

**STATE OF NEVADA EMPLOYMENT SECURITY DIVISION (ESD)  
HEARING TO ADOPT THE AMENDED REGULATION FOR THE ELECTRONIC  
FILING OF UNEMPLOYMENT INSURANCE CONTRIBUTION AND  
WAGE REPORTS**

**2018 ELECTRONIC FILING OF UNEMPLOYMENT INSURANCE  
CONTRIBUTION AND WAGE REPORTS REGULATION HEARING**

Thursday, May 31<sup>st</sup>, 2018; 11:00 A.M.

<b>Place of Meeting:</b>	<b><u>Live Meeting:</u></b>	<b><u>Video Conference to:</u></b>
	Legislative Building	Grant Sawyer Building
	401 S. Carson Street, Room 2134	555 E. Washington Ave., Room 4412E
	Carson City, Nevada 89701	Las Vegas, Nevada 89101

**Department of Employment, Training and Rehabilitation (DETR) Staff**

**Present in Carson City**

Jeffrey Frischmann, ESD/DETR  
Laurie Trotter, ESD Senior Attorney  
Alessandro Capello, Bureau of Research & Analysis, DETR  
Brian Bracken, ESD/DETR  
Joyce Golden, Administrative Office, ESD/DETR  
JoAnne Wiley, ESD/DETR  
Mikki Reed, ESD/DETR  
Stewart Terry, ESD/DETR  
Amy Yukish, ESD/DETR  
Mariruth Johnson, ESD/DETR  
Kimberly Gaa, IDP/DETR

**Department of Employment, Training and Rehabilitation (DETR) Staff**

**Present in Las Vegas**

Art Martinez, Contributions, ESD/DETR

**Members of the Public, Media and Other Agencies**

**Present in Carson City**

Michael Pelham, NV Taxpayers Association  
Ira Victor, PTI  
Robert Dehnhardt, OIS/DOA

**Members of the Public, Media and Other Agencies**

**Present in Las Vegas**

None

1           JEFFREY FRISCHMANN:    Good morning.  My name is Jeffrey  
2 Frischmann, I'm the Employment Security Division Deputy  
3 Administrator for the Unemployment Insurance Program.  I will  
4 be speaking on behalf of Renee Olson, Administrator for the  
5 Employment Security Division.

6           I will go ahead and start with Agenda Item No. 1 and call  
7 this meeting to order.  The purpose of this public hearing is  
8 to solicit public comment on a proposed amendment of a  
9 regulation pertaining to Chapter 612 of the Nevada  
10 Administrative Code, pursuant to Nevada Revised Statute, NRS  
11 233B.061.  The proposed amendment will establish the electronic  
12 filing of unemployment insurance contribution and wage reports  
13 for Nevada Employers.

14          I'd like to introduce our Division's Senior Attorney,  
15 Laurie Trotter, sitting to my right.  We also have several  
16 other members of the Division Staff, available here, in the  
17 North and in the South as well.  Please ask for assistance if  
18 you need it.  I'd like to thank all of you for attending this  
19 Hearing.

20          On July 18, 2017, the Employment Security Division  
21 Administrator held the first listening session in Carson City  
22 to discuss and solicit comment on the proposed regulation.  No  
23 written comments were received for this meeting.

24          At the July 18, 2017 listening session, only one member  
25 of the public provided public comment asking for clarification

1 on the capture of an electronic signature in Nevada's  
2 Unemployment Insurance System, UINV. No other public comment  
3 was provided.

4 The Division held 15 additional listening sessions  
5 throughout the State in an effort to solicit public comments.  
6 No written comments or public comment was provided for any of  
7 these additional sessions.

8 On March 22, 2018, the Division held a small business  
9 workshop and no public or written comments were received.

10 Under this agenda item, we will now welcome any public  
11 comment, if you would like to provide public comment, please  
12 come forward. Please limit your comments to five minutes each  
13 and if you have any written testimony to present, you can  
14 provide that to staff. When speaking, please identify yourself  
15 by stating your name, who you represent and then proceed with  
16 your comments.

17 Is there anybody that would like to provide public  
18 comment in Las Vegas at this time? I see nobody in Las Vegas  
19 coming forward.

20 Is there anyone in Carson City who would like to comment?

21 IRA VICTOR: Good morning. I guess, I should  
22 address you as Chairman, Mr. Frischmann, Chairman of the  
23 Meeting? Mr. Chairman, my name is Ira Victor for the record,  
24 I-R-A, V-I-C-T-O-R. I am a Digital Forensic Analyst with a  
25 Nevada company called Discovery Technician. We work in

1 Information Security and in digital forensics when businesses  
2 end up in court because of issues related to data.

3 I am here today to testify because—or to provide input  
4 because I was just within the last two weeks that I knew about  
5 this regulation change. I am the immediate past President of  
6 Infoguard, the largest information security and cybercrime  
7 organization here in the State. To the best of my knowledge,  
8 no one in our organization knew about this change and I believe  
9 that there would've been comments made before today if our  
10 members had known. Certainly, my clients would have provided  
11 input had they known before very recently about this hearing  
12 today.

13 I'm here today to provide input because I'm extremely  
14 concerned about this change in regulation. My concern is  
15 because of the security status of small businesses here in  
16 Nevada. I understand that the majority of businesses that are  
17 filing today—thank you Mr. Frischmann, Mr. Chairman, for giving  
18 me the statistics before the Hearing today, that the majority  
19 of the businesses that are not filing electronically are small  
20 businesses.

21 The Verizon Breach Report. Every year, Verizon releases  
22 a report about data breaches. In the most recent Verizon  
23 Breach Report, their 2018 report, nearly two-thirds of the  
24 businesses impacted by cyber crime are small businesses.

25

1 Today, as a matter of fact, or yesterday pardon me, I'm  
2 reading a headline from Yahoo News, turn off your router now  
3 says FBI, after Russian malware discovered taking over the  
4 internet. This is one of a wave of cyber-attacks—this is  
5 called VPN filter. What this does is, this takes over the  
6 firewall router of small business; homes and small businesses.  
7 We call that SOHO. Small Office/Home Office. It takes over  
8 those devices silently and one of the goals of this malware  
9 attack is to steal the very credentials that we're talking  
10 about in this regulation today.

11 I'm aware that there is an exemption in here where a  
12 business can apply for a one-year sort of waiver, to not file  
13 electronically. I think that's misplaced. To put the burden  
14 on the business to come to DETR to request a waiver is  
15 backwards. Just like here when—in this Hearing room, there are  
16 Hearings for bills and legislation; there's a fiscal impact of  
17 a change. We all know about that. When a road is built,  
18 there's an environmental impact.

19 I have yet to find in the record any risk assessment  
20 impact on this regulation. I think it's the responsibility of  
21 DETR to look at the information security and forensic risk  
22 impact of the change; not the responsibility of businesses to  
23 do that risk assessment, but DETR, since they are doing the  
24 proposed rule change.

1           Now, amongst my clients here in Nevada, some of them  
2 include small businesses in which they are on the—they have  
3 been on the receiving end of very expensive litigation. A data  
4 breach occurred in someone that they do business with. That  
5 business then files suit against other businesses that they do  
6 business with and now those businesses need to—all those  
7 businesses need to hire lawyers and defend themselves against  
8 the law suit.

9           At the end, they usually end up paying a settlement  
10 because it's cheaper than actually going all the way to court.  
11 You are—you are—if you pass this—if you go forward with this  
12 regulation today, you are directly impacting small businesses  
13 and their ability—and hurting their ability to defend  
14 themselves when there's a data breach, not just on their  
15 network, but on the networks of people that they do business  
16 with. This will be yet another source of data and data breach  
17 that they will be responsible for and that they will end up  
18 paying a settlement, in all likelihood, rather than going all  
19 the way to court. This will put Nevada businesses at a  
20 disadvantage, small businesses, rather than—I think we need to  
21 put them at an advantage when it comes to competing in the  
22 marketplace.

23           I know I have limited time today. I am deeply sorry that  
24 the organization that I'm the immediate past President of and  
25 the rest of the information security community and businesses

1 that I know had no idea about this regulation. I do feel  
2 confident that had we known, we would've brought this  
3 information to you sooner.

4 I do urge you to do this. Postpone making the decision.  
5 Do a risk assessment. Slow this down. I will—I will work with  
6 the Department. I will bring in and attempt to recruit other  
7 people in the information security community to help DETR come  
8 up with a solution that protects the businesses and also,  
9 improves the operational efficiency of the Department.

10 JEFFREY FRISCHMANN: Mr. Victor, thank you very much for  
11 your comments. If you have any written comments that you'd  
12 like to submit, please feel free to do that. I sincerely thank  
13 you for coming forward and providing your comment. So, thank  
14 you.

15 IRA VICTOR: Thank you, Mr. Chairman.

16 JEFFREY FRISCHMANN: Would anybody else like to come  
17 forward with any public comment? Okay, thank you.

18 We will go ahead and close the first opportunity for  
19 public comment. We will move on to Agenda Item No. 3.  
20 Confirmation of Posting. Mr. Terry, for the record, was proper  
21 Notice for this Hearing given and did you receive proper  
22 confirmation of posting in accordance with the Nevada Revised  
23 Statute 241.0203?

24 STEWART TERRY: Stewart Terry, for the record,  
25 Management Analyst for the Employment Security Division,

1 Management and Administration Support Services Unit. Yes,  
2 proper Notice was provided for this Meeting pursuant to  
3 Nevada's Open Meeting Law, NRS 241.020 and confirmation of  
4 posting was received.

5 JEFFREY FRISCHMANN: Thank you Mr. Terry. Moving on to  
6 Agenda Item No. 4, the Review of Written Comments. Mrs.  
7 Golden, have any written comments been received in regards to  
8 this Hearing?

9 JOYCE GOLDEN: Joyce Golden, for the record,  
10 Assistant to the Division Administrator. No written comments  
11 were received for this meeting.

12 JEFFREY FRISCHMANN: Thank you, Mrs. Golden. Moving on  
13 to Agenda Item No. 5, the Agency Review of the Regulation.

14 I will be providing this review on Mrs. Olson's behalf.  
15 This Hearing is being held to review the proposed regulation to  
16 amend Chapter 612 of the Nevada Administrative Code. This  
17 regulation requires employers to file all reports required by  
18 NRS 612.535 through 612.580, electronically.

19 In September of 2015, the UI Program implemented the  
20 final phase for a new state-of-the-art computer system that  
21 boasts a secured user-friendly self-service portal. Currently,  
22 approximately 67% of Nevada Employers are taking advantage of  
23 the self-service portal and are regularly filing their  
24 quarterly reports electronically. Approximately 84% of the  
25



1 paper reports received are from employers with less than 10  
2 employees.

3       The purpose of the regulation is to mandate electric  
4 filing which will ultimately make the filing process more  
5 efficient, cost-effective and improve accuracy. In the three  
6 years since implementing the new UI computer system, we have  
7 regularly received positive feedback from the 67% of employers  
8 that voluntarily file electronically. This is not unlike  
9 individuals that file their personal Federal Income Tax Returns  
10 electronically where studies show that almost 85% of taxpayers  
11 voluntarily elect to file their personal income tax returns  
12 online.

13       This approach is currently being used successfully in a  
14 number of states that have recently modernized their systems.  
15 Those states have shifted staffing resources to focus on  
16 customer service, to assist in educating employers on electric  
17 filing, opposed to rekeying information from paper forms into  
18 the system.

19       In the long term, it has benefited both the State and the  
20 Employer community and has created a win-win situation for all  
21 of the stakeholders. The agency will continue to work with the  
22 33% of the employer community that are not currently filing  
23 electronically; providing help and assistance to bring them in  
24 compliance with the new regulation.

1           It is important to note that the proposed regulation  
2 allows employers to request a waiver in instances where the  
3 employer can demonstrate that electronic filing could cause a  
4 hardship.

5           Renee Olson, Administrator of the Employment Security  
6 Division expects to take formal action on the adoption of the  
7 regulation today, May 31, 2018.

8           Moving on to Agenda Item No. 6. We have the second and  
9 final opportunity for public comment; if anyone would like to  
10 come forward at this time. Is there anyone that would like to  
11 provide public comment in Las Vegas at this time? I see nobody  
12 coming forward. Is there anyone in Carson City who would like  
13 to provide comment? Nobody coming forward.

14           I'll move to the final agenda item, adjournment. If  
15 there are no other further comments, I hereby adjourn this  
16 meeting. I thank you and I thank you again, Mr. Victor, for  
17 your input.

18           [end of Hearing]

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