nonseasonal benefits that were available to him or her under this
7 chapter or any other state law (including augmented weekly benefits
8 for dependents and benefits payable to federal civilian employees
9 and ex-servicemen or ex-servicewomen under 5 U.S.C. §§ 8501 et
10 seq.) in the person's current benefit year which includes that week,
11 except that, for the purposes of this paragraph, a person shall be
12 deemed to have received all of the regular benefits that were
13 available to him or her, although as a result of a pending appeal with
14 respect to wages that were not considered in the original monetary
15 determination in that benefit year, the person may subsequently be
16 determined to be entitled to added regular benefits; or

17 (b) His or her benefit year having expired before that week, has
18 no, or insufficient, wages on the basis of which the person could
19 establish a new benefit year which would include that week,

20 and has no right to unemployment benefits or allowances, as the
21 case may be, under the Railroad Unemployment Insurance Act, 45
22 U.S.C. §§ 351 et seq., the Trade Expansion Act of 1962, 19 U.S.C.
23 §§ 1801 et seq., the Automotive Products Trade Act of 1965, 19
24 U.S.C. §§ 2001 et seq. and such other federal laws as are specified
25 in regulations issued by the Secretary of Labor, and has not received
26 and is not seeking unemployment benefits under the unemployment
27 compensation law of Canada. If the person is seeking such benefits
28 and the appropriate agency finally determines that the person is not
29 entitled to benefits under that law the person is considered an
30 exhaustee.

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

34 **Sec. 7.** NRS 612.378 is hereby amended to read as follows:

35 612.378 1. ~~The~~ *Except as otherwise provided in subsection*
36 *2, the* total extended benefit amount payable to any eligible person
37 for the person's applicable benefit year is the lesser of the following
38 amounts:

39 (a) Fifty percent of the basic benefits which were payable to him
40 or her in the benefit year. If the amount computed is not a multiple
41 of \$1, it must be computed to the next lower multiple of \$1.

42 (b) Thirteen times the person's average weekly benefit amount
43 which was payable to him or her under this chapter for a week of
44 total unemployment in the applicable benefit year. If the amount



1 computed is not a multiple of \$1, it must be computed to the next
2 lower multiple of \$1.

3 *(c) Thirty-nine times the person's average weekly benefit*
4 *amount which was payable to him or her under this chapter for a*
5 *week of total unemployment in the applicable benefit year,*
6 *reduced by the basic benefits which were payable to him or her in*
7 *the benefit year. If the amount computed is not a multiple of \$1, it*
8 *must be computed to the next lower multiple of \$1.*

9 2. *In weeks beginning in a high unemployment period on or*
10 *after March 18, 2020, and ending on or before the week ending 3*
11 *weeks before the last week for which full federal sharing is*
12 *authorized by section 4105(a) of Public Law No. 116-127, or*
13 *which occur during a period of time specified by the Governor in a*
14 *proclamation issued pursuant to subsection 4, the total extended*
15 *benefit amount payable to any eligible person for the person's*
16 *applicable benefit year is the lesser of the following amounts:*

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

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

26 *(c) Forty-six times the person's average weekly benefit amount*
27 *which was payable to him or her under this chapter for a week of*
28 *total unemployment in the applicable benefit year, reduced by the*
29 *basic benefits which were payable to him or her in the benefit*
30 *year. If the amount computed is not a multiple of \$1, it must be*
31 *computed to the next lower multiple of \$1.*

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

41 4. *If the Governor determines that a federal law authorizes*
42 *full federal sharing for one or more weeks to cover the costs of*
43 *extended benefits incurred pursuant to subsection 2, the Governor*
44 *shall issue a proclamation stating that determination and*



1 *specifying the weeks during which the extended benefits are*
2 *available.*

3 *5. As used in this section, "high unemployment period"*
4 *means any period during which the average rate of total*
5 *seasonally adjusted unemployment in Nevada, as determined by*
6 *the Secretary of Labor, for the period consisting of the most recent*
7 *3 months for which data for all states are published before the*
8 *close of such week:*

9 *(a) Equaled or exceeded 8 percent; and*

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

13 **Sec. 8.** NRS 612.420 is hereby amended to read as follows:

14 612.420 [A]

15 *1. Except as otherwise provided in subsection 2, a person is*
16 *disqualified for benefits for any week with respect to which the*
17 *person receives either wages in lieu of notice or severance pay.*

18 *2. The Administrator may, by regulation, waive or modify the*
19 *period of disqualification set forth in subsection 1:*

20 *(a) For good cause; or*

21 *(b) If the Administrator determines such action is necessary to*
22 *expedite benefits and protect the health, safety and well-being of*
23 *claimants.*

24 **Sec. 9.** NRS 612.425 is hereby amended to read as follows:

25 612.425 [A]

26 *1. Except as otherwise provided in subsection 2, a claimant*
27 *shall be disqualified for benefits for any week with respect to which*
28 *the claimant is on paid vacation.*

29 *2. The Administrator may, by regulation, waive or modify the*
30 *period of disqualification set forth in subsection 1:*

31 *(a) For good cause; or*

32 *(b) If the Administrator determines such action is necessary to*
33 *expedite benefits and protect the health, safety and well-being of*
34 *claimants.*

35 **Sec. 10.** NRS 612.430 is hereby amended to read as follows:

36 612.430 [A]

37 *1. Except as otherwise provided in subsection 2, a claimant*
38 *shall be disqualified for benefits for any week following termination*
39 *of work, which could have been compensated by vacation pay had*
40 *termination not occurred, if the claimant actually receives such*
41 *compensation at the time of separation or on regular paydays*
42 *immediately following termination.*

43 *2. The Administrator may, by regulation, waive or modify the*
44 *period of disqualification set forth in subsection 1:*



- 1 (a) *For good cause; or*
2 (b) *If the Administrator determines such action is necessary to*
3 *expedite benefits and protect the health, safety and well-being of*
4 *claimants.*

5 **Sec. 11.** NRS 612.530 is hereby amended to read as follows:

6 612.530 1. Within 11 days after the decision of the Board of
7 Review has become final, any party aggrieved thereby or the
8 Administrator may secure judicial review thereof by commencing
9 an action in the district court of the county where the employment
10 which is the basis of the claim was performed for the review of the
11 decision, in which action any other party to the proceedings before
12 the Board of Review must be made a defendant.

13 2. In such action, a petition which need not be verified, but
14 which must state the grounds upon which a review is sought, must ,
15 *within 45 days after the commencement of the action,* be served
16 upon the Administrator, unless the Administrator is the appellant, or
17 upon such person as the Administrator may designate, and such
18 service shall be deemed completed service on all parties, but there
19 must be left with the party so served as many copies of the petition
20 as there are defendants, and the Administrator shall forthwith mail
21 one such copy to each defendant.

22 3. *The Administrator shall file with the court an answer*
23 *within 45 days after being served with a petition pursuant to*
24 *subsection 2 or, if the Administrator is the appellant, the*
25 *Administrator shall serve the petition upon each other party within*
26 *45 days after commencement of the action.* With the
27 Administrator's answer or petition, the Administrator shall certify
28 and file with the court originals or true copies of all documents and
29 papers and a transcript of all testimony taken in the matter, together
30 with the Board of Review's findings of fact and decision therein.
31 The Administrator may certify to the court questions of law
32 involved in any decision.

33 4. In any judicial proceedings under this section, the finding of
34 the Board of Review as to the facts, if supported by evidence and in
35 the absence of fraud, is conclusive, and the jurisdiction of the court
36 is confined to questions of law.

37 5. Such actions, and the questions so certified, must be heard in
38 a summary manner and must be given precedence over all other
39 civil cases except cases arising under chapters 616A to 616D,
40 inclusive, or chapter 617 of NRS.

41 6. An appeal may be taken from the decision of the district
42 court to the appellate court of competent jurisdiction pursuant to the
43 rules fixed by the Supreme Court of Nevada pursuant to Section 4 of
44 Article 6 of the Nevada Constitution in the same manner, but not



1 inconsistent with the provisions of this chapter, as is provided in
2 civil cases.

3 7. It is not necessary, in any judicial proceeding under this
4 section, to enter exceptions to the rulings of the Board of Review,
5 and no bond may be required for entering the appeal.

6 8. Upon the final determination of the judicial proceeding, the
7 Board of Review shall enter an order in accordance with the
8 determination.

9 9. A petition for judicial review does not act as a supersedeas
10 or stay unless the Board of Review so orders.

11 **Sec. 12.** NRS 612.550 is hereby amended to read as follows:

12 612.550 1. As used in this section:

13 (a) "Average actual duration" means the number of weeks
14 obtained by dividing the number of weeks of benefits paid for weeks
15 of total unemployment in a consecutive 12-month period by the
16 number of first payments made in the same 12-month period.

17 (b) "Average annual payroll" for each calendar year means the
18 annual average of total wages paid by an employer subject to
19 contributions for the 3 consecutive calendar years immediately
20 preceding the computation date. The average annual payroll for
21 employers first qualifying as eligible employers must be computed
22 on the total amount of wages paid, subject to contributions, for not
23 less than 10 consecutive quarters and not more than 12 consecutive
24 quarters ending on December 31, immediately preceding the
25 computation date.

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

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

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

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

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

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

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

43 (j) "Unemployment risk ratio" means the ratio obtained by
44 dividing the number of first payments issued in any consecutive 12-
45 month period by the average monthly number of covered workers in



1 employment as shown on the records of the Division for the same
2 12-month period.

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

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

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

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

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

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



1 5. The Administrator shall, as of the computation date for each
2 calendar year, compute the reserve ratio for each eligible employer
3 and shall classify those employers on the basis of their individual
4 reserve ratios. The contribution rate assigned to each eligible
5 employer for the calendar year must be determined by the range
6 within which the employer's reserve ratio falls. The Administrator
7 shall, by regulation, prescribe the contribution rate schedule to apply
8 for each calendar year by designating the ranges of reserve ratios to
9 which must be assigned the various contribution rates provided in
10 subsection 6. The lowest contribution rate must be assigned to the
11 designated range of highest reserve ratios and each succeeding
12 higher contribution rate must be assigned to each succeeding
13 designated range of lower reserve ratios, except that, within the
14 limits possible, the differences between reserve ratio ranges must be
15 uniform.

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

20

21	Class 1	0.25 percent
22	Class 2	0.55 percent
23	Class 3	0.85 percent
24	Class 4	1.15 percent
25	Class 5	1.45 percent
26	Class 6	1.75 percent
27	Class 7	2.05 percent
28	Class 8	2.35 percent
29	Class 9	2.65 percent
30	Class 10	2.95 percent
31	Class 11	3.25 percent
32	Class 12	3.55 percent
33	Class 13	3.85 percent
34	Class 14	4.15 percent
35	Class 15	4.45 percent
36	Class 16	4.75 percent
37	Class 17	5.05 percent
38	Class 18	5.40 percent

39

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

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



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

5 (c) The potential annual number of weeks of benefits payable
6 found by multiplying the potential number of beneficiaries by the
7 highest average actual duration experienced in the 109 consecutive
8 12-month periods in the 10 years ending on September 30; and

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

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

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

23 (a) And there is substantially common ownership, management
24 or control of the employers, the experience record attributable to the
25 transferred trade or business must be transferred to the employer to
26 whom the trade or business is transferred. The rates of both
27 employers must be recalculated, and the recalculated rates become
28 effective on the date of the transfer of the trade or business. If the
29 Administrator determines, following the transfer of the experience
30 record pursuant to this paragraph, that the sole or primary purpose
31 of the transfer of the trade or business was to obtain a reduced
32 liability for contributions, the Administrator shall combine the
33 experience rating records of the employers involved into a single
34 account and assign a single rate to the account.

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

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

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



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

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

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

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

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

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

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

25 *12. The Administrator may, by regulation, suspend, modify,*
26 *amend or waive any requirement of this section for the duration of*
27 *a state of emergency or declaration of disaster proclaimed*
28 *pursuant to NRS 414.070 and for any additional period of time*
29 *during which the emergency or disaster directly affects the*
30 *requirement of this section if:*

31 (a) *The Administrator determines the action is:*

32 (1) *In the best interest of the Division, this State or the*
33 *general health, safety and welfare of the citizens of this State; or*

34 (2) *Necessary to comply with instructions received from the*
35 *Department of Labor; and*

36 (b) *The action of the Administrator is approved by the*
37 *Governor.*

38 **Sec. 13.** NRS 612.551 is hereby amended to read as follows:

39 612.551 1. Except as otherwise provided in subsections 2, 3
40 and 7, if the Division determines that a claimant has earned 75
41 percent or more of his or her wages during his or her base period
42 from one employer, it shall notify the employer *by mail* of its
43 determination and advise him or her that he or she has a right to
44 protest the charging of benefits to his or her account pursuant to
45 subsection 4 of NRS 612.550.



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

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

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

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

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

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

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

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

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

34 8. *The Administrator may, by regulation, suspend, modify,*
35 *amend or waive any requirement of this section for the duration of*
36 *a state of emergency or declaration of disaster proclaimed*
37 *pursuant to NRS 414.070 and for any additional period of time*
38 *during which the emergency or disaster directly affects the*
39 *requirement of this section if:*

40 (a) *The Administrator determines the action is:*

41 (1) *In the best interest of the Division, this State or the*
42 *general health, safety and welfare of the citizens of this State; or*

43 (2) *Necessary to comply with instructions received from the*
44 *Department of Labor; and*



1 *(b) The action of the Administrator is approved by the*
2 *Governor.*

3 **Sec. 14.** NRS 233B.039 is hereby amended to read as follows:

4 233B.039 1. The following agencies are entirely exempted
5 from the requirements of this chapter:

6 (a) The Governor.

7 (b) Except as otherwise provided in NRS 209.221, the
8 Department of Corrections.

9 (c) The Nevada System of Higher Education.

10 (d) The Office of the Military.

11 (e) The Nevada Gaming Control Board.

12 (f) Except as otherwise provided in NRS 368A.140 and 463.765,
13 the Nevada Gaming Commission.

14 (g) Except as otherwise provided in NRS 425.620, the Division
15 of Welfare and Supportive Services of the Department of Health and
16 Human Services.

17 (h) Except as otherwise provided in NRS 422.390, the Division
18 of Health Care Financing and Policy of the Department of Health
19 and Human Services.

20 (i) Except as otherwise provided in NRS 533.365, the Office of
21 the State Engineer.

22 (j) The Division of Industrial Relations of the Department of
23 Business and Industry acting to enforce the provisions of
24 NRS 618.375.

25 (k) The Administrator of the Division of Industrial Relations of
26 the Department of Business and Industry in establishing and
27 adjusting the schedule of fees and charges for accident benefits
28 pursuant to subsection 2 of NRS 616C.260.

29 (l) The Board to Review Claims in adopting resolutions to carry
30 out its duties pursuant to NRS 445C.310.

31 (m) The Silver State Health Insurance Exchange.

32 (n) The Cannabis Compliance Board.

33 2. Except as otherwise provided in subsection 5 and NRS
34 391.323, the Department of Education, the Board of the Public
35 Employees' Benefits Program and the Commission on Professional
36 Standards in Education are subject to the provisions of this chapter
37 for the purpose of adopting regulations but not with respect to any
38 contested case.

39 3. The special provisions of:

40 (a) Chapter 612 of NRS for the *adoption of an emergency*
41 *regulation or the* distribution of regulations by and the judicial
42 review of decisions of the Employment Security Division of the
43 Department of Employment, Training and Rehabilitation;

44 (b) Chapters 616A to 617, inclusive, of NRS for the
45 determination of contested claims;



1 (c) Chapter 91 of NRS for the judicial review of decisions of the
2 Administrator of the Securities Division of the Office of the
3 Secretary of State; and

4 (d) NRS 90.800 for the use of summary orders in contested
5 cases,

6 ↪ prevail over the general provisions of this chapter.

7 4. The provisions of NRS 233B.122, 233B.124, 233B.125 and
8 233B.126 do not apply to the Department of Health and Human
9 Services in the adjudication of contested cases involving the
10 issuance of letters of approval for health facilities and agencies.

11 5. The provisions of this chapter do not apply to:

12 (a) Any order for immediate action, including, but not limited
13 to, quarantine and the treatment or cleansing of infected or infested
14 animals, objects or premises, made under the authority of the State
15 Board of Agriculture, the State Board of Health, or any other agency
16 of this State in the discharge of a responsibility for the preservation
17 of human or animal health or for insect or pest control;

18 (b) An extraordinary regulation of the State Board of Pharmacy
19 adopted pursuant to NRS 453.2184;

20 (c) A regulation adopted by the State Board of Education
21 pursuant to NRS 388.255 or 394.1694;

22 (d) The judicial review of decisions of the Public Utilities
23 Commission of Nevada;

24 (e) The adoption, amendment or repeal of policies by the
25 Rehabilitation Division of the Department of Employment, Training
26 and Rehabilitation pursuant to NRS 426.561 or 615.178;

27 (f) The adoption or amendment of a rule or regulation to be
28 included in the State Plan for Services for Victims of Crime by the
29 Department of Health and Human Services pursuant to NRS
30 217.130; or

31 (g) The adoption, amendment or repeal of rules governing the
32 conduct of contests and exhibitions of unarmed combat by the
33 Nevada Athletic Commission pursuant to NRS 467.075.

34 6. The State Board of Parole Commissioners is subject to the
35 provisions of this chapter for the purpose of adopting regulations but
36 not with respect to any contested case.

37 **Sec. 15.** Notwithstanding any provision of NRS 612.390 to the
38 contrary, for the period of time that any emergency directive issued
39 by the Governor pursuant to chapter 414 of NRS relating to the
40 outbreak of the disease identified by the Centers for Disease Control
41 and Prevention of the United States Department of Health and
42 Human Services as COVID-19 remains in effect, the Administrator
43 of the Employment Security Division of the Department of
44 Employment, Training and Rehabilitation shall, by regulation,
45 establish justifications related to COVID-19 that may constitute



1 good cause for a person to refuse suitable work. Such justifications
2 may include, without limitation, that:

3 1. The employer cannot offer suitable means by which the
4 person may work remotely and a medical professional has
5 recommended that the person not return to work because the person
6 falls into one of the categories deemed high risk for contracting
7 COVID-19 by the Centers for Disease Control and Prevention.

8 2. The person is sick or in isolation as a direct result of
9 COVID-19.

10 3. There is an unreasonable risk of exposure to COVID-19 at
11 the place of employment of the person and the person falls into one
12 of the categories deemed high risk for contracting COVID-19 by the
13 Centers for Disease Control and Prevention.

14 4. The person is staying home to care for a family member who
15 is suffering from COVID-19 or subject to a prescribed period of
16 quarantine by a medical professional.

17 5. The person is caring for a child who is unable to attend
18 school or a child care facility because of COVID-19.

19 6. The person is 65 years of age or older.

20 7. The person is under any other circumstance that the
21 Administrator determines, when considering the totality of the
22 person's circumstances, constitutes good cause.

23 **Sec. 16.** Notwithstanding the provisions of NRS 218D.430 and
24 218D.435, a committee may vote on this act before the expiration of
25 the period prescribed for the return of a fiscal note in NRS
26 218D.475. This section applies retroactively from and after
27 August 2, 2020.

28 **Sec. 17.** As soon as practicable, upon determining that
29 sufficient resources are available to the Employment Security
30 Division of the Department of Employment, Training and
31 Rehabilitation to carry out the amendatory provisions of section 4 of
32 this act, the Administrator of the Employment Security Division of
33 the Department of Employment, Training and Rehabilitation shall
34 notify the Governor and the Director of the Legislative Counsel
35 Bureau of that fact, and shall publish on the Internet website of the
36 Division notice to the public of that fact.

37 **Sec. 18.** 1. This section and sections 1, 2, 3 and 5 to 17,
38 inclusive, of this act become effective upon passage and approval.

39 2. Section 4 of this act becomes effective:

40 (a) Sixty days after passage and approval of this act; or

41 (b) On the date on which the Administrator of the Employment
42 Security Division of the Department of Employment, Training and
43 Rehabilitation, pursuant to section 17 of this act, notifies the
44 Governor and the Director of the Legislative Counsel Bureau that



- 1 sufficient resources are available to enable the Division to carry out
- 2 the amendatory provisions of section 4 of this act,
- 3 ↪ whichever occurs first.

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