STATE OF NEVADA
DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION
EMPLOYMENT SECURITY COUNCIL MEETING

October 5, 2010

Live Meeting:	**Video Conference to:**
Legislative Building	Grant Sawyer Building
401 S. Carson Street, Room 2135	555 E. Washington Ave., Room 4412
Carson City, Nevada 89701	Las Vegas, Nevada 89101

Note: This meeting was also broadcast on the Internet at www.leg.state.nv.us.

Council Members Present

Paul Havas, Chair - Employers
Charles Billings - Employees/Labor/BOR
Kathleen Johnson – Public/BOR
Danny Costella - Employees/Labor
Margaret Wittenberg – Employers/BOR
David Garbarino - Employees/Labor
Paul Barton - Public
Ross Whitacre - Public
Michelle Carranza - Employers
(BOR – Board of Review)

Department of Employment, Training and Rehabilitation (DETR) Staff
Present in Carson City

Cynthia Jones, DETR Deputy Director/Employment Security Division (ESD) Administrator
J. Thomas Susich, Senior Legal Counsel, ESD/DETR
William Anderson, Chief, Bureau of Research & Analysis (R&A), DETR
Dave Schmidt, Bureau of Research & Analysis, DETR
Kim Morigeau, Workforce Investments Support Services (WISS)/ESD/DETR
Susie Giurlani, Workforce Investments Support Services (WISS)/ESD/DETR
Donna Clark, Chief, Unemployment Insurance Contributions (UIC), ESD/DETR
Kelly Karch, Deputy Administrator, ESD/DETR
Jeffrey Frischmann, Chief, Field Direction & Management, ESD/DETR
Theresa Nicks, Chief, Unemployment Benefits (UISS)/ESD/DETR
Edward Lagomarsino, UIC/ESD/DETR
JoAnne Wiley, UIC/ESD/DETR
Flo Bedrosian, UIC/ESD/DETR
Joyce Golden, Administrative Office, ESD/DETR
Robert Erb, ESD/DETR

Present in Las Vegas

Art Martinez, ESD/DETR

Members of the Public, Media and Other Agencies

Kate Marshall, State Treasurer, Carson City/NV
Mark Mathers, State Treasurer, Carson City/NV
Mike Schneider, Nevada Senate, Carson City/NV

Dave Monegan, Casino Fandango, Carson City/NV
Cy Ryan, Las Vegas Sun, Capitol Press Room, Carson City/NV
Ed Vogel, Las Vegas Review Journal, Carson City/NV
Geoff Dorman, Nevada Appeal, Capitol Press Room, Carson City/NV
Jim Nelson, Nevada Association of Employers, Reno/NV
Brian Burke, Legislative Council Bureau, Carson City/NV
Tray Abney, Reno/Sparks Chamber of Commerce, Reno/NV
Ray Bacon, Nevada Manufacturers Association, Carson City/NV
Sam Stone, NV Newsmakers, Reno/NV
Veronica Meter, Las Vegas Chamber of Commerce, LV/NV
George Ross, Snell & Wilmer, LV/NV
Erin McMullen, Snell & Wilmer, LV/NV
Carole Villardo, NTA, LV/NV
Katherine Jacobi, Nevada Restaurant Association, LV/NV
Bryan Wachter, RAN (Retail Assoc.), LV/NV
Gary Milliken, A&L, LV/NV

Exhibits

Exhibit A - Attendance Record

Exhibit B - Agenda for the Meeting/Workshop

Exhibit C - Unemployment Insurance Benefits Program Updates

Exhibit D - Transition to JOBcentral

Exhibit E - Economic Projections & Overview

Exhibit F - Unemployment Insurance Financing

Exhibit G - Estimated Tax Rate Schedule for Year 2011

Exhibit H - Booklet for Estimated Tax Rate Schedules

Exhibit I - Capital Market Solutions for Unemployment Insurance (Office of the State Treasurer)

I. CALL TO ORDER AND WELCOME

Paul Havas, Chair of the Employment Security Council, called the meeting to order at 10:00 a.m. on October 5, 2010. Mr. Havas expressed his appreciation of those attending and welcomed all to the meeting. ***Exhibit A- Attendance Record*** of all those present.

II. INTRODUCTION OF COUNCIL MEMBERS

Mr. Havas reminded the Council that the material provided at the August 3rd meeting was of an educational nature and that today they will be provided with updated figures that represent the official Unemployment Insurance Trust Fund Solvency test. Agency staff will update the Council on some key activities of the Employment Security Division. We, as the Council, are required by statute to make a recommendation to the Administrator regarding the average tax rate for the up and coming calendar year. This task is before us and we can look at economic conditions and we can look at inflows and outflows and we accept this mandate and this trust and appreciate the opportunity. This task is important and we appreciate your service on behalf of the Nevada's workforce and employer community. Our agenda today is quite extensive and therefore I request that all questions and comments be held until the Council discussion and public comment periods begin. At this time, I would like to have the members of the Council present themselves and who they represent.

Danny Costella, I'm with the Iron Workers, Local 118, Business Representative. Margaret Wittenberg, I represent the Employer. Ross Whitacre, representing the Public. Dave Garbarino, Operating Engineers Local 12, representing the Employees and Labor. Katie Johnson, Chair, Public member and Board of Review. Michelle Cerranza representing the Employer. Chuck Billings, representing Labor. Paul Barton representing the Public.

III. APPROVAL OF MINUTES FROM OCTOBER 6, 2009, AND AUGUST 3, 2010, EMPLOYMENT SECURITY COUNCIL MEETING

(Discussion and action by Council)

Mr. Havas made an invitation for motions to approve two sets of minutes as mailed to members of the Council. The October 6, 2009, and the August 3, 2010 minutes. Dave Garbarino made the motion to approve the minutes and Michelle Carranza seconded the motion. The motion passed unanimously.

Next, Chair Havas invited Ms. Jones to talk about the agenda and where we go from here.
Exhibit B - the Meeting Agenda.

IV. AGENCY AND FEDERAL AND STATE LEGISLATIVE UPDATE

Cynthia Jones, Administrator, Employment Security Division (ESD) and
Deputy Director of the Department of Employment, Training and Rehabilitation.

Thank you, Mr. Chairman, members of the Council. My name is Cindy Jones and I serve as the Employment Security Division Administrator for the State of Nevada Department of Employment, Training, and Rehabilitation. Thank you for your opening, Chairman Havas. I'd also like to introduce to my right, Tom Susich who is Agency Counsel. Yes, we do have a daunting task before us, but we do have some items of interest to discuss before we head into the formal regulation portion of the agenda.

This part of the agenda is for me to provide you some updates regarding legislative potential actions in the agency, in general. At the federal level, we are facing some interesting times in that the whole system in general and the Unemployment Insurance system, is being stressed and tested more than it ever has been in its seventy-five year history. Yes, this year is the 75th anniversary of the Unemployment Insurance Program in the United States of America. Potential legislation on the horizon includes the extension of the existing Extended Benefit Programs. You will hear more detail about those programs from Theresa Nicks as we move through the agenda. Those programs lapsed a couple of months ago and were reinstated, which did create some turmoil throughout the country and certainly in Nevada as we sought to reinstate benefits for forty thousand plus workers whose benefits had lapsed. We again face a potential lapse of those benefits at the end of November. It remains to be seen whether there will be a lapse or gaps in those extended benefits; if they will be re-authorized when Congress convenes this fall or if the programs will be continued at all, so we have done a lot of planning in preparation to handle whatever work load comes our way and whatever complex environment comes our way.

There is discussion at the federal level of adding yet another tier of benefits. The maximum benefits are 99 weeks, all the extensions told, and, again, Theresa will give you some more detail on that, but there has been some discussion at the federal level of adding yet another tier of benefits that would provide additional benefits to those who have exhausted their claims already.

We have over 44,000 workers who have exhausted all their benefit eligibility at this time. Another item of interest is the Interest Free Trust Fund Loans. As we discussed at previous meetings, through the American Recovery and Reinvestment Act, unemployment insurance trust fund loans were deemed to have their interest paid for this current calendar year. As the situation stands, interest will begin accruing starting January 1st. It remains to be seen if that will be extended. The interest in extending that seems to wax and wane over time, so we'll see if that gets extended. I can just be hopeful and also participate in efforts that encourage the Federal Government to extend those interest free periods.

Nevada, like all unemployment insurance and work force development agencies, is part of the National Association of State Work Force Agencies and it's through that body we have the opportunity to advocate for the interest of the states and the Unemployment Insurance Program and the legislation or provisions that may impact those programs. We also do work closely with the Governor's Washington DC office and his staff to keep him aware of those issues that are impacting our Unemployment Insurance Programs, and reaching out to Congress to notify them of our concerns. The Trust Fund loans will invariably, at some point, become the discussion of interest. As I had mentioned, interest is not being charged for this calendar year, but is as it stands, interest will be charged effective January 1st going forward.

When we first started borrowing funds, it was certainly the right path to borrow from the federal government, because we had the opportunity for interest free loans. However, we are considering different financing opportunities for future financing of our benefits deficit in an effort to try and reduce our benefit interest costs that will be passed onto Nevada employers and we're very excited about some of those opportunities and I expect during the public comment period you may hear from the Treasurer's Office on that; but we are looking at some different opportunities to perhaps reduce our interest burden over the long term. Regardless of which method we finance the interest cost with, we still have a mechanism to pay interest. It's against federal law to use regular state unemployment tax acts collections or pseudo taxes, which are the taxes we are here to discuss today. It's against the federal law to use any of those collections to pay interest, regardless who you are borrowing the funds from. So we have prepared a Bill Draft Request to put a mechanism in statute, whereby we could assess and collect funds to pay those interest charges. I'm going to rely on one of my expert staff members to provide a little more detail on how that BDR is crafted for presentation to the Legislature, once it's approved by the Governor's office, as well, and I'd like to invite Ms. Donna Clark to give you a light overview.

Ms. Donna Clark, Chief of UI Contributions accepted the invite and explained a little regarding the BDR as mentioned.

As Administrator Jones has gone over UI, State UI taxes may be used to pay the principle balance of Title 12 loans. Interest on UI loans my not be paid either directly or indirectly from the state's unemployment fund. Since Nevada has never had to pay interest on federal borrowing, Nevada Unemployment Compensation Law, Chapter 612 of NRS does not currently have a funding mechanism that can be used to pay the interest on those loans. Therefore, the Employment Security Division has submitted a proposed statute for consideration during the 2011 legislative session.

The Bill Draft Request (BDR) seeks to establish a special interest repayment fund and the authority to initiate a special interest assessment to pay interest on loans to the Nevada Unemployment Trust Fund account. Assessments will only be activated when necessary to pay loan interest, and monies from this special fund are designated to be used only for the payment of interest accrual on loans. The proposed methodology for the special interest assessment is based on the taxable wages of Nevada employers and the amount of interest due on the federal loans. Under Title 12 loans, the rate of interest earned by the Federal Unemployment Trust fund for the 4th quarter of the previous calendar year is the rate of interest used for calculating interest due and payable on the state loan for the entire next calendar year. Currently, that interest has not been computed since 2009.

As Administrator Jones indicated, we've had an interest free period for borrowing, so we will not know what that interest rate is reduced to. Currently, it is 4.6375%, but we do not know what that will be reduced to when it's re-calculated for distribution on January 1st of 2011. The interest due accrual is due to the Federal government on September 30th of each calendar year. The language for the annual special assessment rate or the language for the Bill Draft Request that we have submitted to the legislature says that, the special assessment rate will be determined on June 1st of any year in which Nevada has an outstanding loan on the unemployment compensation fund.

The Employment Security Division will consider the current balance of the interest that's due on the loan and the projected amount of interest that we'll be doing, payable as of that due date on September 30th of that year. Said balance will then be divided by 90% of the total taxable wages paid by all Nevada contributory employers in the preceding calendar year. We're using 90% as that allows a little bit of offset for nonpayment of taxes or uncollectable taxes and gives us enough cushion that we think we'll be able to pay the interest based on that. Each employer's proportionate share shall then be determined by multiplying the employer's total taxable wages for the preceding calendar year by the annual special assessment rate. Use of individual employer taxable wages provides proportionate charges based on size of payroll.

At such time that the Administrator determines that this special assessment is no longer necessary, any remaining funds in the Special Interest Account will be deposited into the Nevada Unemployment Compensation fund. This assures that any proceeds from this assessment will only be used to mitigate Nevada UI trust fund shortages to the benefit of Nevada employers. The proposed statute provides the Employment Security Division with a proactive process to collect and pay interest on federal loans. This is similar to existing legislation in approximately 21 other states currently. Failure to make timely interest payments can result in the immediate de-certification of Nevada's Unemployment Insurance Program.

De-certification sanctions include the loss of state administrative funding, the inability to access additional loans to pay UI benefits, and the loss of the Federal Unemployment Tax Act offset credit for all Nevada employers. This alone would increase Nevada employer's federal tax liability by about $480 million dollars per year, so it's critical that we have a mechanism in place by which we can accrue enough money in order to make those interest payments. Since the amount of interest accrual for calendar year 2011 will depend on the unemployment insurance tax rate schedule that is adopted for next year, DETR economist David Schmidt will provide financial information regarding interest projections during the regulation workshop segment of today's meeting.

At this point Ms. Jones thanked Ms. Clark. She said that she couldn't have said it as well, or as eloquently, or as correctly, so I really appreciate your support on that. We certainly, as I've said, seen ourselves in some extraordinary times just for some metrics and I know that Mr. Schmidt will go over some of these numbers as well, but it's astounding to me that, just in regular unemployment benefits in the last three fiscal years, we've paid out over $2 billion dollars, and in extended benefit payments another $1.5 billion dollars. So certainly, our programs have a significant impact on Nevada's economy and I just want to say that I appreciate everybody's participation today. I appreciate all the hard work the Employment Security Division staff has done, and does everyday, to ensure benefits get to our Nevada families in need. At this point, I'll turn the agenda back over to the Chair. Thank you.

Here the Chair called upon Theresa Nicks to give her presentation.

V. <u>UNEMPLOYMENT INSURANCE BENEFITS PROGRAM UPDATES</u>

Theresa Nicks, Chief of Unemployment Insurance Support Services (UISS), Employment Security Division (ESD)

I would like to give you a brief overview of Nevada's Unemployment Insurance Program and the challenges faced by the agency after the enactment of the extended benefits legislation in July of 2008. ***Exhibit C – Unemployment Insurance Benefits Program Updates.***

In July 2008, Governor Jim Gibbons signed an agreement with the United States Department of Labor and designated Nevada Department of Employment, Training and Rehabilitation as agent in providing Emergency Unemployment Compensation (EUC) benefits to eligible individuals here in the silver state. Since Nevada began paying extended benefits, 12.5 million weekly claims have been filed and a total of $3.8 billion dollars in benefits have been paid. At the time the recession began in December of 2007, Nevada's unemployment rate was 5.8% and, by July, the unemployment insurance rate hit 6.6%. As of September 2010, with Nevada's unemployment rate at 14.4%, DETR has paid out $2 billion dollars in regular state unemployment insurance benefits. These benefits are paid from Nevada's Trust Fund.

In July of 2008, the State of Nevada began establishing the first Emergency Unemployment Compensation claims and since then, Nevada has paid $1.4 billion dollars in Emergency Unemployment Compensation. These benefits are 100% paid by the federal government. Nevada's unemployment rate continued to rise and reach the level that allowed the agency to start paying State Extended Benefits (SEB) in February of 2009. Currently, Nevada has paid $100 million dollars in benefits to individuals and again, these benefits are paid 100% by the federal government. As part of the stimulus package in February of 2009, Nevada also began paying $25 dollars a week in Federal Additional Compensation (FAC) payments.

The additional payment was sent along with the individual's regular unemployment insurance compensation and, although this program was not extended when the last legislation was enacted in July of this year, some individuals do continue to receive this in a phase out of the program. Thus far, Nevada has paid out approximately $300 million dollars in Federal Additional Compensation payments that are paid 100% by the federal government and we have here a slide that will help you take a look at those extensions (Page 3 of exhibit C).

The Federal Government has provided several federal extensions and expansions since July 6 of 2008 and as a result, the agency has been called upon to process and pay benefits to the largest number of unemployment insurance recipients in the history of the program in the State of Nevada. Any individual who finds themselves unemployed through no fault of their own, may file a regular unemployment insurance claim and may be entitled to receive up to twenty-six weeks of benefits. If an individual had a regular unemployment insurance claim that exhausted or ended on or after May 1st of 2007, then they could qualify for an Emergency Unemployment Compensation claim. Since July of 2008, the Federal Government continues to expand the Emergency Unemployment Compensation program by increasing the maximum number of weeks an individual is entitled to receive and these individual, these weeks are called tiers, is how we identify those and, as you can see, there are several tiers of benefits and, once a tier is exhausted, the next tier is automatically entered as long as the claimant remains eligible. An individual may now be entitled to receive up to fifty-three weeks of EUC benefits. Since Nevada is in a high period of unemployment, the State has hit a level of unemployment that allows for State Extended Benefits (SEB) to be paid to individuals.

This type of claim allows up to another twenty weeks of benefits. In April of 2009, Nevada amended its State Extended Benefit Law to include a temporary provision that pays additional weeks of State extended benefits, as long as the federal government reimbursed the state 100% of all the SEB. So, with all those programs that are currently available, some individuals may be entitled to receive up to ninety-nine weeks of benefits, which includes regular Unemployment Insurance Benefits, Emergency Unemployment Insurance Benefits and State Extended Benefits.

Approximately 44,000 individuals have exhausted all possible unemployment benefits available to them. Currently, a Bill has been introduced with Tier Five legislation that would allow up to an additional twenty weeks of emergency unemployment and insurance compensation for individuals in states with an unemployment rate of 7.5% or higher. Now, if that's passed into law as submitted, the Tier Five benefits will continue to be 100% funded by the Federal government. However, as Administrator Jones just said, unless Tier Five passes or Congress extends the Federal Benefits Programs, all programs will end in November of this year.

Since July of 2008, the Division has been moving quickly to improve our systems, expedite benefit payments, and meet the needs of Nevada's unemployed and some of the improvements have included working expanded hours, opening at 7 a.m., remaining open until 6 p.m. Saturdays have been scheduled as needed and the hours and days have been coordinated to meet demand. UI staffing levels have been increased by over 300% in the last two years. 90% of eligibility determinations are rendered within twenty-one days, and Nevada has recently adopted a new software program called "Aware" that will help agencies identify and prevent organized fraud, and ultimately reduce overpayments. Nevada has also extended its Identity Program to included verification of an individual's identity through the Social Security Administration, when an individual establishes a new claim and both of these new programs are possible through grants offered by the federal government and obtained by our agency.

Additional telephone lines have been added to the call centers, which have allowed individuals to be served more quickly and to shorten wait times and to avoid individuals having to remain on hold until they can speak with the UI representative. A virtual hold program will be implemented in the near future where we'll save that person's place in line, allow them to take care of other business, and then also to arrange to be available when a claims representative will call them back to assist them. The Internet Claim Filing System has been expanded to allow individuals to establish and re-open existing emergency unemployment insurance compensation claims 24/7 and we have opened four satellite offices throughout the state to improve service delivery to Nevadans.

Taking a look at today, currently more than 105,000 individuals receive weekly benefit payments. The Nevada UI debit cards are provided free to the state and to the individual and, not only has the weekly payment time frame for recipients been reduced from approximately five days to three days, we have also been able to have access 24/7 to claimants for the managing of their accounts through a telephone claim filing system or through a website and 95% of current payments are made by debit card and that is, instead of checks.

The cost savings to the State and to DETR in check mailing expenses alone since November of 2007 to March 2009 has been approximately $7.7 million dollars. The Nevada UI Debit Card

Program was designed to provide free or low cost access to funds for individuals receiving unemployment insurance benefits and some benefits afforded to individuals who choose to receive their unemployment insurance by debit card are the following: each month an individual is allowed one free ATM withdrawal for each weekly deposit at a Wells Fargo ATM. Free cash withdrawals can be obtained directly from a teller at any bank that displays the VISA card logo. The debit card can be used to purchase groceries, pay for a meal, shop at any retail store that accepts VISA, anything you can do with a VISA card, basically, you can do with the UI debit card. Other benefits are also, free Internet access for debit card balances and a instant notification via Internet or telephone of the benefit deposit.

Looking from the present to the future, there's an excitement growing and an anticipation of a complete modernization of the UI Insurance and Contributions Program. In May of 2009, DETR released a request for proposal for ESD's UI Modernization (UINV) Project. The proposal documented 3,000 business processing and UI systems requirements. Our primary goals include improving self service programs for Nevada's employers and claimants, to reduce program manual effort and inefficiencies, to increase federal and state compliance and to upgrade antiquated technology. As DETR continues working on the UINV Modernization Project, we look forward to having new UINV system implementation to be a positive experience for Nevada's employers and for the Nevada unemployed claimants. Here Ms. Nicks concluded her presentation. The Chair thanked Theresa and introduced the next presentation.

VI. TRANSITION TO JOBCENTRAL NATIONAL LABOR EXCHANGE

Susie Giurlani, Business Process Analyst and Kim Morigeau, ESD Programs Specialist, Workforce Investment Support Services (WISS)

Ms. Susie Giurlani and Ms. Kim Morigeau introduced themselves and proceeded with their presentation. ***Exhibit D – JOBcentral Information.***

Ms Giurlani started to explain that JOBcentral is a national job bank provided by direct employers in association with the National Association of State Workforce Agencies also known as NASWA. The NASWA is an organization of state administrators and unemployment insurance laws, employment services, training programs, employment statistics, and labor market information and other programs and services provided by the publicly funded state workforce system.

Direct Employers Association is a non-profit, human resource consortium of leading global employers formed to improve labor market efficiency through the sharing of best practices, research and development of technology. The Wagner Peyser Act requires that states are part of a nation wide system of public labor exchange. Previously, to comply with requirement of a national job bank, states sent job listings through the U.S. Postal Service.
Unfortunately, by the time the daily job listings were received in each state, most of the jobs were closed. When the Internet became available, the Department of Labor developed and funded the first national job bank called America's Job Bank in 1995. Funding for the Job Bank was discontinued in July of 2007 and direct employers in NASWA formed an alliance in March 2007 to provide an employer funded, jointly administered national labor exchange.

JOBcentral helps employers satisfy their compliance requirements and staffing requirements and provides for a single place on the Internet where job seekers and employers have employment opportunities in all industries. JOBcentral provides for the delivery of, Federal contract job listings to all 50 states including D.C., Guam, Virgin Islands and Puerto Rico. JOBcentral also uses the occupational informational network known as ONET for job coding. ONET is the most widely used and accepted occupational coding system in the country. Using ONET provides for easier and better job skills matching and capabilities for employers and job seekers.

Through JOBcentral, there's little or no delay on closed jobs. They're removed real time from the system. Currently, forty-seven states have signed agreements with direct employers, which make it, in a sense, a national job bank. JOBcentral complies with the Jobs for the Veterans Act, which states that contractors must post their jobs with an appropriate employment delivery system. JOBcentral also complies with the Office of Federal Contract Compliance programs, which ensures that employers doing business with the federal government comply with the laws and regulations requiring nondiscrimination and that employment opportunities generated by federal dollars are available to all Americans on an equal and fair basis.

Employers receiving federal dollars are required to post jobs with an appropriate employment service delivery system and JOBcentral is considered an appropriate employment service delivery system. There are 70% more jobs on JOBcentral than any other job boards. Research discovered that 70% of jobs were not posted on job boards, due to the high prices employers had to pay to post their job listings. JOBcentral's spidering and access to Fortune 500 companies represents almost 100% of job listings provided at no cost to employers or job seekers. Job spidering is when jobs are scraped from other job boards such as Monster, Career Builder, etc. and brings them all into JOBcentral and then JOBcentral removes the duplicate job listings. Employers can choose to submit jobs through JobConnect offices and receive searches. Services such as job screening and job referrals or they can submit their jobs through JOBcentral and do the recruiting, screening applicants, resume review, etc. by themselves. So, essentially, JOBcentral is a employer self-service site.

Regardless of how the job is submitted, every job is sent to the national job bank through JOBcentral. There's no spam on JOBcentral. There are no ads that keep the cookies and you don't get ads from other people and request for things. There's the direct connection with the employer that sometimes job seekers don't get when they come into the offices. They want that direct employer contact, as well as the employer wants to be able to search a bank of resumes on their own.

Through JOBcentral, there's a robust military crosswalk that's a very impressive tool. Military persons often find it difficult to search for civilian jobs when using military job skills. The military crosswalk is very simple to use and converts job titles and skills into civilian job listings. For example, someone can enter GS495 and JOBcentral will locate jobs that have similar skills and it takes about a minute/thirty seconds this morning when I tried it. As an added benefit, employers who were previously registered with America's Job Exchange are automatically set up with an account in JOBcentral. A full multimedia campaign advising employers about the move to JOBcentral has been under way and we implemented JOBcentral on October 4th.

At this point, Ms. Kim Morigeau continued with the presentation. Since we've implemented JOBcentral, Nevada is one of six states that also is implementing what we call, the Rapid Re-employment Initiative. Three states have already implemented and Nevada is in the process this month. What is the purpose of the Rapid Re-employment Initiative, RRI, as we all otherwise know it as? I give you a site, a quote by Rich Hobby, the Executive Director from NASWA. He indicated that, "Despite the economic times, there are always positions out there." And, right now, he's indicating during the current recession, there are about three million job openings in the economy, so the purpose and the commitment of RRI is to commit the National Labor Exchange, which is JOBcentral, to help employers find good workers and help workers find good jobs faster and more efficiently, so that's our initial intent, purpose of the presentation and, also, as I said, Nevada is with six states, one of six states that proactively is implementing the initiative along with implementing JOBcentral.

The mission of the Rapid Re-employment Initiative is to connect downsizing employers with hiring employers to create a system that offers job matching to displaced workers at no cost. This initiative, because it's offered on a national level, provides resources to employers and job seekers that they've never had before. We've had a National Labor Exchange but, because it's so robust and has so many employers that are committed in working with the national initiative, basically, we have a very good field of openings. Like for example, just this morning, with its first full day of being on board, I went in and put in a key word CDL for Commercial Drivers License, and there are over 500 openings nationwide that just has the key word: Commercial Drivers License. So, it was really interesting, and amazing to see what you can get at your fingertips, just going through it.

Also, Bill Warren, who is the Executive Director of Direct Employers Association, said the purpose of the Rapid Re-employment Initiative is to work together, to align and create a leverage of all the workforce partner resources that are available, to minimize the impact of displacement on job seekers and to reduce unemployment compensation costs. We want to save money and we want to be more efficient and time efficient. Who are the customers? Right now, we have three primary customers that RRI will serve, that includes 1) any downsizing employers. Right now, the economy we're seeing a lot of employers that are having to layoff or close.

At the time that they have the event, they can go ahead and put the information into this system that allows hiring employers to go out and find workers that have the skill sets that they may need when they're in a position to hire; so downsizing employers can go in, enter the information on their current employee community, and then the hiring employers can go in and see, search for those individuals by resume, by occupation, by skill sets and, therefore, you can actually have somebody that might not even be laid off. They might be in there prepared to be laid off, but a hiring employer comes in, finds them, recruits them, and hires them before they are even no longer working with the old employer.
Also, you have job seekers. Job seekers can go out there and look by downsizing employers, by hiring employers, by occupation, any type of activity they want to look for by location. They can be looking by location in, in a community. It also benefits job seekers that we have, that have very professional skill sets. Sometimes, we have individuals that are so specialized it's very difficult for them to find a particular industry or occupation. This way, they can go out there on a national level and they can search for that.

What’s Nevada doing to implement RRI? Right now, in this month, since we’ve gone on board with JOBcentral, we’re working on marketing, mass mailing to employers to get the information out there. We have a press release that we’re going to be putting out there. We have a team that we’re putting together, that’s the Rapid Re-employment Initiative Team and our expected roll out date is October 25th or sooner. This concluded this presentation.

Mr. Havas thanked the presenters. Ms. Jones asked if she could make a comment at this point. Granted to take the floor, Ms. Jones expressed that she was very excited about the initiative. She indicated that from a national level, we’ve always had what is called a Rapid Response Program, that’s where we go out to lay off, employers that are about to be laid off, laying off workers and say: “Here’s the services that the workforce system provides. Here’s how unemployment works, here’s access to the One Stops, labor exchange, and partner programs” and I really appreciate this new initiative from the federal level and how it’s going to help Nevadans, because it’s a proactive approach. It’s not always: “Okay. You’re unemployed. Here’s what to do”, but here are also ways we can help you become employed faster. It is a proactive initiative instead of a reactive initiative as typically the Rapid Response Programs are, so the Rapid Re-employment Initiative really is a great addition to our tool box and will work well with that other program as we work with individual employers facing downsizing and, Susie and Kim, great job, thank you, and same to you, Theresa.

Chairman Havas thanked all and said that the Council was ready to go on with the Workshop to Consider Adoption of the Regulation to Establish the Unemployment Insurance Tax Rate Schedule for Calendar Year 2011 and turning the meeting back over to Cindy Jones.

Ms. Jones thanked the Chairman and said that this is where we turn the meeting over from the meeting into the official regulation workshop. I serve as the Administrator of the Employment Security Division for the Department of Employment, Training and Rehabilitation. This meeting is being conducted by the Administrator of the Division and the Employment Security Council to solicit public comment on a proposed amendment to the tax schedule regulation in Nevada Administrative Code Chapter 612.270 in accordance with Nevada Revised Statutes 233B.061.

VII. WORKSHOP TO CONSIDER ADOPTION OF REGULATION TO ESTABLISH THE UNEMPLOYMENT INSURANCE (UI) TAX RATE SCHEDULE FOR CALENDAR YEAR 2011 (NEVADA ADMINISTRATIVE CODE 612.270)

Ms. Jones turned to Ms. Joyce Golden and asked if proper notice of today’s workshop was given as required by Nevada Revised Statute 233B.060? Ms. Golden answered that proper notice was given.

Ms. Jones indicated that in accordance with NRS 612.310, the Employment Security Council provides a recommendation to the administrator regarding the tax rate schedule for the upcoming calendar year through this process. The presentations you are about to hear are intended to provide you with information you need in making this important recommendation. At this time, I’ll turn the meeting back over to the Chairman who will introduce the next presenters and agenda items. Thank you, Mr. Chairman.

Chairman Havas thanked Ms. Jones and noted that Bill Anderson, Chief Economist, David Schmidt, Economist, and Donna Clark, Chief of Contributions were ready to give their presentations and that they will provide the Council with information key to the rate recommendations we're going to be charged with making today. First we'll have economic projections and an overview by Bill Anderson, Chief Economist, the Research and Analysis Bureau of DETR.

A. <u>Economic Projections and Overview</u>
William "Bill" Anderson, Chief Economist, Research & Analysis Bureau,
Department of Employment, Training and Rehabilitation

Chairman Havas introduced Bill Anderson, Chief Economist, David Schmidt, Economist and Donna Clark, Chief of Contributions. These individuals will provide information so the Council can make an informed rate recommendation.

Mr. Bill Anderson, Chief Economist with the Research and Analysis Bureau in the Department of Employment Training and Rehabilitation was ready to give his presentation. Historically at this time, what happens is my bureau, either me or one of my deputies, gives a rather detailed assessment of the economy and what we have to look forward to and then that's followed by Mr. Schmidt who provides you with the various financial information that you'll need. This time around it's going to be somewhat different. In your previous meeting, you heard a detailed economic overview from one of my deputies, Jarrod McDonald. So, this time around, I'm just going to give you a very brief overview, just kind of recap what he said.

I'll move on and talk about a question that was kind of left outstanding from our previous meeting and I'll touch upon a special topic, that will allow the bulk of the time to be devoted or to be provided to Mr. Schmidt who will give you the information that is of utmost importance to you today as you make your decisions. I will go off script a little bit here and note that, in our previous presentations, you saw the high quality staff that Ms. Jones has over at ESD and Donna, Kim, Susie and Theresa. I'm very lucky as well that I have Dave working with me. It's one of those rare occurrences where I can give him an assignment and turn it over to him and know that it's going to get done very efficiently and in a manner that, that's understandable, so I'd like to publicly thank Dave for being such a good colleague to work with.

So, with that, as promised, I will go ahead and, and walk you through the most basic of economic overviews. We're looking at an unemployment rate in Nevada of about 14.4% as of August.
<u>Exhibit E - Nevada's Economy: A Brief Overview.</u>

That compares to a national rate of about 9.6%. You can see that our unemployment rate has risen almost non-stop since the middle part of this decade. The only piece of good news, if you're looking for some positive news, is that we are seeing signs that the rate of increase is slowing and we are approaching a peak in terms of the unemployment rate. In each of the past two months, both July and August, we saw the rate pick up just by a tenth of a percentage point from the previous month; much the same in terms of, of the employment picture.

Our job losses are easing, although our job growth remains negative. Specifically in August, our job readings were down by about 1.8% from where they were a year ago statewide and, if you look back just a year or so ago, year, year and a half ago, you see that, in 2009, we saw job losses approach double digits. So, again, things remain worrisome, but we are seeing signs essentially of a bottoming out in terms of the employment picture. (Page 2 & 3 of exhibit E).

Looking forward on the unemployment rate front, as I said, currently we're sitting at about 14.4%. We think the unemployment rate is approaching a peak and will top out and average about 14.7% in 2011 and then we'll see very gradual easing in the unemployment rate as the economy moves into recovery mode. Not surprisingly, our employment forecast is pretty similar to that. Job losses, we think, peaked in 2009 and then over the course of the next or, over the short term, we'll gradually see our job losses ease from that, that peak rate of loss. So, to put it in qualitative terms, I think what we have to look forward to is an economy that is perhaps best described as moving sideways. We're certainly not going to see a return to the boom-like conditions that we saw just a few short years ago, but rather much more modest growth as we look out into the long term horizon.

On the positive side, that kind of growth might not lend itself to, the kind of booms and busts that we've been going through of late. I mentioned that my understanding is that there was kind of one outstanding question from the presentations in early August and that had to do with how this recession has impacted various business sizes when you look at employers by the size of their establishment, how have they fared, and, basically, what we've found is that those businesses that I would call mid-sized businesses, roughly 100 to 499 employees; they have really been hit hard. They're represented by that yellow line (pg 6). They've been hit very hard by this downturn. I took a look at the underlying information and, not surprisingly, since this recession has impacted the construction sector so much there, the construction's share of employment in that size class is relatively large.

Large, several percentage points larger than in the economy as a whole. So, not surprisingly, we see those business size classes that are heavily concentrated in construction that have suffered the most during this downturn. Now, in terms of a special topic, one thing that is often asked of us every month by the media when we release our most recent unemployment rate is: "Okay, that's the official rate, but what's the real rate? What, is the rate when you add in all the folks who have dropped out of the labor force, who've dropped their search for work. They've become discouraged. They're working part time, but they'd rather be working full time. When you take that into account, what's the real rate of unemployment" and that's what this very brief exercise is intended to do, to give you some feel for what that information tells us.

Three things to note when we talk about unemployment for purposes of calculating the unemployment rate, we're talking about folks who are without a job, but who are actively seeking work (Pg 8). Keep in mind that this is an estimate, whereas Dave can go count the number of folks who are receiving unemployment benefits. We can't go out every month into Nevada's household and count the number of folks who are without a job, but they're actively seeking work. So this is a model-driven estimate that in fact that's how this number is derived in every State. They're model-driven estimates.

And, another highlight is to note that we're not talking strictly about folks who are receiving unemployment benefits when we talk about the unemployment rate. They're not necessarily one and the same.

In conjunction with the Bureau of Labor statistics, U.S. Department of Labor, we've come up with a kind of a continuum of alternative measures of unemployment going from U-1 to U-6. (Pg 9 & 10) U-1 is the most conservative estimate of unemployment. Essentially, we talk about the long term unemployed there. U-3 is more or less synonymous with the official unemployment rate. But, when you get into U-5 and especially U-6, those are the broadest measures of unemployment, that's where we take into account the folks that have given up their search for work, hence they're not counted as in the labor force and unemployed. Perhaps they've become discouraged, because they feel that there aren't any job opportunities out there for them, so they've given up their search for work.

We include those that are working part-time for what we call for economic reasons. They are working part-time, but they'd rather be working full-time, so this is what this exercise is designed to do. Just to walk you quickly through the numbers, when we talk about the official rate, you can see that our unemployment rate has essentially tripled from where it was prior to this recession. During roughly the first half of this year, our unemployment rate in the state officially averaged about 14%. At the same time, and nobody would have guessed this just a few short years ago, our unemployment rate in Nevada has increased to the highest in the nation. And, in fact, if you look at the second highest rate in my home state of Michigan, you'll see that the unemployment rate there is roughly a full percentage point lower than where it is here and they're the second highest rate (Pgs 12 & 13).

But, if you look at these alternative measures of unemployment, not surprisingly as you broaden the definition of who you count amongst the unemployed, you see the unemployment rate increase. And, whereas during the first half of this year our unemployment rate officially was 13.2%. When you broaden that definition to its broadest measure, you're looking at an unemployment rate in excess of 21% state wide. Likewise, given that we've been hit so hard by this recession here in Nevada, regardless of the measure of unemployment used, not surprisingly, you see a higher unemployment rate than you do in the nation as a whole. Over time, a good rule of thumb is when we talk about these broader measures of unemployment, the broadest measure tends to come in about two-thirds higher than the official rate. So, right now we're sitting, as I said, at roughly 14%.

The broadest measure is probably in the neighborhood of 21%. And, another point to note is that, as we've been hit harder by this recession, our U-6 measure, our broadest measure of unemployment has risen above the national level.
Prior to this downturn when our economy was operating on all cylinders, our unemployment situation was much more positive than in the nation as a whole but, regardless of the measure used, including this very broad measure, you can see that, that Nevada has been hit extremely hard and, with that, Mr. Chair, I'll turn the agenda back over to you.

Chairman Havas turned the rest of this presentation to Dave Schmidt, Economist, who will provide a review of the Unemployment Insurance Trust Fund.

B. **<u>Review of Unemployment Insurance Trust Fund</u>**
David Schmidt, Economist, Research & Analysis Bureau
Department of Employment, Training and Rehabilitation

Mr. Schmidt will be going through the objectives of the Unemployment Insurance Program, also known as UI. He will be reviewing the current state of the program in light of the current economic conditions, also reviewing our 2008 forecast for this year and will be presenting some tax rate scenarios for 2010, and reviewing the wild cards that may affect the forecast moving forward. ***Exhibit F - Unemployment Insurance Financing.***

Dave Schmidt introduced himself and said that he works with the Unemployment Trust Fund. A lot of the slides that I will be showing are similar or even direct copies of what was presented in August, so, if it looks a little bit familiar, don't hold it against me. We tried to streamline it a little bit and provide you with the updated numbers and the solvency test that we provide every year at this time.

When the recession began in December of 2007, there were a number of States that had solvent trust funds according to the federal average high cost multiple and you can see that on the chart on page two and Nevada was one of those states was well as a number of western states. Nevada had a average high cost multiple of 1.02 at this time. But, as the recession took hold between December of 2007 and December of 2009, Nevada, among a number of other states, has had its solvency drop off. And, in fact, only three states are left with an average high cost multiple of more than 1.0 that would be Washington, Mississippi and Maine.

As of September 28th, thirty-five states have borrowed at some point during this recession in order to pay benefits for, unemployment insurance benefit payments, rather thirty-two of those States currently are still borrowing. A few States had only borrowed a little bit and then were able to repay those loans. But, particularly, as we move ahead into the winter, this is a time when revenues tend to decline because they're a very seasonal thing throughout the year and benefit payments tend to jump as we move into October through really about January or February (Pg 4). So, we'll probably see those states that are right on the cusp of borrowing, begin to borrow more during this time and see that total amount of borrowing rise.

Overall, the projections from the federal government tend to vary a lot, but they're expecting between $70-$90 billion dollars of total borrowing by the time the recession is done amongst all the States. In addition to this, as of the beginning of this year, thirty-four States were expected to experience either tax increases or benefit freezes or take some action to try to preserve some measure of solvency in their trust funds, because of the rapid declines that we've been seeing nationwide. As I said before, Nevada was well prepared heading into this recession.
We've said this a lot, but I think it's something that's important to keep in mind. Nevada had the 18th strongest Trust Fund heading into the recession. We were solvent according to the federal average high cost multiple, as well as the state solvency measure that we present here each year in October. We were, in fact, 47% above that state solvency measure, which is generally a more conservative measure. But, the Council, in years past, had decided that we wanted to try to build an even more adequate Trust Fund just in case the recession was more than the one that we had seen in 2001, as in fact it turned out to be. It was much more.

In fact, if you look at this chart you can see that even in the peak years or the peak months, rather, following 9/11, benefit payments from the regular unemployment insurance program, which is that first 26 weeks that Ms. Nicks talked about earlier, those payments only hit about $40 million dollars for the briefest of times. And, in this recession, beginning in 2008 and really moving through even the present, we've been well above that mark. We peaked at over $100 million dollars per month being paid out in benefit payments, that's come down significantly, both because of seasonal factors as we're in the summer and because we've been declining as people are moving into those federal extensions, this has had a strong impact on the trust fund (Pgs 7 & 8).

If you look at an annual basis, we have paid out over a billion dollars in benefits in 2009 alone. And, in 2010, we're still over $800 million dollars in benefit payments. And, as Ms. Jones said earlier, that's over $2 billion dollars in the last two years alone for just the first 26 weeks of unemployment benefits, because those other 73 weeks of benefits in the federal extension were all federally paid, that's not something I touch on here to any significant degree. So, those first 26 weeks and the benefit payments that we've paid out in those, have caused our Trust Fund to go from a high of over $800 million dollars to where we've borrowed about $530 million dollars as of the end of September 2010.

The next chart (Pgs 8 & 9) here shows you the, Nevada's Average Tax Rate since 1950 and the benefit cost rate which is a calculation that essentially takes all benefit payments and divides it by taxable wages in Nevada. To get an idea of what level of tax rate we would need in order to pay for benefits in a given year, that peaked with the $1.2 billion that we paid out in 2009 at over 4.5% in 2009 and has begun to come down, but you can see it still remains very high and, with Nevada's tax rate having been very low and very stable, over really about the last 20 years, that surge in benefit payments has caused us to move into insolvency. It did take a very large hit to Nevada's economy to get to this point.

A number of states, if you remember, even in December of 2007 had marginally solvent Trust Funds with an average high cost multiple of below 0.5 and so when the recession hit, there were a couple of States that almost immediately tipped into insolvency and began borrowing with an unemployment rate of less than 5%. Whereas Nevada, when we finally began to borrow in October of 2009, our announced unemployment rate was over 13%, that's a combination of Nevada having a higher unemployment rate this recession, but we also had a very strong Trust Fund that was able to absorb a significant blow and we made it through October 2009 almost two years into the recession, before we finally had to borrow to begin making unemployment insurance payments.

Since we are borrowing, there are a couple of costs that are imposed on us from the outside. And, as we think about this, it's important to keep in mind the difference between federal and state unemployment insurance taxes (Pg 10). FUTA, which is Federal Unemployment Tax Act, is the federal unemployment taxes and SUTA, the State Unemployment Tax Act, is our state unemployment taxes. Some of the differences are outlined here. The federal wage base is $7,000 whereas Nevada has an index wage base that is adjusted each year based on average wages in the state. It was $27,000 in 2010 and will be $26,600 in 2011, because average wages have dropped, that taxable wage base will drop a little bit accordingly.

FUTA taxes are paid to the federal government and it's used for administration expenses to fund our Title 12 loans for our borrowing come out of and other sort of federal purposes whereas state unemployment taxes can only be used to pay either unemployment insurance benefit payments or the principle, but not in the interest of loans which are taken in order to pay benefits. The FUTA tax is 6.2%, but employers generally receive a 5.4% credit which drops the normal rate to 0.8% overall or about $56 per employee as long as they're making more than $7,000. Nevada's unemployment taxes are set each year by regulation and we make that recommendation or rather the Council makes that recommendation at this meeting.

The rate that we targeted for last year was an average of 1.33%, though the rate for each employer can actually vary from 0.25% to 5.4%, depending on their experience with the system. One of the cost of borrowing that's imposed on us from the outside is that 5.4% credit toward the employer's federal employment taxes begins to get reduced by the federal government and then it takes that money and applies it toward our outstanding principle. This takes place beginning with the second consecutive January 1st of borrowing so, essentially, the second year, that'll hit us in January of 2011, because we began borrowing in October of 2009.

This happens in two distinct steps (Pg 14). The first is that there's a sort of a base line credit reduction where the credit is reduced by 0.3% each year, so it goes from 0.3 in 2011, in this case, to 0.6 to 0.9 and so on. There's also an additional reduction that takes place beginning with the fifth consecutive January 1st and this is know as the BCR add-on. This looks at either 2.7% or the five-year average benefit cost ratio, which is that orange line from prior graphs, where it looks at what you would have had to have your tax rate at in order to pay for benefits and then compares that to what your actual tax rate was. It takes the difference and then adds that onto your average tax rate and we have a table here that sort of outlines how that's going to work.

In the first column, you have that base reduction of 0.3% per year and you can see that beginning in 2011 and increasing steadily as the years go on. In the second column, you have that five-year average benefit cost rate which, in 2014, the first year that that would apply, it would be 3.3% and then start to come down gradually from there. For purposes of illustration, we're using a Nevada state tax rate of 1.3% because it rounds to the nearest tenth of a percent. You take the difference between the five-year average benefit cost rate and Nevada's tax rate to get the BCR add-on. You'll notice, in 2016, it's actually unchanged from 2015 even though the five-year average benefit cost rate has declined, that's because it takes the larger of either the five-year average or 2.7%. So, in 2016, the calculation behind the scenes is because the five-year average benefit cost rate is lower than 2.7%. It uses 2.7% instead and that's why it's actually unchanged from 2015.

You add up the base line reduction and the BCR add-on to get the total FUTA credit reduction which begins in 2011 at 0.3% and, in 2016, it rises to 3.2%. The next column, the Cost per Employee, takes that and multiplies it by $7,000 to give you an idea of what it would cost per employee for this reduction. The total principle reduction shows you how much they expect that to impact our total borrowing and then the final column adds in that 0.8%, sort of normal federal tax rate to get the total FUTA rate that employers would have to pay in Nevada. These increases can be capped if the State's making adequate progress towards solvency.

The cap is the higher of either 0.6% or the prior year's credit reduction, so you can't cap it any earlier than 0.6% and, if you try to cap it later, you can't bring it back down. You can only go with where you were at the prior year. We have to meet four benchmarks in order to do this.

First, the State cannot take any action during the prior year, which would result in a reduction of the State's unemployment tax effort. Essentially, you can't lower the state unemployment insurance taxes. Secondly, you can't take any action during the prior year, which would result in a net decrease in solvency to the system. You can't say, the State can't expand benefit eligibility or impose and increase in unemployment insurance benefit payments. This doesn't include a previously legislated increases, so the normal indexing of the maximum benefit amount of state unemployment benefits isn't a state action, that's already in place. The Legislature couldn't just come in though, and say we're going to increase that total by $100 across the board. Third, the state unemployment tax rate has to be greater than or equal to the five-year average benefit cost rate for that BCR add-on calculation and the State's outstanding loans from the federal government have to be less than in the third prior year. So, in 2013, we would have to have a lower trust fund balance as of September 30th than September 30th of 2010 and those last two are sort of the targets that are imposed on us if we want to achieve those caps and they are the ones that really most constrain our ability to target tax rates.

If we want to meet those, we're pretty limited in the number of options that we have. Why might we want to cap FUTA tax rates? A couple of reasons are outlined here (Pg 16). Relying on FUTA to repay borrowing takes a number of years to make a dent in borrowing, because of the way it slowly ramps up during the first several years and so, in the earlier years, we end up borrowing more and have a larger hole, but, by the time that FUTA really start to repay those loans. FUTA taxes also rely on the $7,000 federal taxable wage base instead of the $26,600 state taxable wage base and this has the effect of putting more of the burden of repaying loans on employers who have a number of lower wage workers as opposed to employers who might have a fewer number of higher wage workers. Also, relying on state tax rates allows more flexible local review of steps to restore solvency.

If we allow FUTA to be the source of our loans being repaid, then we're sort of locked into their program, whereas if the state is taking action to sort of increase that solvency and repay those loans sooner, then we have more ability to say what do we want, what's most effective for Nevada's employers. The other cost that's imposed on us from outside the system is interest on our borrowing. Interest on Title 12 loans(Pg 18) is due on September 30th and, as Donna Clark mentioned earlier, if we don't pay this, it results in immediate program decertification and, as she said, funds to pay interest cannot come from state unemployment insurance taxes, so the interest costs is not something that comes out of the tax rates that we'll be discussing here today, that's a separate assessment as she was talking about.

We do have interest deemed paid through December 31st, 2010. One of the interesting side effects of this is that we don't know what rate they would have charged in 2010, because the Department of Labor issues a letter in January of each year to tell states this is what the interest on all Title 12 borrowing will be and because all interest was deemed paid, they didn't do that this year, so we're looking back to January 2009 when we quote that 4.6375%.

We would expect that would come down a little bit because of what's been happening with federal securities and the interest rates on those, but the actual number won't be available until January of 2011.

This table (Pg 20) illustrates the impact on the interest expense of a number of different tax rate scenarios. These are scenarios that are going to be repeated later in this presentation. In 2011, it's important to remember that we're essentially looking at January through September for interest accruing instead of a full year, so the numbers are a little bit smaller than they might otherwise be, but this table shows you the effect of increasing that, the state average tax rate between 1.33% at the low end, 2.5% at the high end in both 2011 and 2012 and you can see for example, in 2012, the average expense per employee, if we were to leave the tax rate consistent, would be about $81.80 whereas in, if we were to raise the tax rate for 2011 and 2012 to 2.5% and hold it constant, the average interest expense per employee would fall to about $62.27. These calculations are based on the proposed methodology in the BDR that's been submitted, so this is really our best sort of take on what the actual cost of that interest would be over the next couple of years.

As we begin to look ahead, this shows you the expected benefit cost rate in each year through 2015 (Pg 21) to give some idea of what sort of tax rate it would take in each year in order to pay for benefits. This is down sharply from its peak in 2009, but because we started off very high, we have kind of a long way to go to get back to the trend we've seen over the last several decades. This chart shows you the proposed tax rates that we're submitting, what would happen if we were to raise it and then hold it at that rate over the next five years. This is a little bit narrower focus then we had in the August meeting to provide more range of options within the tax rates that were discussed a little bit more.

This table (Pg 23) shows the effect of each of those. We've added a couple of lines from the August meeting that I'd like to highlight. Down at the bottom, we show not only the year that we repay the borrowing, which is about a third to half way through with year loans repaid, but the second line from the bottom shows that the year, the average high cost multiple would reach 1.0, that would be the target for restoring solvency to the trust fund in advance of any future recessions. Just a couple of weeks ago, the National Bureau of Economic Research made their official declaration as of, to-date, the end of the last recession in June of 2009, so it's interesting to look at the cycles we've seen over the last fifty years to expand the horizon a little bit from the end of one recession to the beginning of the next. The average, it's only been about 5.4 years. In more recent years, we've had, that's been longer. It's been closer to 6-8 years, if you look at the last 20 years. But, historically speaking, recessions are something that come about reasonably frequently, so if we were to take that end date of June 2009 and stretch it forward, we'd be looking at about December of 2014 and this is not me saying we're going to have a recession then, but rather, if you take the average over the last fifty years, that's about the date that you're looking at.

So, even if we were to raise the average tax rate to 2.5%, it's worth noting that while we would repay our loans in this scenario by 2016, that's still a couple of years after December of 2014. Another set of scenarios that we present here that we presented in August as well was what if we tried to target capped FUTA offsets, if we try to hold those to either 0.6 or 0.9%.

These scenarios are slightly different than what was presented in August, but it's with the same target. It's just the underlying numbers changed a little bit with the estimates that have come out since then. The constraints on us are still that we have to repay those loans. We have to have loan balances that are lower than in the third prior year for a cap which, if you're looking at 2013, we'd be looking at 2010 or, if you're looking at 2014, it would be looking back to 2011 and we have to get the average tax rate up to the five-year average benefit cost rate, which is in the neighborhood of 3.75% in that 2013-2014 window.

Because the constraints are pretty narrow, the two different scenarios are fairly close. If we want a cap at 0.6%, it requires a more aggressive strategy to repay those loans sooner so that, by September 30th, 2013, you can get the tax rate below where it was in September 30th of this year whereas, if you want to cap it at 0.9%, you have an extra year, but you still have to get the tax rate up to that benefit cost rate of about 3.75%, so those two really sort of narrow down the options that are available.

The table on slide 26 shows you the same sort of information, when the Trust Fund would become solvent again, when the loans would be repaid, what the maximum borrowing would be. The tax rates that are used for each of the scenarios are listed at the bottom and it's worth noting that, in 2011, we chose tax rates that are consistent with the flat rates you saw earlier, so that you could see an increase to 2% as the first step of a multi-year plan to increase the state unemployment tax enough to reach that 0.9% cap. Of course, next year the Council will get back together and has the flexibility to sort of reassess where it's at and what steps it wants to take, so nothing here is binding. It's just a possible course of action that could be considered in the future.

Looking ahead at our forecast for 2011, slide 27 shows you monthly initial claims from January of 2000 through August of this year. You can see that we've come down from the peak. We've had a pretty sharp increase seasonally over the last couple of years as we move into the winter, but we've fallen substantially even though the level that we're currently at is comparable to the peak rates that we saw in late 2001 following the September 11th attacks and the hits that that put on our tourism-based economy. As we see that decline in initial claims, this is something we expect to continue. It's been sliding down fairly steadily but not very rapidly. Especially over the course of the last couple of years, we've come down from about 30,000 to 20,000, but you know, our peak levels that we saw during the boom, or the trough rather, it was down a level of about 10 to 12,000, so we have a lot of declines left ahead of us.

Slide 28 shows you on a monthly basis where we've been at. Beginning in December of 2009, now which is the grey bar at the far right, and continuing through 2010 which are the blue bars, you can see that looking back at the same month in the prior year, our initial claims volume has continued to decline, though in the last few months, the pace of that decline has started to shrink as we're comparing it to a declining period from a year ago.
This reinforces the view that we probably not going to decline very rapidly, but we'll still see a more gradual decline in the volume of claims that we're processing. The same thing is true if we look at total weekly claims on slide 29. We have a little bit stronger decline there because this tends to lag initial claims a little bit by three to six months. We have seen declines of over 100,000 through, in March through August, in just about every month.

We expect this to continue, but also begin to decline just a little bit. The pace of those declines will slow as we start looking at declining periods in 2009.

Slide 30 gives you some idea of the effect of those extended benefits programs that Theresa talked about and how they compare to the volumes that we see in the regular unemployment insurance program. The blue area at the bottom of this graph is that first twenty-six weeks of benefits that we're talking about here. The gray and light blue areas represent the EUC and SEB Programs respectively, and the red line represents our total number of people that are unemployed in the numbers that Bill presented to you earlier. You can see here the effect of that temporary expiration of those extensions that took place in the June to July window and then, in August, as the expiration was, the expiration date of the program rather was pushed back to November, that those have jumped back up to about their prior levels, but it's also interesting to notice that the regular UI program, you can see that decline from about April 2009 to the present, how it has pulled back slightly, but it still remains at an elevated level.

Looking at our forecast from last year where we thought we'd be, and what the numbers are telling us right now, the average unemployment rate has been a little bit more favorable than we expected. It's been about 14.1%, the average that we're looking at right now, whereas we thought we'd be at about 14.4%. Employment growth is really comparable. It's been about -4.3% ,whereas we expected to be about -4.4%. Our covered employment then is rather close as of March 31st to where we expected it to be. It's a little bit less as we've seen some declines in that program. The total weeks claimed has been significantly less. I chalk this up as the affects of those federal extensions taking place and disrupting some of the normal seasonal effects that we might have and some of the historical ties between initial or regular claims in the, that first twenty-six weeks in the unemployment rate. As the unemployment rate has gone up and the number of long-term unemployed has increased, this has sort of caused a little bit of a break with our normal, in our normal relationship with unemployment claims and the unemployment rate as there is more of a gap than normal and so our total volume of claims was actually less than you might expect with that 14.1% unemployment rate.

With employment being close to where we expected it to be, the total revenue of the program was about $265 million compared to expectations of about $291 million. Because of the decline in weekly claims from what was expected, total benefit payments have been about $860 million compared to expectations of about $1.2 billion. The effect of that is that our total borrowing is less than we expected as of this time last year. These slides were put together a few days in advance of September 30th so that $533 million in borrowing, it's actually a little bit better than that. It looks like we ended the year at September 30th with about $526 million in borrowing and that's significantly better than the $828 million that we expected as of this time last year. On slide 34, you have the solvency calculation that's done according to NRS 612.550. In this, we take four factors and multiply them together to give an idea of what sort of solvency requirement the trust fund might expect.

This represents approximately one year's worth of benefit payments being held in reserve, based on the worst levels of unemployment that we've seen over the last ten years. The blue section at the top of this chart shows you that calculation.

We take the covered employment as of March 31st, the highest risk ratio of people that were employed beginning to file for unemployment benefits experienced in the last ten years, the highest average duration of benefits experienced during the last ten years and the current average weekly payments for unemployment benefits to do this calculation. The highest week's duration number comes from May of 2010. It's actually declined slightly over the last couple of months from that high of 19.12% to about 18.6%, that highest risk ratio comes from about the same time as we've started to see some of those declines in weekly claims numbers as we'll expect to have those numbers hold a little bit more strongly going forward into next year.

The net result of this calculation would be a solvency requirement of $1.1 billion. The actual level of the Trust Fund obviously is when we're borrowing money we don't have a Trust Fund in reserve. We began the year with $60.6 million this time last year, as we were near to the point of borrowing and began borrowing a couple of weeks later. As I said before, we brought in about $265 million into the Trust Fund and paid out about $860 million dollars in benefit payments. This dropped us from that $60.6 million to, again, where we're borrowing, according to this, about $533 million. The benefit payment number will probably decline a little bit when we get the final numbers in to bring us down to that about $526 million total borrowing as of September 30th. This puts us at a solvency multiple of -0.48%.

Since our target is 1.0%, you might say we're about 150% short of where we would like to be there and the average high cost multiple would be a -0.76%, which means we're about 176% short of the target for solvency that we would like to have according to that measurement. This chart shows you the state solvency measure, where 100% represents reaching that target of, in this case for 2010, $1.1 billion and zero represents having zero dollars in the unemployment Trust Fund. You can see over the course of the last several years in the 2001 recession, the solvency measure actually only dipped near the 1.0 target. It didn't actually dip below it. Whereas this recession, we've seen really an unprecedented hit to that solvency due to the huge increase in benefit payments that we had and we have a negative, again, 48% solvency multiple for 2010.

This chart shows you the same thing, but for the federal average high cost multiple. The numbers are fairly similar although the levels above that solvency measure are a little bit lower, because the average high cost multiple is a more conservative measure that generally you would like you to have a little bit more money in your Trust Fund.

Looking ahead to 2011, slide 37 shows you the five different tax rates that we're presenting to you here for your consideration. The tax rates are listed toward the bottom of the chart in the white area and we present rates of 1.33% which would be keeping things the same, an increase to 1.75% to 2%, to 2.25% and to 2.5%. We put in the average cost per employee at the taxable wage base of $26,600, just multiply that by the average tax rate to show you, on average, what that would cost per employee in the state. Of course, the actual cost per employee would be base on the employer's actual tax rates, between 0.25 and 5.4%, depending on their experience.
At the top, we estimate the solvency target for next year with that same calculation from NRS 612.550. Because we expect covered employment to decline a little bit between now and then and most of those other targets to stay fairly constant, the requirement actually drops slightly, but it's still in excess of $1 billion.

In the lower half, we present the sort of financial numbers that come out of the different tax rates. The pay out from the fund remains constant at about $706 million. The only difference here is in the taxes that are brought into the trust fund and then the impact that that has on our total borrowing. The ending Trust Fund balances range from borrowing of $965.6 million for the 1.33% average tax rate to total borrowing of 726.6 million with the 2.5% average tax rate.

Some final considerations as we look forward over the next year and the years beyond. I do want to highlight again that 5.4 years from the end of one recession to the beginning of the next, because obviously Nevada's in a pretty big hole, but if we reach the next recession and don't have a Trust Fund to support our benefit payments, then depending on the severity of that recession, it could make the hole even deeper. We don't actually know that a recession will come in exactly 5.4 years, but that just gives you perspective on sort of the last fifty-year average really since about, you know, the 1960's.

Also, the federal government's a pretty big sort of wild card, whether or not the Feds will take any action to relieve states of their interest burden. On the positive side, or this, the feds have also made some moves to try to put stricter solvency requirements on the states in order to take advantage of some different things within the program, like, interest free loans if the loans were only of a temporary basis. Because so many states were running, entering this recession with those low solvency levels that caused them to borrow very early at the first really hint of trouble, the federal government has been trying to look at ways to encourage the states to actually reach solvency like Nevada had in advance of recessions so that there's less burden for total borrowing from the federal government and that states are taking more of the burden of financing their unemployment insurance programs on their own shoulders instead of sort of trying to lean on the feds to just have a pool of money there to borrow whenever they need it. This concludes my presentation.

Chairman Havas thanked Dave, saying that here is another example of skill set and acumen,

Ms. Jones thanked the Chairman and thanked David and Bill for the tremendous job, as usual. On the legislation that Dave was mentioning or some of the wild cards that are out there, there are discussions at the federal level about raising the FUTA rate because the FUTA tax also funds the extended benefits that have been being paid out to the unemployed workers across the nation and actually that fund had to go borrow from it's general fund, so there are some discussions at the federal level about raising that rate and or increasing the taxable wage base. Regardless of any of our actions that we take here, there could be increases at the federal level for the federal unemployment insurance tax. I just want to mention that. And, also, to tag onto what Mr. Schmidt is saying about solvency legislation at the federal level, it's certainly, you know, not Nevada's problem. It's a national problem and, as Dave and Bill have mentioned and we've discussed in the prior meeting, you know, DOL is expecting approximately forty jurisdictions to borrow anywhere from $70 to $100 billion through the course of this recession. The number changes constantly because it's a very fluid situation in our economy.
There is interest in imposing additional solvency requirements on the states in an effort to avoid this sort of situation happening in the future. There's already been some movement on that area.

There are already new rules regarding cash flow loans that David alluded to, where states just borrow money for the short-term where they've had an opportunity to have basically nine-month interest-free just cash flow loan. They're putting some solvency requirements even on those so we see some coming restrictions on our ability to borrow funds in the future. We need to be cognizant when we move forward that we don't do anything that would adversely impact us in the future from whatever restrictions or additional requirements the Department of Labor, the federal government puts on us, you know, trying to look into our very hazy crystal ball in that to try and guess what sort of restrictions they may put on us in the future. But, you know, great job, as usual, and I appreciate all the hard work you do for us all the time. Would you like to call a break now, Mr. Chairman?

At this point, the Chairman called for a 10 minutes break.

C. <u>Tax Schedule Explanation and the Small Business Impact</u>
Donna Clark, Chief of UI Contributions, Employment Security Division
Department of Employment, Training and Rehabilitation

Ms. Donna Clark introduced herself as the Chief of Contributions for the Unemployment Insurance Program in the State of Nevada. As the Council is aware, the purpose of this meeting and the regulation workshop is to recommend the unemployment insurance tax rate schedule for calendar year 2011. State law requires the Administrator to set the tax rates each year by regulation. Pursuant to Nevada Revised Statute 612.310, it is the role of the Employment Security Council to recommend a change in contribution rates whenever it becomes necessary to protect the solvency of the unemployment compensation fund. ***<u>Exhibit G - Estimated Tax Rate Schedules for Year 2011.</u>***

On August 3, 2010, a public meeting was held to provide information to the Employment Security Council and members of the public in preparation for today's regulation meeting workshop. To complete the regulatory process, a small business workshop has also been scheduled for October 25th followed by a public hearing tentatively scheduled for December 7, 2010.

Bill Anderson today has provided you with updates about economic conditions and David Schmidt has discussed the condition of the Trust Fund, the impact of federal borrowing to supplement the State Trust Fund and the forecast for next year. I would now like to provide an overview of how the unemployment insurance tax system works and how the average annual tax rate and associated revenue projections are developed.

As previously explained by DETR Economist, David Schmidt, the Unemployment Insurance Program is a joint federal/state partnership. The amount an employer pays for federal unemployment or FUTA taxes depends on the employer's participation and a federally-approved state Unemployment Insurance Program. To ensure proper tax, proper credits are given for state unemployment or SUTA taxes. IRS requires an annual cross-match or certification process with states to validate the SUTA payments for FUTA credits.
The state unemployment or SUTA taxes collected from Nevada employers are deposited into a Trust Fund.

This Trust Fund can only be used to pay benefits to unemployed Nevada workers or to re-pay the principal of loans that were used to pay benefits. The revenue cannot be used for any other purpose. The tax is paid entirely by employers. There is no deduction from an employee's paycheck. The tax rates will vary, based on the employer's previous experience with unemployment. And, under federal law, these funds must be deposited with the U.S. Treasury and cannot be invested in any other manner. The fund does earn interest. At the core of the Unemployment Insurance Tax Program is a rating system known as experienced rating. To be in conformity with federal law, all states are required to have a method of experience rating that has been approved by the U.S. Secretary of Labor.

The rating system works as follows: in Nevada, the rate for all new employers is 2.95% of taxable wages. The taxable wage base or taxable limit is an annual figure calculated at sixty-six and two-thirds percent of the annual average wage paid to Nevada workers. UI taxes are paid on an individual's wage, up to the taxable limit during a calendar year. In 2010, the taxable wage limit is $27,000 per employee. In 2011, the taxable wage limit will be decreasing to $26,600 per employee. Employers pay at the new employer rate of 2.95% for approximately three and a half to four years until they are eligible for an experienced rating. Once eligible for experienced rating, an employer's rate can range from 0.25% to 5.4% depending on the individual employer's previous experience with unemployment.

There are eighteen different tax rate classifications. The annual tax rate schedule adopted through the regulatory process applies only to experience rated employers. It has no impact on new employers and the new employer rate of 2.95%. The standard rate established by federal law is 5.4%. Rates lower than 5.4% can be assigned only under a state experienced rating system approved by the Secretary of Labor. The intent of any experienced rating system is to assign individual tax rates based on an employer's potential risk to the Trust Fund. Basically, those employers with high employee turn-over and at greater cost to the fund pay those higher rates than those with low employee turn-over.

As displayed in the chart on page 7; in 2010, employers' annual costs for unemployment insurance ranged at the highest rate from $1,458 per employee to the lowest rate of $67.50 per employee. In calendar year 2011, these maximum annual costs per employee will decrease slightly by 1.8%, as Dave Schmidt explained, due to a decrease in the average annual wage and the annual taxable wage limit. To measure an employer's experience with unemployment, Nevada along with a majority of states uses a reserve ratio experienced rating system. This system is essentially cost accounting.

Under the reserve ratio system, the Employment Security Division keeps separate records for each employer to calculate their reserve ratio each year. In the formula used to calculate each employer's reserve ratio, we add all contributions or UI taxes paid by the employer and subtract the benefits charged to the employer. The result is then divided by the employer's average taxable payroll for the last three completed calendar years. This calculation establishes the employer's reserve ratio. The purpose of using this method is to put large and small employers on equal footing without regard for industry type.
For example, if an employer paid $6,000 in contributions, had $2,000 in benefit charges, with an average taxable payroll of $40,000, he would have a reserve ratio of positive 10%.

The higher the ratio, the lower his tax rate will be. If an employer has received more benefit charges than he has paid in taxes, his reserve ratio will be negative and he will generally have a higher tax rate. The reserve ratios calculated for each experience rated employer are then applied to an annual tax rate schedule to determine which rate classification will apply for that calendar year.

Before setting the annual tax rate schedule for the next calendar year, Nevada unemployment law, NRS 612.550.7, requires the ESD Administrator to determine the solvency of the Trust Fund as of September 30th. Projections are then developed for the subsequent calendar year. Those projections include the number of active employers, the amount of taxable payroll, the amount of UI benefits that will be paid, and the estimated revenues that the Trust Fund will need to meet those benefit payouts and maintain solvency. Using employer reserve ratio data, optional schedules are produced with a variety of average tax rates and revenue projections.

Let's now look at the detailed tax schedule options contained in your rate schedule booklets. We have provided five tax schedules for the Council to consider and give us a recommendation and, of course, to receive any comments from the public. The detailed tax schedules display the reserve ratio increments between the rates, the ratios assigned to each rate, the estimated number and percentage of employers in each rate category, the estimated taxable wages with percentages and the projected total revenue. Within this system, we can produce an infinite number of charts, therefore we generally present several different schedules to give you an adequate number of choices. This year, we have, as we said, included five different schedules for you.

The first schedule listed as Chart No. 1 in your booklet displays an average rate of 1.33%, which is the average UI tax rate currently in effect for calendar year 2010. In setting the annual tax rate schedule, the eighteen different tax rates displayed in the fourth column of the charts do not change. These rate classes ranging from 0.25% to 5.4% are fixed by statute. Instead, the law requires the Employment Security Division Administrator to designate the ranges of reserve ratios to be assigned to each tax rate classification for that year. By doing so, the number of employers of each of the tax rates is changed, which increases or decreases the average rate and the total estimated revenues. In other words, if you need to increase taxes, you adopt a reserve ratio schedule that puts more employers in those higher tax rates and, to lower taxes, you select one that puts more employers in the lower tax rates. The law also requires that increments between reserve ratios must be uniformed. In this first schedule, the ranges are from positive 4.1 to negative 21.5 with increments of 1.6 between each of the reserve ratio.

If an employer's reserve ratio is positive 4.1 or better, he gets the lowest rate of 0.25%. An employer with a reserve ratio of less than negative 21.5 would get the highest rate of 5.4% and, as you can see, the rest falls somewhere in-between. In this particular chart, approximately 56% of eligible employers are in the lowest rate of 0.25% with 5.2% of eligible employers at the highest rate of 5.4%. You will see those numbers change as we walk through the individual schedules with the adjustment and the average tax rate.

Out of 56,667 total employers, there are 35,089 employers eligible for experience rating, which we estimate under this first schedule, would generate $220.5 million in revenue to the Unemployment Insurance Trust Fund.

To that estimate, we add, for new employers not eligible for experience rating, $53.1 million for total revenue of $273.6 million and an average rate of 1.33% for the unemployment tax. Moving to chart two of your booklet displays the detail for an average tax rate of 1.75%. To achieve this average rate, you can see the range of reserve ratios change to a range of positive 6.9 to negative 18.7. The estimated total revenue increases to $359.4 million and the number of employers in each rate classifications, once again, shift. Approximately, 41.3% of eligible employers would now be at the lowest rate of 0.25% with 6.3 of eligible employers at the highest rate of 5.4%.

Chart three of your booklet displays the detail for an average tax rate of 2.0%. For this average rate, the range of reserve ratios changes to a range of positive 8.5 to negative 17.1. The estimated total revenue increases to approximately $410 million. The number of employers in each rate classification, again, shifts with approximately 33% of eligible employers at the lowest rate of 0.25, with 7.1% of eligible employers at the highest rate of 5.4 and as you can, again, note the ranges in-between, you'll see a shifting of those in-between the highest and the lowest rate.

Chart No. 4 of your booklet displays the detail for an average tax rate of 2.25%. Once again, the range of reserve ratios change and the estimated total revenue increases to $461.1 million. Approximately 25.7% of eligible employers would now be at the lowest rate of 0.25 with 7.9% of eligible employers at the highest rate. In the final chart, No. 5 of your booklet, it displays the detail for an average tax rate of 2.5%. With this average rate, the estimated total revenue increases to $512.6 million with approximately 16.5% of eligible employers at the lowest rate and 8.8% of eligible employers at the highest rate. As a note, you'll see that on each of the schedules there's an additional .05% tax for the Career Enhancement Program, which is a separate state training tax set by statute. This is being provided for informational purposes only and is not included in the projected revenue amounts.

In the front of your booklets, we have also provided a summary page to make it easier to do comparisons. The summary shows the range of reserve ratios, increments, average and employment insurance tax rate, estimated revenue, and the distribution of employers within each rate class. On the final page of your booklets, we have provided a few definitions and explanations of the items shown on the tax rate schedules and the summary page. Also included, is the reserve ratio formula.

As a final note, in compliance with Nevada administrative procedures, the Employment Security Division solicited comments from small businesses to help gauge the impact of a potential rate change. Two written comments were received, one from a small business in Carson City, Nevada opposed to any tax increase at this time and one from a Nevada Employer Association recommending a rate increase large enough to stop the state from borrowing from the federal trust fund. Copies of those comments are available upon request. Thank you, Mr. Chairman, members of the Council. This concludes my presentation.

D. <u>Council Discussion</u>
Paul Havas, Chairman of the Council
Cynthia Jones, Employment Security Division Administrator

Chairman Havas thanked all presenters and opened up the meeting for Council discussion.

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Dave Garbarino: Just one question on the letter from the Nevada Manufacturers Association. It doesn't appear to me that even raising to the highest, the 2.5 rate year, that that would stop the state from having to borrow from the federal government, is that correct?

Dave Schmidt: That' correct. The rates that are presented here, the 2.5%, would have us still borrowing about $193 million. These are fairly linear numbers, so if you look at the gap between say 2.25% and that 2.5% that's right about $50 million, so you would have to go about another full percentage point to the neighborhood of about 3.5% to reach that range where the net change over the course of the year is about flat.

Danny Costella: I would also like to ask, where would the increase be, because I understand you said that there's going to be an increase in the FUTA tax also, so what would that total be? I mean, you're looking at a substantial increase if you add the two.

Ms. Jones: If I might answer that, Mr. Chairman. We don't know what action the federal government is going to take on increasing the FUTA total tax rate. We don't know what the proposed rate is. There's not anything introduced at this time, but there's certainly some noise at the federal level, especially given that that fund has been drained in order to pay all the extended benefits, the increase in administration costs for administering the programs across the fifty-three unemployment jurisdictions, so we don't really have an idea yet.

Mr. Costella noted that that is totally on the employer and to which Ms. Jones replied in the affirmative.

Kathleen Johnson: What are you proposing that we increase the tax rate to?

Ms. Jones: The agency is not proposing the tax increase. It is the responsibility of the Employment Security Council to tame a recommendation back to me.

Ms Johnson asked what the recommendation is that the Council is asked to make. To this Ms. Jones replied that the recommendation, per statute, is the responsibility of the Council to make the recommended rate to her, the Administrator.

Ms. Donna Clark commented that the agency has shown what it would take to cap the FUTA rate and that it is one of the many scenarios that has been provided for the Council to look at and decide what would be the best for now and into future years.

Chairman Havas: In the context of the cap on the FUTA rate and the control by the federal government, what is the range, what is the schedule that we could go to that would still keep us consist with requirements to the federal government and their mandate?

Dave Schmidt: On slide 26 of my presentation, which is the Unemployment Insurance Financing, I have a table that shows the FUTA offset caps and sort of a multi-year plan, what it would take to cap those rates.

On this chart, the two sort of multi-year scenarios that I laid out are listed at the bottom. For the 0.6% cap, that would be an increase for next year of, to 2.5% for the average rate. If you're looking for that 0.9% cap, that would be an increase to 2.0%. Those aren't necessarily set in stone, but following the tax rates that are here, I would expect that we would be able to reach those FUTA caps if we were to continue along the path that's laid out here.

Ms. Jones: Keep in mind that the FUTA offset cap reductions is basically an increase in the federal unemployment insurance tax and any of these increases that would be born by Nevada employers, assuming that we are financing our Trust Fund loans continually by the federal government, are used to pay back the principal of the loan, so it's a matter of just which one we are paying our loans through, either purely through SUTA contributions, the state unemployment tax, or part of the debt would be serviced through the FUTA increase by not paying back our loans within the two-year period.

If that adds any clarity to it but, dollar-for-dollar, that does go towards our debt if we do indeed end up having a FUTA offset credit reduction or, simply said, an increase in the federal tax used to service the debt. Basically, the feds are saying you can't just have debt forever. If you don't pay us back, we're going to force you to pay us back through this sort of offset type of program over the long-term. However, there is no requirement of a date that we have to pay our loans back by. We can go through all the different offsets.

We can rely on the federal government, let them continue to increase it that way or we can take control of it as a state. The wage base by which you're paying back your principal is different, so that has a bit of an impact too, because they're doing it on the federal taxable wage base of only 7,000 employers, putting the burden more on employers, who have low wage earners as opposed to through the SUTA system which may make it a more equitable distribution because it goes up to a higher taxable wage base. I know that it's clear as mud.

Chairman Havas commented that that is why we have an experience rating system. It is structured that way.

Ms. Jones said that all states have an experience rating system and some have lower taxable wage bases; some higher. But, by taking control of it of ourselves, you know, states tend to like take control of things themselves, we have a better ability to manage our fund in the manner that we would like to, as opposed to having the feds do it for us. So, assuming continued federal financing, the FUTA offset path it takes us towards capping those FUTA offset reductions might be one that the Council might consider. But, also keep in mind, we're only selecting the rate for this coming calendar year, so we can change course in a year. We're just looking perspectively at what the path might be, we may have to start somewhere.

Chairman Havas asked Bill Anderson if he knew what kind of wiggle room he envisions when we're talking about going beyond 2012 where the average tax rate can be a lot higher.
Bill Anderson, Chief Economist with DETR, answered the Chairman, that if he understood the question, in terms of the overall economic environment, looking at long-term, we are going to recover from our current difficulties, that's going to happen. I mean, Nevada's not going to disappear. At some point down the road, we're going to rebound from this.

The question is when and we'd all like to know when. I think once we emerge from this downturn, we're not going to see 6% year over year job growth like we saw just a few short, three to five years ago back in the 2004 to 2006 period. We're not going to see a state that leads the nation in population growth essentially for two decades running. I think what we're going to see, as I mentioned earlier, is much more modest growth, but arguably growth that's more sustainable. We won't be riding these booms and busts up and down as we have or as we currently are.

Danny Costella: I don't know the answer to this, but if we do go with the state plan, which will be higher rates, does anybody anticipate layoffs due to that? Is that going to compound the problem by imposing higher tax rates, with that, in turn, lead some employers to lay off?

Donna Clark: I really think that is difficult to project. Any tax increase is an increase in business expense. We all understand that. I think we do have a lot of businesses on the brink right now. But, when you look at the size of increase that we're talking about, whether it's to 2% or to 2.5%, that's a relatively small cost in terms of that sort of increase, but saying it's a relatively small cost of a business that's on the brink, so it's all relative, you know, to where that business is standing, so, individual.

Danny Costella: That is my concern also. What is the breaking the breaking point, is what I'm trying to figure out when we do recommend the increase.

Donna Clark: I believe that is just an individual, employer by employer call in terms of how their business is designed, how their expenses are set up, how their planning's been. I think that would be impossible really for us to project.

Danny Costella: I would have expected more input if there was such a concern. One letter from one business. It makes you want to think that maybe you are right that that lower percent maybe not push them over the edge.

Ross Whitacre: I do like the idea of handling it through the end of SUTA as opposed to FUTA mentioned earlier a couple of times, but something I think we need to remember is, if I understand it right, that probably the Legislature this year is going to have to consider some sort of legislation to pay the interest on the benefit costs and I think it's better, the employer's going to pay one way or the other, that's the sad thing about it. But, I think that to take control of, what we might be able to help the employer a little more by raising, this SUTA tax trying to do it in a way that we can address it also in future years and be able to quit borrowing as quickly as possible and hopefully then work towards sustaining solvency. As, was mentioned during the break, this system was not designed for a long-term recession. Thirty-five to forty states are in trouble, so I think, for me, I've been sitting here looking and I'm favoring to raising the rate to 2 to 2.5% and trying to make a dent in our bill to the federal government.

Danny Costella: Mr. Chair, I would like everyone to keep in mind, I think I brought it up last session, that, the diversification in this state is an issue that's going to come before the Legislature, but I think we should all insist to our Legislators that we need to insist on Nevada workers being hired.

With the in flux of the green energy coming to the state, we really have to make sure, right now, all of that work is being done by out-of-state workers and we need some laws in effect that will stop that from continuing.

Chairman Havas called upon the office of the State Treasurer, who is going to present a statement on capital markets, solutions for unemployment insurance.

Kate Marshall: Nevada State Treasurer. I have listened to these issues that you are faced with. I have spent a significant amount of time talking to the business community, large, medium, small about this issue.

Ms. Marshall introduced Mark Mathers, the Senior Deputy Treasurer. She continued saying that she believed in talking with the business community, that they are interested in as it seems you are interested in increasing the number of options you have in addressing the money that you owe currently the federal government, because you have borrowed money from them to pay your unemployment benefits. So, I am not talking about the fact that you may need to continue to borrow. I am only talking about the money you will owe by January 2011 to the federal government, that is the issue that I am addressing here today.

It seems to me that you have a couple of options to repay that. The federal government has a formula and you heard about that formula. It has a formula if you owe them a debt for two years running and I think on slide 12 of your previous presentation, it talks about what they do if you owe a debt. They increase by .3% each year per employee on the federal unemployment tax. You also heard how they deal with the interest that you would owe on that debt on slide 18 of the previous presentation. It doesn't look fun. So, one of your options is to do nothing and to allow the feds to tell you how you will repay the debt. Another option is to borrow from your general fund and repay the debt. A third option might be to control your own destiny and try to finance and structure the debt in a way that best suits the needs of you and the business community and the people who work in this state.

What I'm here to offer you today is the ability to give yourself that option so that, next year, you can decide which works best for you. You have in front of you a presentation. If you turn to the first page of that presentation, it gives you a little executive summary there of what we're talking about. You have heard things today, you currently owe approx, as of September 30th, I guess you were saying you owe approximately $526 million to the feds, that is growing as we speak. For purposes of talking in round numbers, let's assume that you will be projected to borrow approximately a billion dollars from the federal government by January 2011. It may be less. I hope it is. As I said, to repay the loan, the federal government has a formula which they use. We estimate that Nevada employers will see their unemployment insurance tax liability under the federal unemployment tax assessment increase by over $30 million in 2011 and $64 million in 2012 if you do nothing.

You could, in this financial environment, use the capital markets to borrow what you owe the feds, pay the feds off in one lump sum, and then pay back what you borrowed. It's basically a refinance. Given the way the markets are working today, you could borrow at less than what the feds would charge you and structure it so that you paid it over a longer period of time.

It's just like a refinance. If you have a mortgage on your house and you want to pay it in a 15-year fixed, right, and the 15-year fix requires you to pay it at 4.5% interest over fifteen years and you find yourself unable to do that because your spouse is out of work, does this sound familiar, then you re-structure your home loan to a 30-year fixed at, you know, less interest so now you're paying two and a half over thirty years and you just gave yourself some breathing room, that's what I'm offering you the option, to put that in your stable, give yourself the ability to use that when the time comes if you judge, at that time, that that's what you want to do.

A couple things happen if you use the capital markets. It gives you some flexibility. You pay off the feds and now you can structure your loan in the way that you see fit. You can currently, using the capital markets, borrow at a lower rate than the feds would otherwise charge you, that's less money, savings immediately upfront. The bonds, if you borrow, use the capital markets to issue a bond, it does not create new debt. We are not talking about creating new debt. You owe the federal government today. I'm just talking about another way to pay them back that is cheaper for you. Many other states have already done this. I'm not inventing the wheel. If you turn to the next page, actually, if you turn over the next few pages, what I'm doing is I'm showing you your various options and the first page, slide number 2, is what happens if I do nothing?

So, this is what you saw in your previous presentation, right? This is what the feds will do. The feds will tell you, you have to pay the loan back over approximately six and a half years. The rate, currently, if we set it today, would be a little over 4%. Your maximum annual payment would be approximately $203 million. Your final repayment: 2020, okay and you can see the little graph there. This is assuming that you owe a billion dollars. You may owe less. If you move to the next three charts what you see then are, well, what happens if Nevada takes control of its own destiny here and you have different ways that you can use the capital markets.

If you turn to chart 6, you'll see all of them laid out in front of you. But, the reason I have these little charts is so that you can see the red line is what the feds would do and then the blue lines are your option. The red line is what the feds are going to do anyway. I gave you options, we have laid out for you three alternatives to compare with the base case of allowing the feds to set for you how you will repay them. Under the three alternatives, you can see that there is, we can change the amount of time it takes for you to repay the loan. We can make it less. We can make it more. We certainly change the interest rate. In each case, the interest rate is significantly reduced if I use the capital markets, that means right off the bat you're paying less money because you're paying less interest.

The final maturity date is approximately the same. However, I would tell you that I would structure such a bond purchase to allow us to pay it off early if the economy rebounded and we were able to do that, so I would build that automatically into the structure. No reason to maintain a debt if you don't have to. Then, you can see that I can structure what your savings are. In each scenario, you have present value savings of approximately anywhere from $52 to $58 million. So, for example, in 2011, we can make it so that the business community would not have to pay anything on that debt that they currently owe. We have heard from any number of people that your business community is hurting. There are concerns from the employee community that, if the business community is hurting and you raise their taxes, that might result in more jobs lost.

You're currently sitting here at 14 to 15% unemployment. I can see the strain both on the business community and the people looking for work. You might want to provide yourselves a little relief or a little extra space. This gives you that option to do that so you don't increase their taxes next year at all under this option.

If you use the capital markets, you have the ability to structure it that way. If you allow the feds to set it, you do not have that flexibility. You could structure it so that you could take your $30 million savings in 2011 and then you could take additional savings in 2012. It impacts what your present value savings are, little more, little less. In order to have this option available to you, I believe from the work that my staff has done and I really have to thank them. When we realized you had this October 5th meeting, my staff has really been working overtime to try to get the information in a way that we could present to you at this meeting knowing that you were being driven by your own deadlines.

It is the view of my staff that in order to have this option available to you, you would need to have enabling legislation that would allow you to use the capital markets and, what I would suggest is that, this is your decision, but what I would suggest is that you give yourself that opportunity because then, next year, you'll know what the feds are charging in interest. You'll know how much you owe and you'll know what the capital markets could offer you as an alternative and so you'll be able to weigh those things and then if you tell us, we'll issue, we'll go out on a bond. I would just offer that you give yourself the maximum flexibility.

Ms. Jones: Thank you, Mr. Chair, and I really appreciate all the work that you have done, Treasurer Marshall, as well as your staff. This is an opportunity to take a different approach to financing our Trust Fund loans, other than the one approach we did take when we borrowed so long ago when there were no interest costs. Six other states have taken advantage of bonding opportunities, so I think it'll be a growing financing methodology as the federal rate appears to be higher than the market rate. There has been discussions at the federal level of that too, so there's another area where they could change how they calculate their interest and, so I just have some questions so I understand. It is my understanding that this addresses our current outstanding debt. What about any outstanding debt that we will continue to accrue over the next couple of years, assuming we don't have a tax rate that is high enough to cover all the benefit payments? Do we issue different, additional bonds to continue financing that way? How does that work?

Kate Marshall: Right now, what this option will do is, that it will allow you to pay off the debt that you owe. It does not address the debt that you will owe. I am not a person that appreciates debt very much and so, of course, your ability to not incur more debt, I would think would be financially prudent in getting rid of this debt in the most fiscally responsible way, but this only deals with paying off the money you will owe by January 2011.

Ms. Jones: So, if the Council selects a rate that doesn't finance benefits for the upcoming year, is there an opportunity again to have another bonding opportunity for any new debt that we might owe because, as we had discussed, in order to not pay, in order to not borrow for the upcoming year, it would require a very significant rate increase, enough to collect, I believe, $860 million as opposed to the nearly $300 million that we're collecting at the current tax rate.

Because that's our expected benefit payments in the next year, so would that be something that you would do just every year, look at issuing bonds?

Kate Marshall: The Treasurer's Office does not appreciate debt. We would never recommend that you operate in a way that constantly puts you in a situation where you're going into debt.

Chairman Havas asked how the Treasurer's office look at the interest issue. Do they envision the federal government continuing its policy in relationship to Nevada to give us a waiver, a cost fee?

Kate Marshall responded by saying that one of the things that she has been doing when she was reviewing this, is working with our congressional delegation. It has been made clear to her that nothing will be done this year on both the House and the Senate side. There is some belief that they will attempt to do something next year. However, it will be very, very difficult and is unlikely to occur, that's another reason I'd pass this, but you don't know. They would not waive it again. Again, I suggest that you give yourself maximum flexibility. I would encourage the feds not to charge you interest if that suits you. You should certainly go and present your interest to your congressional delegation. This is an option to deal with the reality that you're currently faced with.

Chairman Havas asked what the legislative steps are that we would have to take and what kind of a timeline is involved?

Kate Marshall: As you saw on your slide 18, it said interest on the loans would be due on September 30th, so timing is actually very good for you. You could put in enabling legislation. The Legislature in this next session could pass that and we would have until September 30th to issue the debt so that we could pass off the loan at a lower interest then we would otherwise have to pay the feds.

Ms. Jones: If I might add onto that, Mr. Chairman. We currently have a BDR in, as we had mentioned earlier, that addresses some enabling legislation in order to pay any sort of interest costs regardless of who the lender might be for the loan, whether it's the federal government, whether it's through a bond issuance, that might be an opportunity through there to amend NRS 612, I do have a provision right now that allows the Administrator to take advances. It's 612.290, to take advances from the federal government for the payment of benefits and I would believe that would be the appropriate section that we would need to seek an amendment, that would allow other financing opportunities for trust fund debt, but that's something that we can address through mending our Bill Draft Request.

Chairman Havas: Yeah. I have, I have just a comment to make and my theoretical orientation is to be somewhat countercyclical and, of course, we don't have the good times now. We have the other times, but I do feel that we, if we have the opportunity to provide support for Nevada employers and respect Nevada employers and their needs at a very, very difficult time, that we should endeavor to adopt the lowest employer tax rate that is possible. If I understand it, are we developing flexibility in this area that is realistic, then I think we should consider the possibilities here and, that's just my personal comment.

Kathleen Johnson: If I'm understanding you correctly, we can borrow the money with a bond to pay off the federal government as to where we are right now. No one in this room think we're going to stop paying unemployment from this point forward, so this debt's going to go on and on. We either have to enact a higher tax rate to try to head this off or we're going to be another billion dollars in debt by September, when this might all be enacted, so what are we going to do, go for a bond presuming we will pay this much more money in unemployment and get a bond big enough to cover all of that?

Kate Marshall: As I said in the beginning, you currently owe the federal government money. If the federal government asks for their money back with interest, what this option allows you to do is to pay them back at a lower interest rate in structure that you choose. You owe them money today. This is another way to pay them back, paying less interest in every structure that gives your business community a little breathing room upfront, that's all it does.

Ms. Jones: So, if I'm understanding correctly, as opposed to having this portion of any potential debt on the books for years, until we get to the point where we can pay benefits and we're paying interest all along, we can pay this chunk off sooner at a lower interest rate, do I got it right?

Kate Marshall: You can pay it off , what you owe, right now at a lower interest rate than what the feds would otherwise charge you. When I say you, I'm really talking about the business community. They're the ones that will have to bear the brunt of this and I'm trying to give them a little breathing space and lower the taxes they would otherwise have to pay.

Ms. Jones: I certainly appreciate your efforts on this and as I mentioned in opening remarks, we are looking at a variety of financing opportunities. The Governor's Office has some financing opportunities they're looking at, as well, and we certainly look forward to working closely with you and the Governor's Office to find the financing methodology that saves us the most money. I'm all for that.

Kate Marshall: You know, through you, Mr. Chairman, to you, Ms. Johnson, I keep talking about what you'll owe by January 2011. If we were to issue this bond say in June or July, right, so I'm getting us through the next session to get the, enabling legislation, we could issue the bond to pay off all debt that has accrued to that date, right, so you would start owing nothing. But, I think you heard today that you don't have any money in your funds, but you could start clean, right, clear away all the debt that you owe today and then have a way to pay it back that is lower than what the feds would have you pay, that's what I'm setting, offering you here.

Ms. Jones: If I might add a little complication and Dave may be able to help me out with this, the federal government just issued new rules on cash flow loans, so the period that you're talking about that would be interest-free from January through September, if you paid it off, they just added some requirements that reduce state's access to that and I'm not sure if Dave or Donna has that with them or if we qualify now because it's based on the - Dave, am I correct - on the benefit cost rate average for the last five years? We may need to look at that, but they may have put a little complication in it if we're no longer eligible for that cash free loan.

That nine-month period or a period until when we could issue a bond, we could still be incurring interest at the federal government, but at whatever date we are able to issue a bond, we'll be able to cut that interest rate almost in half it appears. The problem is in the details on this and it's going to be complicated and, as we move forward, if we go through these alternate funding mechanisms that we've never used before, that adds yet another dimension to our rate setting process in the future, because we have to make sure our rates are appropriate to service our debt as well as pay benefits and as well as build up our solvency.

I really do appreciate you taking the time and effort to come to us with this alternative financing opportunity and I agree that, assuming the Governor's Office agrees with us, as well, that adding the flexibility into the statute is going to be the first step so that we have more choices than what is apparent here in our current statute that says borrow from the feds, so I really appreciate that.

Chairman Havas: Would it be prudent to adopt a tax rate that is consistent with the requirements of the federal government so that we do not jeopardize our Unemployment Compensation Program and yet, at the same time, we should exhaust the premises on the Bond Program for it? It means a lot of money and a lot of relief for Nevada employers. It can be a real benefit and why wouldn't we do it, that's the question given, it's a spread. I mean, that is money for our economy for Nevada employers.

Ms. Jones: To add onto some of the opening remarks I made where the federal government is interested in putting in place mechanisms that encourage Trust Fund solvency and one of those is to put more restrictions on those cash flow loans that, the January through September interest-free mechanism that's been in place for some time, in order to encourage states to rely on their tax systems and not on the federal government, to float them through the lower collection periods in their tax cycle, so we'll have to look and see how that's going to impact us. But, still, in the long run, if we can get any portion of our debt financed through a lower interest rate, I think that that's a good, very, very good thing.

Michelle Carranza: So, would employers essentially be subject to two different tax rates, one that would go towards paying off this debt and then one that would go towards funding unemployment insurance in the future and any additional debt?

Kate Marshall: No. There's one tax rate that pays into the State Unemployment Tax Act Trust Fund and that pays for benefits, loans, and to build solvency in the Trust Fund. There will be a separate assessment that's necessary and that's subject of the Bill Draft Request discussed by Donna that provides financing for the interest portion that's resultant from these trust fund loans and that we have to have that as a separate funding, separate assessment, separate collections per federal law, regardless of who the financer of the debt is, whether it's through the federal government, through a bonding mechanism, through a bank. It doesn't matter who's lending us the money. We have to keep the interest as a separate assessment or the general fund can also pay the interest, but I think that that's highly unlikely given the situation of our general fund in the State of Nevada.

Ross Whitacre: I think this is a wonderful opportunity that we ought to take advantage of. But, just out of curiosity, obviously, if we can bond this interest through legislation, that would be fantastic, but do you think, either one or both of you ladies, do you think that legislatively and administratively, but that's not quite the right word, but that the legislation could be passed and the process could be in place by September 30th so that the bond could be issued?

Kate Marshall: I have found the Legislators to be keen to lower taxes on employers.

Ms. Jones: I would certainly, Mr. Whitacre, dedicate my efforts towards working with the Legislature for a passage and approval type of mechanism, because there are systems that have to be put in place for the interest assessment. We have to, if we have any interest that has to be paid by September 30th, we have to assess, collect those bonds, all those other things, so it is, will be one of my primary legislative efforts, the primary legislative efforts for me in regards to unemployment insurance in Nevada for the upcoming session.

Chairman Havas commented that the Council was looking for a safety net all the same. Ms. Jones commented that to give the Treasurer some relief here, it's the responsibility of the Council and the Division to determine how far in debt that they get, that's not something that she controls. She can just provide us opportunities for funding debt.

VIII. <u>PUBLIC COMMENT</u>

Chairman Havas asked for any comments from the public on the subject, He asked if anyone in Las Vegas had anything to say.

Carole Villardo: Nevada Taxpayers Association. A couple of things maybe more in bullet points and be happy to answer any questions when I finish. One, I think it is imperative that the law be expanded to allow you to incur debt even if you choose not to. I think you've got to have as many tools as possible to help the employers. A major concern that we have is that the Legislature is going to continue the increased rate on the modified business tax and that has had a huge impact in this current economy. For that reason and because this is something that you do annually and it will give us the opportunity to find out exactly what changes in federal law will occur, which obviously will not happen until after the elections, politics being what it is, to decide next year what you need to do, but I would encourage you, at this point and time, to use the lowest rate that you can. Even with your most aggressive rate, we still do not necessarily pull out of the point where we're not going to have to borrow money, according to the economist's testimony earlier. So, at this point, knowing that it may be advantageous to do debt and, I agree with the Treasurer, debt is not something I like, but the point is we have this debt.

It's just a function of, who we're going to owe the money to pay the debt, whether it's the feds or it's going to be capital markets. So, to that end, having that in your toolbox, having the lowest rate possible until we see what the Legislature ultimately does with the modified business tax, until we find out if there's been a substantial change in ground rules on the part of the federal government, if we can kind of get ourselves through this period of January through September, we think that come next year, you can make a more informed decision.

I would also recommend, when I was in retailing in the 70's, we had an issue of solvency and, with that issue of solvency, there was provision for a solvency surcharge and I would ask that you consider having that legislation re-enacted.

There is a comfort level on the part of the business community and I know and I believe the Chairman would remember those periods in the 70's when we had this, there was a certain comfort level because, in building back solvency, there was an acknowledgement, yes, we had to do it, but when the solvency was completed, it was not something that got rolled into a rate and I appreciate what has been done over the years with establishing rates and being able to keep them low, but it still has a certain comfort level with not assuming that maybe a little bit of solvency winds up in the base rate and so I would ask that legislation be requested to have that ability and, again, it may not be something that you need, but it may prove to be worthwhile in the future and I think you need the ability to deal with this.

For the 70's and the 80's, this is the worst, obviously, any of us remember and I don't propose to speak for the Chairman, but I know the Chairman has been involved with this so much that I would expect that he probably agrees we're in the most difficult situation right now trying to provide benefits for the unemployed and trying to keep our employers as healthy as possible, which has become a huge challenge and, to that end, I thank you very much for allowing me to make these comments. I'll answer any questions if I can.

Chairman Havas: Carole, I really appreciate your commentary and I served for approximately thirty-eight, thirty-nine years on the Employment Security Council. I remember the surcharge. It did work very well and I, understand what you're saying; anybody else from Las Vegas? Thank you again, Carole.

Veronica Meter: Thank you. Mr. Chairman, members of the Council, Veronica Meter, Las Vegas Chamber of Commerce, Vice President Government Affairs. I appreciate this opportunity to come before you to comment on next year's unemployment insurance tax rate schedule. A year ago, I came before you and asked the Council to please consider keeping the rate flat in light of our severe economic recession and situation we were all facing and we fast forward a year and I am here before you once again and the situation we're facing is even more dire than it was last October. We're facing unprecedented unemployment rates in our State, the highest in the country. Our businesses are still struggling to keep their doors open and to hire Nevadans and not have to lay off any additional workers. Eighty percent of our jobs will be created by small business, so I am here today as a representative of the small business community. We have 6,500 members at the Chamber of Commerce in Las Vegas. 80% roughly of those are small businesses.

Our small businesses will be the ones that will help lower the unemployment rate in Nevada and it should be our priority and the priority of the State and your priority to ensure that we do everything we possibly can to nurture these businesses and not do anything to place additional burden on them as they continue to keep their doors open and, hopefully, hire more people and put people back to work and get them off the unemployment program. They're literally hanging on by their financial fingernails and, as some of you have mentioned earlier and the business community has come up, they are really struggling right now.

I ask, once again, today before you that we postpone increasing any kind of rate and if we could keep it flat to the extent that we possibly can that would be ideal to help us get more people back to work and, in turn, help our economic recovery.

I want to share with you, I have a piece of paper that was shared with me which is a request for comments from small business and I want to read that first line to you and using the words of the Security Division: "Due to the continuing, unprecedented economic downturn and the historic rate of unemployment, the Department of Employment Training and Rehabilitation, Employment Security Division, anticipates an increase may be necessary in the average unemployment insurance tax rate for experience rated employers for calendar year 2010" and I would only tell you that these are the very reasons, in that very first line of that request for comment why we should not raise or look at raising any kind of rate on our businesses and our employers in our state right now. This would only hurt small businesses and, in turn, will also help slow down our economic recovery.

Brian Walker: I'm the Director of Government Affairs for the Retail Association of Nevada. I also want to thank you for the opportunity to address the Council. I agree with both of the previous speakers. I will say, and what was brought up earlier, was what kind of affect an increase of, you know, almost doubling of the unemployment tax will have and I can assure you, that if you leave today with a huge increase that the affect it'll have on employment will be almost immediate. Employers will, especially in the retail industry going into the Christmas season, be thinking about that when they're making their next hires before January even begins. Your Council has a very profound impact on how employers are going to view their unemployment, or their employment status. We recently conducted a poll two weeks ago that found that more than 80% of Nevadans know someone or have been laid off and that number's up from February when we conducted the same poll, so we don't see this problem getting any better. The unemployment rate is the highest Nevada's ever seen and so we would just encourage you to go to the lowest possible rate that you could and kind of give business the chance to be able to get back on their feet before we start increasing the unemployment rolls.

Danny Costella: Mr. Chair, I just hope that the Retail Association and the Chamber of Commerce will lobby with labor when it comes time to enact Nevada only hiring legislation in the next session for these projects that will keep the tax base in Nevada, thank you.

Chairman Havas asked for comments in the Carson area who are in the audience.

Tray Abney: I am with the Reno-Sparks Chamber of Commerce representing 1,500 members and which translates to about 64,000 employees in the Truckee Meadows area. You may recall I appeared before you last year and told you the situation, the difficulties that my members were experiencing and I wish I could sit here and tell you a year later that it's gotten better, but it hasn't. In fact, for a lot of my members, it's gotten worse. You know, we've heard a lot about businesses being on the bubble and on the brink and I don't think I need to go further into that for you all. But, I can tell you that I cannot sit here today and say that we need to keep kicking the can down the road. We need to begin to address this problem, but address it in a responsible way knowing that there are no good answers. Knowing that, as we start to address this problem, you know, it's going to be painful for some employers, especially our small employers.

I think something like 95% of my membership would be considered small businesses. You know, that being said, I think there's probably a happy medium between the 1.33% rate we're at now and the, the maximum options are and I wish I had direction from my Board to give you what our magic number would be. I can tell you that we feel that it does need a modern increase and, preferably, a scaled up increase where the increase is a little bit next year and then maybe next year a little bit after that. Now, that being said, this Council here today will only recommend a rate for 2011 and so, a year later, even if you have all kinds of dreams and strategies of ramped up rates, you can re-assess all of that when we're sitting together a year from now. I can tell you that it's the position of the Reno-Sparks Chamber that we would prefer to see a solution, a state solution versus a federal solution, allow us here in Nevada to take care of our own issues and, with the pseudo-tax being based on a higher taxable wage base, we think that spreads out the responsibility to pay this back.

You know, we just feel that we need to move forward with something and it's prudent to not stay at the same rate that we are this year. As for other comments that have been made by the State Treasurer and by Ms. Vilardo, I think we can appreciate, anything that we can do legislatively next year to give us flexibility to do these things I think the Chamber can support and, obviously, we would all hope that Congress would do something to help us in this situation. But, I don't think we can sit here today in October and 2010 and depend on something that the State Legislature may or may not do and certainly depend on something that the Congress in Washington D.C. may or may not do. I think if we put a plan in place today for next year, you know, increase that rate a little bit and then, next October, we would be able to sit here and see, okay, what did the Legislature do? Did they give us a flexibility? Did they pass the Treasurer's Bill? Did they, the assessment that Ms. Vilardo was talking about, did they do that? And, I think, next October, we will have a much clearer picture both of where we're at, how much we've had to borrow up to that point and what the Legislature and maybe even Congress has done.

I would just close by reminding you that, in this past summer, summer of 2010, we saw a minimum wage increase, you know, per formula set by State Constitution. We will see whatever comes out of this Council come January 1. We will see an interest assessment probably that the Legislature passes and then we all know what has been going on as far as the State budget shortfall and whatever "tax solution" that the Legislature may come up with. It's almost a one-two-three-four-punch coming no matter what we do here, so I just want to make sure that all of you are well aware of all of those things that have been going on and these things will happen a lot, you know, before the Legislature ever even meets in February, so that's all I have, thank you very much.

Ray Bacon: I am with the Nevada Manufacturers Association. As you know from our personal discussions and things like that, I started watching this thing years ago when Stan was here and, my very first meetings, I took Stan to lunch and he spent about two hours explaining this to me and I'm still confused and that was twenty years ago. You've got our note and, fundamentally, we think that there is, I will agree with Carole's comments and I understand the direction of small employers. I have helped some place in the neighborhood of about sixty-five to seventy companies put the locks on the doors in the last eighteen months.

I would like to tell you that the manufacturing sector is solid and everything is headed back in the right direction in this State, but that would be dishonest if I did that.

If you take a look at what we service in the manufacturing sector, part of our manufacturing sector directly supports the gaming industry. Part of our manufacturing sector supports building materials and has for a long time. We've built, wall board and all kinds of things in this State. A part of our manufacturing sector is in place fundamentally to supply the California market because, especially from Las Vegas, you can ship something for free. There are two to two hundred and fifty trucks that go back to Las Vegas every night that are empty. Well, they'll fill them with just about anything because truckers don't like to drive empty. So, if you take those three sectors of the manufacturing sector, all those are hemorrhaging a lot. So, then we have the final sector, which is kind of the ones that can be located any place and those are doing various different degrees of healthiness. Anything that you do to increase the rate is going to do one of two things. It will either increase the unemployment rate or it will slow the re-hire rate. There is absolutely nothing you can do to increase the rates that are going to not have a negative effect.

One of the things that I believe this Council has to do, because the 5.4% cap rate is in statute, if I remember correctly, and that cannot be changed without legislative action. If you don't do that, anything you do to increase the rates, whether you do it this year or next year, doesn't really matter, is going to start to compress the rate for everybody. The good employers will be punished. As you can see in the rate charts that you show, every time you do that, when you start changing the increment and who's in the increment, which is the only mechanism that Cindy has to go through and adjust the rates. You lower the penalty threshold for the people that are causing the problem and you increase the threshold for the good employers. There are multiple things that you can do to fix that.

First of all, you can do some sort of an increase. You can ask the Legislature to increase that cap number from the 5.4% to about a 10% rate, or some place in that range, Washington's structure is not substantially different than ours. Theirs is in the neighborhood of about twelve and has been for quite awhile, that helps with the spread issue. It is easier and probably less painful on the overall situation if you take action to increase the rate rather than letting the federal thing come in play, because that penalizes the lower paid employees.

If you take a look at this slide, the Reserve Ratio Formula, it's contributions paid minus benefits charged for the life of the company. So, if you take a look at a company that has been around for thirty or forty years and say "We're going to limit that period to the last five years, the last ten years" you do something with that formula which tends to take more of a look at the current situation and less a look at the overall history of the company, that will tend to shift the load a little bit.

As we've seen and this is not to pick on the construction industry, Danny, by any stretch of the imagination, but the construction industry was far and away the leader in employment for decades and now its fallen off the edge of the cliff. As they fell off the edge of the cliff, they're still paying the rate for the ones that have been around for a long time based upon twenty years or thirty years worth of history and not what's going on in the industry currently. So, if you do something with those two factors or ask the Legislature to at least adjust those, you start to come to the point where you recognize the situation in more of a level of being current.

You're never going to get it, I don't think you want it to be perfectly current, because you want to ride over the recession periods. Nobody ever anticipated a recession that was going to last this long. This entire structure, when you go through and you dissect it and understand it, fundamentally says we're going to increase rates, but we're going to increase rates as employment is coming up, so it's planning like a three-year period. We're not going to have a three-year period.

Every economist that looks at the State of Nevada says we got five or six more years of this, so it's a matter of what do you want to do now and what do you want to do in the future. Employers are looking for some level of stability and predictability. If you can do something that says we're going to have a sizeable increase now and we're going to make every effort that we possibly can over the next three to five years to keep that number stable and the only thing we will look at seriously doing is reducing it, then the pain of the increase will be painful regardless, but the stability offers them a chance to adjust their head counts, adjust their wage base, do whatever they need to do to start taking a look at taking advantage of that stability.

I agree with Treasurer Marshall that there are things on this financing thing that we need to do to take a look at that, but there are multiple factors in the equation and all I'm saying is, if you're going to go to the Legislature with a request ,and I suspect this Council should make a request of the Governor and the legislative leadership, saying you've got to give us some more tools. I think if you go in there and say: "These are the flexibilities we need, these are the conditions that we need to have, so that we can address this thing for the long-term to bring about maximum stability, maximum predictability from the employers' standpoint" and that will impact employees, as well. I don't think you want to structure any kind of a bond to the point where you're paying it off twenty years from now. We need to re-build the Nevada Trust Fund. We probably need to raise the cap so that we can build the Nevada Trust Fund higher. We probably need some sort of a plan that gets us to the point where there's something in the Trust Fund sooner rather than later because Nevada has fundamentally changed.

I think you have to take a fairly aggressive stance towards creating that stability and predictability and making a commitment to the employers. This is how far up we're going to go. We will do everything we possibly can to keep it to the point where it doesn't take a second hit and then do all the other miscellaneous things you can do to free the system to give you the flexibility and you may even want to consider doing a mid-rate rate hike if you absolutely have to or doing a mid-rate adjustment, if you come back in six months from now and drop the rate, nobody will complain.

Jim Nelson: Executive Director, Nevada Association of Employers. I've sat back and listened to all of the comments of all the presenters, both in Las Vegas and here in Reno and, frankly, I don't disagree with any of the approaches that any of the individuals have taken.
I've been coming to these meetings since the mid 1980's and I've watched this panel, this Council grow and develop the Trust Fund over the years. My gosh, back in the 80's, it was twenty, thirty million. Three years ago, it was over $800 million. You guys have done a wonderful job overseeing the Trust Fund for all of these years and I've applauded you. I've even written articles in my newsletter passing along all the credit to this organization, to this Council for growing the Trust Fund. We're in unprecedented times right now.

We have to, in my career, we're never going to see the Trust Fund back where it was. I think that's just the reality. But, as Tray said, it's time to quit kicking this can down the road. We have to take a look at somehow getting back to the point where we can start at least not borrowing $100 million a month to pay the darn bills.

We have to figure out a way to do that and, with all due respect to my friend, Ray, I think 3%'s a little high. I think 1.33 is too low. You've got a lot of options in front of you this morning, this afternoon as high as 2.5 I believe, as low as 1.33. My members, the Nevada Association of Employers, I've been kind of getting them used to the fact that there's going to be a tax increase at some point and time and I think they're prepared for it. They need to be prepared for it because it's budget season. They have to be ready and look at their 2011 budget, that line in their budget. So, as I sit here this morning and try to figure out what's a good solution. Last year, I supported a 2% tax rate, average tax rate, and, of course, we kept it at 1.33 last year, but I really believe that we have to do something incremental.

I think 2% is fair. I think it's reasonable. It makes sense. Is it a lot? Yes. I mean, if I was doing some work, I took a look at the 2010 rate schedule that we had last year and I took a 5.5 reserve ratio and I plugged it into that schedule from last year and that was a .25% tax rate, the minimum. I took that same 5.5% reserve ratio and plugged it into a 2.5% rate schedule and that was an increase of five times, now that's a lot. But, I took the 2.0% rate schedule and I plugged in that 5.5% reserve, reserve ratio and it was an increase of threefold. Is that a lot? Yes. Is it better than 5? Yes. So, I think that's the direction that the Council should be taking. What's going to be, what's going to get the process going to fix this problem as painless as possible and so it would be my recommendation that we take a look at something around 2%. Do I like that? Heck no, but we have to fix this. You know, Cindy, last year, you said: "You can pay me now or you can pay me later", that's literally the situation that we're in.

IX. DISCUSSION AND POSSIBLE ACTION ON THE TAX RECOMMENDATION FOR YEAR 2010

Chairman Havas: At this juncture, I would invite a motion or we can discuss it obviously at this point and time and maybe we can develop some consensus among ourselves as to what kind of a tax rate we can support. We've heard a lot of testimony today and certainly we should all be very much intellectually stimulated by what we have heard. This is one of the best meetings I've ever participated in and we really appreciate all the comments from everybody, particularly members of the public, who have contributed significantly to this meeting. Why don't we just open it up? I'll start off by saying I like the idea of going to a 2.0 tax rate. I think that it gives us a degree of certainty and expectation and we have a rationale for the future, but again a lot has been stated today, so allow me to defer to my fellow, my colleagues on the Council.
Kathleen Johnson: I think we need a 2.5% increase, but I think in lieu of the fact that we didn't increase last year to hit employers with a 2.5 increase this time would be a double whammy, so I would also follow with a 2.0% increase.

Ms. Jones: If I, just to help the Council out, if you look at page 26 of the big presentation, that provides a summary of like the 2.5 and the 2.0 increases that might help you. It tells you what the difference in interest would be, and how it impacts the FUTA cap, assuming that we have that, and I just want to make one comment too that I think that we may have missed earlier. If we are able and I'm going to rely on Dave and Bill to correct me if I'm wrong, if we are able to take our existing debt and bond it, that will mean that we'll have outstanding debt to the feds one year less, so it would result in a delay in the FUTA offset credit reduction. We wouldn't have any outstanding debt. That adds an extra dimension. If we were able to finance things, that that's another aspect that the Treasurer and I fail to mention earlier that might weigh into your decision.

Chairman Havas noted that the Council needed to see the results of the legislative session. We need to consider all this in the context of what we are seeking, that we have a responsibility today to look at, arriving at a structure that will give some predictability and some certainty to the Nevada community, to Nevada employers and to Nevada employees and, we can't sit here and go too far out on a limb because we have that responsibility, we have exercised it in the past, we have to exercise it today.

Ross Whitacre: I think in making our decision what we're going to do, we also have to remember that whatever we are able to bond and at whatever interest rate that is low that it will be, we still have an obligation to pay that back and that is part of the long-term debt that we're going to have, be it paid over ten years, over twenty years. I think I'm, in my mind, being a little more aggressive, I'd like to get this under control as quickly as we can. It is a no-win situation. We've all said it. We all know it. I think I favor, myself, a 2.25 rate. I'll get that out on the table.

Margaret Wittenberg: When I came in this morning it was with the idea, with all this data, how could we possibly meet the needs of the employer and address the responsibilities of the Department and I'm more encouraged this afternoon having heard at least some options that may be before us. So, I would be supporting a lesser increase, but with some certainty, as the Chairman has said, that would afford everyone an opportunity, to better their position and, when looking at all these options that may be before us, and at least see a light at the end of the tunnel, but 2.5 is a large increase and I really think it would damage employers right now because they are struggling so much.

Paul Barton: I'd just like to say in viewing, in looking up at the standpoint of the employers and what they need at this point in time, I think it's maybe more prudent to go with the 2%. The option that we've seen on page 26 of that, and the option of increasing next year maybe getting a better look at some of the tools that we're going to have at our disposal next year. It seems to me that we will know a great deal more about what the feds are going to do and more about this bonding option, which may help us along the road a little bit easier at that point. So, I would support the 2%.

Chairman Havas asked if there were any other comments or discussion. ***Chuck Billings*** mentioned that after everything he has heard today, he would have to agree with the 2% also.

Chairman Havas asked if there was a motion.

Paul Barton: I would like to make the motion, we accept the 2% and take a look at the tools and what we're going to have at our disposal at a future date. So, I would motion for the 2% increase.

Chairman Havas stated that a motion has been made. He would ask for a second. ***Ross Whitacre*** seconded the motion. No further discussion was received. Chairman asked for a vote and the motion passed unanimously. Mr. Havas wanted it to go on record that the Council voted unanimously for the 2.0 % tax rate.

Ms. Jones, the Administrator: Thank you, Mr. Chairman. Thank you for your recommendation in considering the rate schedule for adoption and I will consider your recommendation. The official adoption of the tax rate schedule still has a few steps to go through. We will have the small business workshop that Ms. Clark mentioned. We also have the regulation adoption hearing, which is scheduled for December 7, 2010. I appreciate everyone's input. I know there is no good answer and I appreciate the Council's commitment to supporting the agency in working to expand our tool set to help us address this unprecedented situation that Nevada and a number of states find themselves in. Thank you and thank you to the public for your time.

X. ADJOURNMENT

Chairman Havas deferred the meeting to Ms. Jones to express gratitude to Donna Clark for the thirty years of excellent service with the Employment Security Division, with DETR. Ms. Clark will be retiring soon. Mr. Havas wanted Ms. Jones to make an official statement so that it could be read into the record.

Ms. Jones: Thank you, Donna. Ms. Clark is certainly the tax expert for the State of Nevada when it comes to unemployment insurance and is a nationally renowned tax expert. I appreciate her insight, her support, her mentoring, her leadership, her friendship, and she will be sorely missed. I would just like to offer my gratitude for her service to the State of Nevada for the past thirty years, thank you.

Chairman Havas invited a motion to adjourn. A motion was made and seconded.
The meeting/workshop was adjourned.

NOTE: These minutes have been approved at the Employment Security Council meeting on October 4, 2011.