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

October 2, 2012

Live Meeting:
Legislative Building
401 S. Carson Street, Room 2134
Carson City, Nevada 89701

Video Conference to:
Grant Sawyer Building
555 E. Washington Ave., Room 4412E
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 – Emplooyers/BOR
Paul Barton – Public
Ross Whitacre – Public
(BOR – Board of Review)

Council Members Absent
David Garbarino – Employees/Labor
Michelle Carranza – Employers

Department of Employment, Training and Rehabilitation (DETR) Staff
Present in Carson City
Renee L. Olson, Division Administrator, Employment Security Division (ESD), DETR
Kelly D. Karch, Deputy Administrator, ESD/DETR
J. Thomas Susich, Senior Legal Counsel, ESD/DETR
Dennis Perea, Deputy Director, DETR
David Haws, Administgrator, IDP/DETR
David Schmidt, Bureau of Research & Analysis, DETR
Margaret Montes, Integrity Programs, ESD/DETR
Edgar Roberts, Chief, Unemployment Contributions (UIC), ESD/DETR
Flo Bedrosian, UIC/ESD/DETR
Paul Brugger, Management Analyst, UIC/ESD/DETR
Jessica Banes, UIC/ESD/DETR
Lynn King, Administrative Office, ESD/DETR
Joyce Golden, Administrative Office, ESD/DETR

Present in Las Vegas
Art Martinez, ESD/DETR

Members of the Public, Media and Other Agencies
Ed Vogel, Las Vegas Review Journal, Carson City/NV
Ray Bacon, Nevada Manufacturers Association, Carson City/NV
Carole Villardo, NTS, LV/NV

Jim Nelson, NAE, Reno/NV
Tray Abney, Chamber of Commerce, Reno/NV
Brian McAnallen, Chamber of Commerce, Las Vegas/NV
Jim Reynolds, Las Vegs Field Audit, Las Vegas/NV

Exhibits

Exhibit A - Attendance Record

Exhibit B - Agenda for the Meeting/Workshop

Exhibit C - Impact of Federal Borrowing

Exhibit D - ESS – Employer Self Service

Exhibit E - System Integrity

Exhibit F - Economic Projections and Overview

Exhibit G - Review of UI Trust Fund

Exhibit H - Tax Schedule Explanation

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 2, 2012. It's time to call to order the State of Nevada Employment Security Council meeting. And as an immediate measure, I think we should introduce ourselves. From my right to the left, if you would just indicate who you are and who you represent, I'd appreciate it very much.

II. INTRODUCTION OF COUNCIL MEMBERS

Paul Barton representing the public.
Margaret Wittenberg, member of the Board of Review, I represent employers.
Kelly Karch, Deputy Administrator, Unemployment Insurance System.
Renee Olson, Division Administrator of the Employment Security Division.
Paul Havas, Chairman of the Employment Security Council.
Tom Susich, Senior Legal Counsel for the Employment Security Division.
Katie Johnson, representing the Public and Chairperson at the Board of Review.
Ross Whitacre, representing the public.
Danny Costella, representing Employees/Labor.
Charles Billings, representing Employees/Labor and member of the Board of Review.

Mr. Havas thanked everyone and mentioned that before going into the Agenda, he would like to acknowledge, and recognize Bill Gibbons of the Gibbons Company, who passed away on August 16th, this year. Bill participated in every aspect of this organization as far as I was concerned. In the early days, in the '80s, he was very fundamental and significant in the legislative process, insofar as job claimant legislation and career enhancement aspects, and we will truly miss Bill. Our expression of sympathy goes out to his family. Thank you very much.

III. A. PUBLIC COMMENTS

Mr. Havas said he would like to have for a possible action, approval of the minutes from October 4th. This was our Security Council meeting. And we can have public comment on the minutes, as well as a motion for approval of those minutes. If we could, I might invite public comment from the Northern Nevada area first. Any public comment from Las Vegas? I see there is.

Arturo Martinez from the Southern Office. There are no comments at this time from Las Vegas. Thank you.

B. APPROVAL OF MINUTES FROM OCTOBER 4, 2011

At this point Mr. Havas invited the members to make a motion to approve the minutes of October 4, 2011.

Paul Barton made the motion to approve the minutes.

Renee Olson seconded the motion.

The Chairman said it has been moved and seconded that we approve the minutes from October 4, 2011. Any discussion? Hearing none, all those in favor of the minutes, signify by saying aye. The Council carried the motion with a unanimous "AYE". There was no opposition.

Here the Chair asked to hear from Renee Olson, the new Administrator for the Employment Security Division, who will provide the Council with agency and legislative updates.

IV. AGENCY AND LEGISLATIVE UPDATES

Renee L. Olson, Administrator, Employment Security Division (ESD)

Good morning. My name is Renee Olson. I serve as the administrator of the Employment Security Division for the Department of Employment Training and Rehabilitation. By way of a quick introduction, I thought I'd let you know that I have been with DETR for approximately 10 years, working in the Financial Management unit. I was the Chief Financial Officer prior to my appointment as the Administrator, and I've been the Administrator since January of this year. And all I can say about that is time really flies. But it has definitely been my pleasure and honor to serve. That being said, although I'm new to the Council meeting process, I know we have all the right DETR and ESD folks here to provide you the information you need in making your recommendation today. I would like to thank them now for their participation, assistance, and support. I'm also going to ask your indulgence, Chairman Havas, that if there are any questions that I need assistance in answering, as we go forward, I will ask staff for input as needed. With that said, I do have some agency and legislative updates for you today.

In terms of the current agency initiatives, the Division continues its work in managing an outstanding trust fund loan. As of today, borrowing stands at approximately $681 million. Interest for the last year accrued at a rate of 2.94%, and we just made our second interest payment of approximately $24 million. Consideration is being given to the options for mitigation of that debt, and some of my comments coming up about legislative updates will address some of the choices we have before us in the months ahead. Implementation of the new benefit and tax system called UInv continues as planned. We will go live by the end of May of 2013.

UInv and all the hard work that the program and project staff have invested in its development, will be integral to the success of the UInv program in Nevada for many years to come. I know that Nevada will be known as having the best system in the country, and that the dollar investment we made was not only critical to sustaining our ability to pay benefits and collect taxes accurately and efficiently, but that the functionality we put into the system will prove invaluable in many ways as we move forward into the future and meet the challenges that come our way. ESD is also focusing on its existing resources on reducing and controlling improper payments to the greatest extent possible. Fraud accounts for approximately 50% of all improper payments, and as you will hear later in the meeting, ESD is paying particular attention to system integrity.

I'd like to move on now to the legislative updates. These first items deal with required conformity between federal and state laws. Our failure to comply could lead to decertification of the state's UI program, which would mean we would lose our federal administrative grant funds and employers could lose the FUTA tax rate offset. So in terms of fraudulent claims, the Federal Trade Adjustment Assistance Extension Act of 2011 requires two changes.

First, the states must add a 15% financial penalty upon the amount of benefits obtained by fraud. The federal legislation further directed that this 15% penalty be deposited into the state's unemployment trust fund. Second, the same federal legislation also includes the requirement that an employer's unemployment account may not be relieved of charges when the employer fails to provide adequate separation information resulting from an overpayment by the Division. This requirement also includes reimbursable employers. Finally, although this piece is not a federal conformity issue, the same bill draft also seeks to extend the time that the Administrator has to determine fraud from 2 to 4 years, and add an additional 5% penalty to be used to offset costs of integrity measures.

The next series of bill draft requests I will discuss deal with the issue of debt service. As I mentioned previously, the state continues to deal with the federal trust fund borrowing. Nevada has been borrowing from the federal government to pay benefits since October of 2009. As of today, as I have stated earlier, the principal balance of the loan is approximately $681 million, and we just made our second interest payment of almost $24 million. The Division must address the outstanding debt and has put forth the following legislation to provide the means to pay interest, repay principal, refinance the debt and restore solvency to the trust fund. The Division put forth a bill draft request for a special interest assessment.

This legislation provides the statutory mechanism to collect a special assessment from employers for the payment of interest on outstanding trust fund debt. Whether the debt remains federal or is otherwise refinanced, the interest must be paid and cannot be paid using the state's unemployment trust fund. Establishing a separate interest assessment will be necessary should the State want to refinance the debt by issuing special revenue bonds in the bond market. If the bonding option is selected, no part of the debt service can come from the general fund. Otherwise, the bond could be considered a general obligation bond, and the amount of UI borrowing currently exceeds the state's limit for general obligation bonds.

The Division also put forth a means to establish a special solvency assessment. This legislation establishes authority to charge a special assessment to employers for the principal repayment of the outstanding loan debt and provides additional means of reestablishing adequate solvency reserves in the trust fund. The proposed means of establishing this rate is that we would basically mirror the process we have here today for establishing the base rate, with a recommendation by the Council for the assessment rate. The assessment rate would end at the point that the loans are repaid and solvency reserve is restored. Should the bonding legislation be passed and the state opts to refinance the debt through bonding, this will create a dedicated source of debt service revenue and therefore better position the bond offering for acceptance in the bond market and improve the available terms for the bond issuance.

We have also requested bonding authority. This legislation requests the authority for the Administrator to issue bonds in order to refinance the UI trust fund borrowing debt. This does not make bonding automatic or required, but it does give the Division an option to be used to improve the repayment terms of the outstanding loan balance.

The next bill draft request I will discuss constitutes substantive policy changes within the UI program. The Division has requested to have a waiting week for the initial payment of benefits. The establishment of a waiting week for the receipt of benefits for an initial claim would allow additional time for the Division to receive information necessary for a proper determination of benefits, and would avoid the overpayment of benefits, due to false or missing statements regarding separation. It does not eliminate a week of benefits, but it delays the first payment one week. A majority of states already have a waiting week.

Next, the Division has submitted a request for authority to improve and streamline the process for garnishing wages as part of the Division's collection efforts. When a claimant who receives an overpayment fails to stick to an established payment schedule, the Department will have the authority to garnish wages and recover overpayments. My next comments are in regard to the request to establish a work share or also called a short-term benefit program. This program allows the Division to continue to pay unemployment insurance benefits as a means of averting a layoff. It allows an employer to reduce hours rather than lay off staff for a short-term period, until the business cycle recovers and hours can be restored. The benefit would supplement for work hours lost and keep the employees working. The federal government will pay the administrative and programming costs for the program for two years.

The next two items deal with the transfer of tax debt when businesses change ownership. In discussing the rate first, NRS currently provides for experience rating to be transferred to another entity in cases where an entity transfers some or all of its assets to another entity. In such cases, the debt due to the state for unpaid employment taxes should also be transferred to the successor entity. We seek to amend statute to provide that when a rate is transferred, the debt is transferred as well. This will allow the Division to pursue collection activities not presently provided in statute. In terms of the sale or a transfer of assets, the statute does not allow the Employment Security Division to pursue collection for the transfer of assets except in the case of an outright sale, and only then, through lengthy and expensive court action. The Division seeks to amend the statute to provide tha,t when assets are transferred, in the case of a sale or any other form of transfer of assets, the debt is transferred to the successor entity. This would expedite and facilitate the Division's collection effort in these cases.

Finally, in terms of legislative update, we have some clarification language that we offered. We have requested additional language that will allow for the efficient release of liens against the property of claimants who have satisfied or otherwise been released from a judgment. Currently, the counties cannot charge us to record the liens; however, they do charge us for the release of the liens, which is creating a problem for those folks who should have that lease released and it's not efficiently being released. I'll conclude my update by stating the obvious and saying that it's difficult to anticipate what the federal government is going to do in the next six months. The end of the year poses two critical events that would directly affect the state's unemployment situation. First, the Federal Emergency Unemployment Compensation Program is set to completely expire by January 3rd. Unless Congress extends these benefits, the program comes to an absolute stop. No matter where claimants are in their weeks of eligibility, their benefits would end. These are folks that have already exhausted their regular state unemployment insurance benefits, so they've been unemployed at least 26 weeks. I see no indication about what Congress might do toward extending those benefits again.

Secondly, we've heard about the fiscal cliff. If Congress doesn't find a way to avoid sequestration, we will see a significant cut to many discretionary programs, including funding within the Department of Labor. It would mean an approximate 8.2% cut to discretionary programs, so we are currently looking into the impacts of those cuts. On that note, I'll conclude my remarks, and next you'll hear a variety of presentations from DETR staff regarding ongoing agency initiatives, and you'll get some information on the impacts of trust fund borrowing. Thank you for your time and attention.

Chairman Havas thanked the Administrator. My sense, and I'm sure the feelings of the Council will be that, how do we participate as members of the Employment Security Council with these legislative perspective, possible legislative measures and some of the means to the ends that have been delineated. These are all very substantive areas of great interest and some are very controversial. Some cost less, some cost more. I mean, talk about something like an assessment or if you're talking about, I hate to use the word arbitrage, but it is, you know, the arbitrage of the bonding where it's a no-brainer, where you're going to go out and pick up the differential between, the public markets and what we have to pay. And in these kinds of scenarios, it just seems to me, at least I have responsibility as chairman to ask for a comment and input from the members of this council on this just very important area. I would like to hear from Renee Olson on my request as to how we can participate or how will we participate?

The Administrator Renee Olson replied that she would welcome participation and conversation, and work that we could do together to look at what these legislative proposals mean. She absolutely would welcome that participation.

V. <u>IMPACT OF FEDERAL BORROWING (Exhibit C)</u>

David Schmidt, Economist, Research & Analysis Bureau

Chairman Havas gave the floor to Dave Schmidt for the next presentation, the impact of federal borrowing.

Thank you, Mr. Chairman, members of the Council. You all are seeing me a little bit earlier than you typically do at these Council meetings today, and that's because I have two presentations for you. This one is focused sort of, on a national scale of thinking about federal borrowing, because this is something that doesn't just affect Nevada. So I wanted to try to provide some additional perspective. And then later during the workshop portion of this meeting, I will provide my normal unemployment insurance system review and forecasts so you can make your recommendation as to our average tax rate. I will be showing a number of slides.

Just a quick overview for Nevada, as the Administrator had mentioned, we began borrowing in October of 2009. Money is borrowed from the federal government in order to pay regular unemployment benefits. All of the extended benefits programs have been 100% paid for by the federal government, so any borrowing that takes place has not been for those. It's only been for the regular benefit program. When we borrow money from the federal government, this affects federal unemployment insurance taxes, as well as accruing interest. Obviously, if you borrow in private market, interest is something that comes as a part of that, no matter where you borrow. But when you borrow from the federal government, there's been additional impact on the federal unemployment insurance taxes that employers in that state pay. And, again, many states were affected by this. Roughly 30 states had to borrow at some point during the recession. Nevada is not alone, and although I think you'll see that Nevada was particularly hard hit. Looking back to the very beginning of the UI system in 1938, this takes a look at borrowing from a federal, or on the national scale, as well as on a state scale.

You can see that borrowing first happened in the late 1950s. In the '70s, there was a large period of borrowing nationwide. Nevada also borrowed, but the borrowing wasn't nearly as bad here as it was across the country. Those loans actually weren't fully repaid until the early 1990s, nationally, when the last states were finally able to repay those loans. In the '70s, in response to this borrowing, Nevada made some statutory changes like instituting the index taxable wage base that we have today, where originally in the UI system nationwide, the base for state unemployment taxes was the same as the base for federal unemployment taxes at $7,000. And over time, some states began to implement changes to that, in order to change the way that they collect money. One of those is an index base, because average benefits are tied to someone's earnings, and so they're tied to average wages in the state. In the same way, by indexing the wage base on which we collect money for the unemployment insurance system, you're able to tie together benefits that are paid out and taxes that are brought in so that you don't have a situation where benefits are always going up because of inflation, but your wage base stays the same. After making this change, this helped with Nevada's solvency. We didn't have to borrow after the 1970s until the current recession. When you can see, obviously, Nevada had to borrow much more than the average state nationwide, because Nevada was very hard hit by this recession.

Looking at the next slide you can see that nationwide, there was a 150% increase in benefit payments from 2007 to 2009, which means that benefit payments ended up roughly 2½ times where they were in 2009 compared to 2007. In Nevada, that increase was almost 250%. We more than tripled the amount of benefit payments that we were making from 2007 to 2009. We went from paying $20 or $30 million a month in benefits to over $100 million a month. So Nevada was particularly hard hit. But if you look at this through the measure of the benefit cost rate, the tax rate that would be needed to pay for benefits in any given year, Nevada actually, the benefit cost rate for Nevada was lower. This is because we have that index taxable wage base.

If you look at the red line here, which is the United States total, you can see really from the early '90s to 2010, you just have that sort of gradual creep upward in the peaks or in the valleys, and you can see that's the effect. If you don't have that index taxable wage base, over time your tax rates have to go up to continue paying for the system, otherwise your overall solvency will go down. And actually the tax rates that were necessary were creeping up, but the overall solvency of the system nationwide has been creeping down.

That's not the case in Nevada. You can see both the peaks and the valleys from the mid 1980s to the present was actually very flat. Because we had that index taxable wage base, we don't then have to keep increasing the tax rates every year in order to keep up with inflation. But nevertheless, whether it's nationwide or in Nevada, the tax rates that would have been needed to pay for benefits during the height of the recession were very high. In Nevada, it was over 4.5%, to the point where it's mathematically not possible without changes to the way we actually collect revenue, to have had the tax rate that high. Because we have a fixed 2.95% rate for new employers in the state, in order to get the average up to almost 5%, even if every single employer that wasn't a new employer was paying the maximum rate of 5.4%, the average still couldn't have gotten that high. This is why we have, typically, a trust fund in reserve; so that when times become very bad we have that cushion we can draw from what we've saved in order to pay for benefits, instead of trying to make the tax rate every single year what's necessary to pay for benefits. But obviously we've had to borrow, and because we've borrowed we have the two big costs of borrowing; again, interest and the change to the federal unemployment tax.

Looking at interest from 2011 to 2012, the rate that was charged fell from 4.08% to 2.94%. This is because the interest that is charged is tied to the interest that is earned by states that have a positive trust fund balance. And because states are required to maintain their trust funds in an account with the U.S. Treasury and because the Treasury holds those funds as a range of different U.S. securities, the interest rate that they earn, and therefore the interest rate that we pay, is closely tied to the interest rate on U.S. debt. And because of the current economic situation, because of the actions by the Federal Reserve, that interest rate has been coming down. And so the rate that we have to pay, if we borrow from the federal government, has been coming down as well. That decline in the rate from a little over 4 to a little under 3% saved the state, in 2012 alone, probably $8 to $9 million.

As the Administrator was discussing bonding, this is one thing that states have to consider. Some states bonded very early, 2009, in the process to quickly try to get away from the impact on the federal taxes to try to handle this privately, and some states locked in bond rates when the interest rate from federal borrowing was 4, 4.5% and bonding looked like a really good deal at 3%. Obviously now, with the federal rates continuing to slide, that's not looking like such a good deal as it was at the time. And so these are sorts of questions that within the Department, you know, conversations that had to try to figure out what's the best rate; what's the best alternative for employers in the state. Taking a look at the total amount of loans outstanding from the federal government, and the total amount of interest that's been paid, you can see there, in blue, we have the balance in 2011 and the balance in 2012, in red, the interest, total interest obligations. It's important to remember that the balance here is a snapshot in time. This is the balance as of roughly mid-September. The interest is the interest that is due September, or was due on September 30th, but that interest has accrued on a daily basis over the course of the year.

So you can see while the overall balances have actually declined pretty significantly as of mid-September, the interest hasn't declined as much despite that cut in the interest rate. I think the big reason for this is that a lot of states like Nevada are shifting into a repayment gear, or they're going from a point where their balance is going up over time, because they're net borrowing to a point where their balance is coming down over time, because they're starting to repay their loans.

So because they started off the year with a higher balance than they ended, the balance looks sort of arbitrarily lower compared to the interest. The big takeaway that I'd like you to see here is that this is something nationally that's happening, where states are starting to repay their loans and they're starting to think not about how are we going to make it through the next year; where are we going to get the money to keep paying benefits; are we borrowing it from here or here. But rather how are we going to start repaying these loans that we've had as the economy slowly starts to recover. The other main cost of borrowing is the impact on federal unemployment taxes. And so I have here a comparison of federal unemployment taxes and state unemployment taxes, because it's important to keep these two separate.

The federal unemployment taxes are levied on a fixed wage base of $7,000 per employee per year. The state tax base, as I said before, is indexed. So in 2013, it'll be $26,900 per employee per year, which means that wages above that limit are not subject to the state unemployment tax. The federal unemployment taxes, obviously, are paid to the federal government through the typical tax process, where it's due sort of in the year after the wages are earned. It's looking at the full calendar year instead of an individual quarter, whereas the state unemployment taxes are paid to Nevada and it's a quarterly sort of basis where employers submit reports. Here's all of our wages. Here's the taxes that are due, and they're paid a little bit more regularly. So in early 2012, the federal unemployment taxes that were due for calendar year 2011 were collected. When I start talking about how the federal unemployment taxes go up, they go up in one year and then are collected in the next year. The federal unemployment taxes in Nevada first went up relative to their base in 2011. They were collected for the first time in early 2012. The federal unemployment taxes are on a fixed tax rate of 6%. Employers typically receive a 5.4% credit toward that, which can be removed if the state's UI program is decertified, which the Administrator referred to earlier, if we are out of conformity with federal law. That credit is also gradually reduced in states that are borrowing, as I've mentioned. In Nevada, the tax rate is set each year by regulation based on the recommendation that the Council will make. Currently, that is 2%.

Chairman Havas asked Dave to address the FUTA reduction that occurred here recently, in the last year given the impact of the average tax rate that we adopted as we move forth that rate as the Council. And the reason why I'm asking the question, there has been a little confusion on that and there's a lot of concern from employers in the state as to how this is going to continue. Is it going to continue to impact employers?

Dave Schmidt said he was just going into that. So what happens is, the federal unemployment taxes, that credit gets reduced, but I'll speak of it as essentially the taxes are increasing. The overall tax package, you know, the rate that employers would have to pay with no program is still 6%. And so it's hard to speak about taxes increasing. But that's the effective situation where, because that credit that they receive is getting reduced, the tax rate they effectively pay is going up. And so I'll probably try to sort of refer to that in shorthand to try to avoid a little bit of confusion. It's obviously a very complex topic. So that credit gets reduced, the taxes go up by 0.3% per year, once states have been borrowing for a specific amount of time. In 2011, the rate went up by 0.3%. That was collected in early 2012. In 2012, the rate will go up by another 0.3% to a total increase of 0.6%, and that'll be collected in early 2013.

Chairman Havas said that he thought that if we made a best-efforts attempt at collections and if we had an established tax rate that represented and reflected our manifested desire to participate with the program, that we would not see a FUTA offset.

Dave Schmidt continued that there are some provisions where if we were meeting certain benchmarks toward restoring solvency, then we can cap or avoid that FUTA offset. The avoidance is more specific to statutory changes. In order to not have to pay the FUTA offset at all in a given year while borrowing, the state has to repay an amount of principal that's equal to the amount of repayment that would have taken place if the FUTA offset were in place, but that has to be a statutory change. It requires the state to change their law in some way that repays loans by more than would otherwise be repaid by FUTA. It's also important to note that these offsets where FUTA do go directly toward the repayment of principal. It's not like this is money that is taxed from employers and then vanishes.

Every month, actually, federal taxes that were due and collected during the prior month, we get a statement that says $26,000 this month, you know, that share is going toward paying down Nevada's loans. There will actually be, today, some options as far as the tax rate that might allow us to cap those FUTA offsets for 2013, to prevent them from continuing to increase where they are this year. But the criteria for that is something that, I think it's about two or three slides away. So Nevada, in 2011, the rate went up by 0.3%. That was collected in 2012. In 2012, the rate is going up by a total of 0.6%, 0.3 from '11, 0.3 from '12, and that'll be collected in early 2013. Over the course the year, in 2012, roughly $1.7 billion nationwide was collected through these increases, employer's federal taxes, to go toward the repayment of their federal loans. Nevada is very much in the same sort of schedule as the vast majority of employers nationwide.

The following chart shows you, in 2011, a large number of states, 19 states, were affected by that 0.3% credit reduction for the first time. There were a couple of states that had borrowed earlier than 2009, and so their FUTA credit reductions kicked in earlier than in Nevada. But Nevada, like most states, experienced very high benefit payments in 2009, and began to borrow then. And so the FUTA credit reduction began to take place in 2011. In 2012, that block of states will shift up to that 0.6% credit reduction just like Nevada. And so this chart shows that there are a large number of states that have to borrow. There are some states that managed to delay borrowing until 2010, and so they'll see that first 0.3% increase this year, in 2012.

The way that this works is if a state has outstanding loans on January 2nd, for two consecutive years, the federal government begins to reduce that FUTA credit. This, as I said before, is an effective increase on the employer's federal unemployment taxes. The longer borrowing continues this credit reduction generally continues to go up. And all revenue generated by this increase is applied to the outstanding loan balance. There are two components to this. There's the base credit reduction, which is 0.3% per employee per year. On top of that, there's an addition potential reduction if a state is not, if a state takes some action which would decrease its solvency. And I think this is what you were thinking of where beginning in the fifth year, if a state says we don't really want to repay our loans. We're going to cut our taxes. We're going to increase our benefits. We're going to do something which, on balance, would be expected to leave us in a worse position instead of a better position, then in addition to this 0.3% baseline there's an additional tax increase that gets put on top of that to essentially say if you're not going to be repaying your loans, we'll lean on the employers through the federal unemployment taxes to make sure this starts to happen. And that can be a pretty large increase, depending on where the state's tax rate is. If the state had a low tax rate, this increase gets larger. If the state has a relatively higher tax rate, that increase would be smaller. But because this is easily avoided, because the state can, as long as it maintains its efforts to restore solvency, avoid this.

Mr. Havas said that his concern was that when we adopted a 2.0 amount, we were looking at that number as a floor, you might say, as something that would protect us from a reduction in the FUTA credit. And I don't feel that we had enough discussion on the subject, and I was hoping that we can have further discussion. Now, I'm not saying that was our fault. I'm saying that the Feds should provide us with better guidance and clarification on what our best efforts mean as we adopt our manifest willingness to improve and contribute to the work product and to the efficacy of the system, which is what we're trying to do. Does that make sense?

Mr. Schmidt answered "Yes". The main way that we have, short of completely eliminating the FUTA credit offsets, which I'll close with; short of doing that, the state does have an option to cap these offsets. What we can do is if we are meeting certain criteria, we're able to prevent the reduction from going any higher. And this cap is either 0.6% or whatever their credit reduction was in the prior year if that's higher. So you can't cap the rate and cause it to go down, but you can prevent it from going up further. And that's the main option that's available unless the state completely repays its federal borrowing. So by capping the rate, you can prevent that offset from continuing to increase. And I think, as I recall, it was sort of in this vein that increasing to 2% helps us get closer to achieving these caps, at some point down the road, where a 1.33% rate like we had earlier really wouldn't have gotten close to this.

The federal taxes would have increased even more steeply, particularly starting in 2014. The criteria that the state has to meet in order to cap the federal tax increases, there are four of them, which are on the slide. The state can't take any action during the federal fiscal year, which would result in a reduction of the state's unemployment tax effort. The state can't take any action that would result in a net decrease of the solvency of the system. The state tax rate has to be greater than or equal to the five-year average benefit cost rate. Again, that rate that would be necessary in any given year in order to pay for benefits. So your overall tax rate has to be higher than the five-year average cost of your benefits.

And finally, your outstanding loans have to be lower than they were in the third prior year. And so those last two criteria, whereas the state increases its tax effort, it's better able to meet those criteria of, you have to have a rate that's at least as high as your benefit cost rate. And it's more able to quickly pay down the loans that you can meet that criteria of having a loan balance that's lower than it was three years ago. And as I'll mention in a little bit more detail in the presentation later, these will actually come into play for the Council considering tax rates for 2013. Because, since 2013 is the first year when the federal offset would be higher than 0.6%, so it's higher than that floor, this is the first year where based on a decision that's made by the Council, we can actually achieve a cap for 2013. And I'll go into what it will take to do that in my next presentation. Aside from capping the federal offsets, the state can eliminate the federal offsets and get rid of those completely.

In order to do that, it has to repay its federal loans. To completely get rid of it, that's what you do, is you stop borrowing from the feds; they stop raising your federal unemployment taxes. A lot of states are looking at, how we might do this. You can do it by paying it off through your state system. You can increase your state taxes sufficiently to pay off those loans. You can cut your benefits to improve your cash flow and pay down loans faster. You can impose additional solvency taxes outside of your normal state collection efforts. Some states have triggers like this, where if their trust fund falls to a certain level there's just an automatic tax increase that comes in to keep that cash flow going or pay back those loans so that these offsets don't take place. Or you can take your borrowing away from the federal government and refinance it into the private market. Because from the federal government's perspective, if you borrowed money from this bank over here, these federal tax offsets don't come into play. If you borrow money from them, then these provisions come into play to make sure that they get repaid. It's sort of a corollary to if you have private debt, you have to secure that debt by saying we will have this cash flow, you know, dedicated to paying this back.

If you borrow from the federal government, you don't have to make that sort of arrangement, but these federal tax increases play a similar role, where if you've been borrowing for a certain amount of time they will generate this cash flow stream to go in toward paying that debt back. So it's similar, but different also. But these are decisions that many different states are wrestling with right now. A number of states have started to bond. That total is still less than 10. But states are looking into it; looking at what sort of options do we have to make sure that the cost to employers is as small as possible while at the same time making sure that we can pay down this debt from the last recession and begin to prepare for recessions in the future. And that's the end of this presentation.

Chairman Havas asked if the members of the Council have questions or input for David. How would you characterize implementation of the public markets or nonfederal borrowings? If we see the opportunity, our economists tell us this is a good time to exercise this decision in the context, of course, of repayment schedules and so on, how do we do it? I mean, what is the actually operational definition?

Administrator Olson asked if she might address that question. First of all, we have to have the statutory authority established for issuing of the bonds. So that would be the first step in getting there. We have to decide, again, the other statutory proposals we've put forth as to have the solvency assessment and an interest assessment that would provide a separate stream of income for the debt service of that. And then once we have those tools in place, if we get to the point where we're looking at the terms available in the market, we decide that the terms, at that point, are beneficial; we can flip the switch and go with bonding, but we still have to first get the statutory language, or the statutory authority established to do that. But we would be working with the Treasurer's office in determining how we establish the bank or the banks that are going to assist us with that process.

Mr. Havas asked if that meant that we have to wait for the legislative session and then be prepared at that time to have something in place.

Ms. Olson responded that that was correct. And we will be working with the Treasurer's office in researching all of our various options as we go along through that process, so that we work concurrently to understand where we are and be ready to go, at that point, if the legislation is approved.
Mr. Havase answered, so the key is that we're ready and we have the preparedness. I certainly feel that we should have that in place. Any other comments from Council or from Kelly? No comments.

VI. <u>ESS – EMPLOYER SELF SERVICE (Exhibit D)</u>

Dave Haws, Division Administrator, Information Development & Processing, DETR

Chairman Havas Dave Haws to give his presentation.

Thank you. Good morning, Mr. Chair, members of the Council. I am the IDP Administrator within DETR. It looks like I have a slightly different version than David Schmidt. And I know you just went through a weighty matter, and so I hope maybe this will just take the load off for a moment. I'm here to give you an update on the ESD UI Modernization Project, which is referred to as UInv. And so I'm just going to try to help you understand a little bit more about the project and what some of the timing might be and what some of the expectations are. UInv is a process that actually began a project, a major project in February of 2010. At that time, prior to that time, almost a year before 2010, we had spent some time in the marketplace doing a competitive bid, and obtained the services of a vendor through state purchasing to help us essentially replace all of our Legacy UI applications. These applications today are running on a mainframe environment using a database management system that's quite outdated. And so we're essentially replacing those systems with modern programming languages, trying to make things more accessible through the web, and trying to do a better job of integrating our business applications together.

If you looked at the way that we operate from a system's point of view today, many of these systems do not talk as well as you would like them to do. And as a result of that we have certain inefficiencies that occur. So with this modernization effort, the intent is to upgrade the equipment, software, to better integrate the applications, and to improve not only business processes, but also the automation processes. This is a multiyear, multiphase project. It actually goes out; the current contract for the project goes out until June of 2014. We are looking to bring the application up in the May 2013 time frame. We were hoping to be able to do that at the end of this calendar year, but as a result of adding some additional federal interfaces to this new application and some other initiatives that they have requested to help improve improper payments; we've extended that out to the May time frame.

One of the key primary goals of this application is to be able to improve our service levels to our UI constituents. And so, allow them to have better connectivity with us as an agency. And so we're introducing a portal concept, in that employers will be able to come to their portal, if you will, log in with their ID and their credential, and then they would be able to see their entire account. They'd be able to see the demographic information related to their account.

They'd be able to understand what rates are associated with their account. They'd also be able to see and be able to provide payments based on their particular rates and look at payments that they've made; payments that are due. Also be able to post their reports, quarterly reports to the website, and be able to provide information directly back into ESD to resolve issues. This is a real-time web-based application that we're introducing. So depending on where you're at in the world, you'd be able to have the opportunity to log on anywhere, if you will, if you have your account number and your password, and then you'd be able to see your account.

So I want to just take you through just a few of the features. There are a lot more features than what I'm describing here, but I just want to kind of give you a feel for the process. One of the key things that happens with employers as they come into the state of Nevada, as they acquire their UI account, they have to provide quite a bit of demographic information. This new application will provide a wizard-based process where they can come in and it'll ask them specific questions and lead them through, collecting the information and then storing it out on the database. It's designed to be able to help them through some of the more difficult questions that they might encounter as they are completing their registration form. In addition to that, they'd be able to come and look at a summary page, and at a very quick glance be able to see, essentially, all the key points related to their account. Also, we are trying to make it easier for them to file, and they'll have multiple options for filing. And one thing that's of interest is that if it's a smaller employer, for example, as they file and that information is posted out there, the next time they come back in they don't have to reenter everything. It'll actually store Social Security numbers from their previous filing, and then they can make a decision about which ones to replace or add so that they don't have to start all over when they start filing, so a lot of really nice features that'll be provided to them through this web-based application.

One of the things that often occurs is that people are always interested in understanding, well, what payments have I made or what payments are due. That information will be readily available to them through this application, as well. They'll be able to assign access, depending on a particular role that they might have within their company. For example, someone that's focused more on the payroll side of things, that person would have access to the payroll information in order to keep it updated within that account. If they had someone that's more associated with, maybe, the risk side of the business, they might be looking at the benefits that are being paid out against that account. So they'll have the opportunity to designate who has access to the application, including third party agents such as accountants or attorneys that may be associated with the account in which they would like to provide access to. They'll have the opportunity to do that.

The other is that often today if you want certain information you may have to call in within DETR to speak to someone to acquire some information. We're trying to put more of this information online and make it available to them so that they can make specific requests without necessarily having to wait for someone to come onto the phone or to find the right piece of information for them. They'd be able to, request refunds, penalty waivers, etc. They would also be able to ask for federal certifications, clearance certificates, payment agreements, subcontractor certification. And these requests would be made available to them online across the web. Also, they would be able to maintain their business profile.

For example, within Nevada, we often see businesses combine and then break apart frequently. And so they'll be able to post that type of information directly online, which will speed up that process for them and make it a lot more efficient. That was really just an overview. I would be happy to answer any questions regarding the project. It's on time, within budget. It's 100% federally funded. Renee and Kelly's staff, we have upwards of probably 70 people who have been working off and on, on this project providing subject matter expertise. The vendor has had upwards of 50 to 60 folks on-site, helping us to essentially redo all of our programs and install all the hardware and make this application available to the agency and eventually to our UI constituents across Nevada. There are a lot more features, and I'm not going to go through all of them, but I just want to kind of give you a feel that there's a lot more to be said about the project. We're very excited about it. We hope to begin introducing it to our UI constituents here in the near future to begin providing information that this new application will be rolling out. Obviously, there will be quite a bit of change associated with it, so we want to get that message to our UI users, our external users to let them know that this new application will be coming, what they can expect, and help them become familiar with this new application. It also has extensive help features associated with it. Plus, we're attaching some chat functionality. So if you're on the web and you want to have a conversation with a person, you can click on the chat button and immediately have access to someone who's monitoring those chats. That's pretty much my presentation. I know it wasn't as nearly as detailed as the previous one from David Schmidt, but I'd be happy to answer any questions that you might have.

Mr. Havas thanked Dave Haws and asked if there were questions or comments from the Council.

Mr. Ross Whitacre has a comment and a question. His comment is that this has been a long time coming, and he thinks it'll be very welcome both by the Department and by employers. It really sounds like it's going to be a wonderful system. My question is this; as you bring this up, are you going to run a dual system as you test this out before it goes online?

Mr. Haws responded saying it was an excellent question. Mr. Haws said that he can respond that we're not in a position where we would be able to do that. The two applications are internally and architecturally so different as far as the type of information that they're storing. Keep in mind that our Legacy applications are, you know, 30 plus years old in some instances. And so the type of data that we're actually storing in the new application is different and it's formatted different. The edits and the validations are completely different, and that was one of the key reasons why we had to go down this path, was that our edit and validation was not strong enough in the Legacy application and it's caused a lot of improper payments. With this new application, because it's just structurally different, we won't have the luxury of being able to operate both of them at the same time. But we are taking some very extensive steps right now to do a couple things.

One, we're going through a very detailed data conversion in the sense that we're looking at all of the Legacy data will need to come over, making sure that we have properly collected it, quantified it and place it into the database. And additionally, we're going through some extensive testing, as well, to make sure that the accounts and the business rules function properly so that we're creating good business transactions through the system and that they're accurate. So, unfortunately, we won't be able to do the dual system application. We will keep the Legacy application up and spinning so that we can refer to it as we need to, but we won't actually be able to run both of them simultaneously. I hope that answers your question.

Mr. Havas thanked Dave. At this point, Council member Kathleen Johnson wanted to know if she could ask Mr. Schmidt to clarify a question. She was permitted to do so. Would you just clarify for me, we've had mention of a special interest assessment that would pay the debt towards the interest on our debt, and the FUTA offset cap would address only the principal; is that correct, so they're mutually exclusive, but both assessments?

David Schmidt again, for the record. The FUTA offset cap, to address that, that is separate sort of no matter what, because that comes directly out of the federal unemployment taxes that employers are paying. So if we're affecting that, it's because we are either making a statutory change to repay our principal. Instead of that, there are some avoidance clauses where if we were to start collecting money to pay principal and paying more principal off in that fashion then we would have through the FUTA credit offset process, then you can essentially transfer it. You know, the FUTA credit offset will be ignored for a given year, and instead it gets paid back through this other mechanism. But some of the other assessments that the Administrator was speaking about earlier aren't necessarily directly related to this. It would be instead for other things like paying the interest on the debt, because the interest that we owe, that doesn't get paid by the FUTA credit offset; that doesn't get paid by our state unemployment taxes. It has to come from some other stream. The credit offsets only go directly toward principal. They don't even go through the state trust fund. The Treasury gets the money through federal employment taxes that employers pay and then credits the loan account that we have with the Treasury directly. It doesn't actually come through Nevada first.

VII. <u>SYSTEM INTEGRITY (Exhibit E)</u>

Steve Zuelke, Manager of Integrity Programs, ESD/DETR

Chairman Havas introduced Steve Zuelke, for his presentation.

Good morning, Mr. Chairman and members of the Council. My name is Margaret Montes. I am the supervisor of the Benefit Integrity Program's Fraud Unit, and I'm presenting today on behalf of Steve Zuelke, the manager, who could not be here.

The Division's goal is to eliminate unemployment fraud to the extent possible. This is a function of ensuring an honest claimant does not become dishonest, as well as detecting the larger fraud cases at the earliest possible stage. To meet our goal of eliminating unemployment fraud, the Division has invested an additional three full-time and four temporary positions within the Integrity Unit. This has increased our fraud investigative staff to a total of 10 investigators statewide. Earlier this year, we've implemented AWARE, a fraud detection software program to assist in the reduction of improper payment of unemployment benefits. With the shift electronic claim filing, there's an increase in the potential for both claimant and fictitious employer account fraud. We're using the AWARE program to analyze large volumes of claims data from our claims system to identify different areas of potential fraud, such as for running specific queries on wages reported weekly by claimants and compare the data against the employer's quarterly wage information to detect the underreporting of earnings. We're able to identify claimants who are filing for benefits while outside the United States by reviewing IP addresses used in online claim filing. We can identify if multiple weekly claims are filed from the same phone number or IP address that might reveal an organized attempt to defraud our system. The AWARE program has proven to be a useful tool in our continuing quest to combat unemployment fraud. With the enhancement of NRS 612.445, defining fraudulent activity and providing specific penalties for the commission of fraud, the Division is seeking to prevent a person who has fraudulently claimed unemployment benefits from receiving further benefits until which point they have repaid all benefits illegally claimed.

In 2011, the Division renewed our partnership with the Attorney General's office with the appointment of a new director, Workers' Comp UI Fraud Unit, Russell Smith. Working with Mr. Smith, we have committed to submitting two cases a month for prosecution. The AG's office has also provided training classes for our fraud investigators in a variety of subjects relating to fraud investigations and getting testimony during a trial. I'm pleased to report we are now reaching across state lines to prosecute fraud cases. Just last week, the AG's office has accepted a plea bargain agreement with one of our fraud claimants living in the state of New York. The Division feels strongly about taking proactive steps in preventing UI fraud, so we're starting to publicize fraud prosecutions by adding a gallery of UI fraud convictions to our website, www.expressclaim.org. The gallery displays pictures and names of claimants who have been convicted of UI fraud, which we will hope to be a deterrent to anyone thinking about committing fraud. For high visibility, a link to the gallery has been placed just above the link to file a claim. We've also made it easier for concerned citizens to report potential UI fraud by adding links to several of the DETR websites. Nevada remains the number one state in the nation for identity theft. This has infiltrated into unemployment benefits as well.

The Division is in a continuous improvement mode in its detection and prevention processes. This year we've seen a conclusion to the Silver Stampede unemployment fraud case, which involved four individuals who hijacked hundreds of unemployment claims. The cases were resolved in court this year with all parties pleading guilty. The individuals were sentenced to time in federal prison and are required to make restitution. The Division has developed and tested a Social Security crossmatch, which will assist in properly identifying claimants when filing for unemployment benefits. We are currently in the final stages of preparation and hope to implement it within the next few months. When implemented, this will give us a frontline of defense in cases of identity theft. When the identity of the claimant is in doubt, the Division conducts in person identity checks. The claimants are scheduled to meet a fraud investigator in one of our Job Connect offices for ID verification. The Division has obtained state-of-the-art equipment that reads and validates identification cards. The investigative staff has also received training to detect fraudulent identity documents. In dealing with incarcerated claimants, the Division is using a number of different methods to detect situations where a claimant may be filing while incarcerated. We're matching the different law enforcement detection center phone numbers to claimants filing for benefits through our IVR phone system. We're crossmatching lists of inmates' names and Social Security numbers with claimants who filed for unemployment benefits. We're also working tips and leads received by the Division through our telephone claims center, as well as from our fraud links on DETR website. The Division seeks to collect to the extent possible all overpayment of benefits.

The Division is reengaging our judgment process by devoting the resources to working with legal hurdles of the redaction of Social Security numbers from civil judgment documents. Our new system will use a claimant number rather than Social Security number, which will resolve the question of using claimant personal identifiable information in court documents. The Division is participating in the Federal Treasury Offset Program, which allows states to collect delinquent debts owed by attaching federal income tax refunds. We've submitted 500 names to the program in April, and we're in the process of adding another 1200 names by the end of this year. This is currently a manual process, but will be automated with implementation of our new claims system. To streamline use of garnishments, the Division has prepared a bill draft requesting to mirror garnishment laws currently used by the Division of Welfare to resolve issues currently preventing the Division from pursuing garnishments. The existing process is cumbersome and reduces the amount of revenues collected due to fees imposed under NRS 31 for the filing for a civil garnishment.

The Division has taken action against repeat offenders with the enhancement of NRS 612.445, by issuing indefinite disqualifications until all overpayment of benefits have been repaid in full. This limits future benefits for those claimants who have committed unemployment fraud, so they cannot repay fraud overpayment through the commission of additional fraud. So far this year we've issued over 500 indefinite disqualifications. New claimant and employer messaging; the Division is actively engaging the claimant and employer community with messaging, a renewed emphasis on the concept that fraud is not acceptable. We've added new fraud advisories to the IVR phone system, alerting the claimant to the consequences of committing UI fraud. Employers have received mailers asking them to spread the message, no UI fraud, to their employees. We are increasing our efforts to circulate fraud posters throughout the Division's offices and will be partnering with the Division of Welfare to display the same posters in their offices. We are encouraging employer participation by including a fraud advisory form in the new employer kit, which is sent by the UI Contributions Unit to all newly registered employers. This form is given to newly hired personnel advising them of the responsibility to report all work and earnings to the Division when filing for unemployment benefits.

The Division is addressing 100% of the national directory of new hire hit lists. The telephone claims center has done an excellent job in developing procedures to review the list for potential unreported earnings issues. This early detection has reduced the number of weeks filed by a claimant failing to report their new work and earnings. The Division's Integrity Task Force is looking into the primary causes of overpayments and developing new and better ways to reduce the improper payment benefits. We have mentoring sessions with staff members. We're reviewing all incoming appeals prior to scheduling a hearing, and we're utilizing the fraud detection software, AWARE. In conclusion, the Division is committed to preventing UI fraud, and seeks to improve fiscal integrity of the Unemployment Insurance Task Fund by taking steps to expand our efforts to improve our claimant/employer communication, as well as utilizing all the tools available to address this growing national problem. Thank you.

Mr. Havas thanked Ms. Montes for her presentation and asked for any comments or questions by the Council.

Ross Whitacre mentioned to Ms. Montes that it was nice to see her again and that it sounds like the fraud prevention program is leaps and bounds better than it was several years ago. And it also sounds like the program is getting the cooperation out of the entities that prosecute for the Department. And I just wondered if you can verify, am I on the right track when I say that?

Miss Montes answered in the confirmative. With the appointment of Russell Smith to the Workers' Comp UI Fraud Unit, it really has opened up a new world for us for our prosecutions, and we're starting to see some benefits by that in which we are posting to our website, the gallery of convictions. We want to get the message out there that unemployment fraud is not acceptable in Nevada, and now it is a felony.

At this point Chairman Havas called for a 15 minutes break.

When Council reconvened, Mr. Havas announce that the Council now will engage in a workshop to consider adoption of regulation to establish the unemployment insurance, UI tax rate schedule for calendar year 2013, in accord with the Nevada Administrative Code 612.270. And we'll start off with Economics Projection and Overview by Bill Anderson, Chief Economist. Okay. I've just been advised that we need to start off with public comment, and I'll let Renee further explain what the comment will entail.

Renee Olson, the Administrator of the Employment Security Division and said that this meeting is conducted with the Employment Security Council by the Employment Security Division and its Administrator to solicit public comment on the proposed amendment of the tax schedule regulation in Nevada Administrative Code Chapter 612.270, in accordance with NRS 233B.061. Ms. Olson asked Ms. Golden if proper notice of today's workshop was given as required under NRS 233B.060? Ms. Golden, Administrative Assistant to the Administrator replied that everything was properly done.

Ms. Olson continued 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're about to hear are intended to provide you with the information you need in order to make this important recommendation. Before we turn this over to the Chairman, I believe we need to open the floor for public comment. And is there anyone in Las Vegas that would like to present public comment?

In Las Vegas, Carole Vilardo of the Nevada Taxpayers Association spoke to the Council and noted that her public comment coming at the beginning, is to go back to something that went on at your prior meeting. And that is the bill drafts that were discussed, I think, are probably quite important for most cases. The one that I look at is the provision for an assessment. Although, I don't know that I'd want to see it happen in the next year or so until we see our employment numbers get better and businesses hiring with their business economy and individuals economically are feeling more sound. I was surprised when I found out two years ago that the assessments which had been put in place in the '70s and when I had a business at that time, and we had that half percent assessment for solvency was no longer in statute. So I think that's one that's extremely important to go back in.

I guess my general concern would be, because I don't know that I can stay until you finish the meeting for public comment on the rates, is please take into account on the rates what happens, the employers are going to wind up paying an additional 0.3 at the end of this year, because of the payments. Because of the situation with business right now, unemployment rates, I would ask that whatever you do, take into account the potential for that. The increase that you may have to do; and I don't deny you may have to do an increase. And then the potential for what you might do next year or the year after depending on whether or not you get the bills that you're requesting. And I guess I'm doing a very long range look at potentially what could happen and asking you to take those points into consideration as you determine what's going to be the best way to go forward. And I thank you for listening to me.

Ray Bacon of the Nevada Manufacturer's Association in Carson City had some comment. Let me add to what Carole has already presented. And this panel well knows that in the past I have said that we need to get out of the borrowing mode as much as we possibly can, and we know it's going to be painful for employers. The one additional thing that I would ask this panel, even though it's a statutory change, is to seriously consider taking a look at a recommendation to the legislature to take a look at changing the schedule. You know, our schedule right now with the 40 cap is the absolutely lowest allowed by federal law. And if you take a look at the data on that, which I'm sure Bill will be presenting momentarily, you've got about 3,600 accounts or 3,100 accounts, I can't remember which the number is, that are in the highest rate. That effectively means that everybody else is, to some degree, subsidizing those accounts. So even if you leave the .25 category in place and then change the increment from the $0.30 to a $0.40 number or something like that and then let the cap go on up to a higher number, you start to ease the pain of everybody else subsidizing those people at the higher end.

Now, at one point in time, we used to think that those were all construction jobs and I'm sure that there's a sizeable portion of them that are, but remember the construction jobs, many of those are now gone because the companies have closed. So it's nowhere near as imbibed as much with construction as it once upon a time was. And so just, you know, take a look at the entire picture. If you take a look, at some point in time, under our current situation, I'm not sure that we can truly justify having the lowest allowable schedule under the federal statute that's allowed. I think we need to take a look at changing that number. Not wrapped around what the actual, with what it is, but that starts to impact the long-range impact of where we're going. As Carole would say, we need to take a look at the long-term impact. And if you leave the .25 at the bottom end for a sizeable portion of our employers, it's going to have almost no impact. It certainly has no impact on the employers who maintained a sterling record as far as their unemployment. And so those are things that need to take a look at.

The other thing that I brought up last year, which I'll bring up again this year, and I have mixed emotions on this thing; currently, we take a look at an employer's entire record when we take a look at their experience factors. So it goes back if a business has been in business for 40 or 50 years, it takes a look at 40 or 50 years' worth of history on that thing. There are a couple of states, and I don't know which ones, at one point in time I did, that take a look at that experience rating and say they look only look at the last 10 years or the last 15 years or something like that instead of taking a look at their entire picture.

Business changes over time and a business which was profitable and successful 25 or 30 years in the making is probably not a viable business at this stage of the game. And maybe we should be taking a more realistic look at a smaller window on the experience factor, which would probably impact rates to some degree, but it would impact rates primarily for those businesses that are already at some level of risk, because their business model is changing and things like that. So as I said, I have mixed emotions about that. That tends to take the business that's becoming marginal and force them out of business sooner, which I hate. The other side of the coin is it's currently that business has already shifted the load to everybody else to some degree anyway. So, you know, mixed bag on that. But clearly what we're doing with subsidizing the people at the high end of the rate schedule, we need to take a look at that issue. And I know that's a legislative action, which means it's a couple of years before it can take place. We're not going to get our debt repaid to the Feds in the next couple of years anyway, so we need to take a look at the long-term view. And I think that's one of the issues we need to take a look at seriously. So those would be my comments, other than endorsing what Carole's comments were, because I think they're all valid.

VIII. A. <u>ECONOMIC PROJECTIONS AND OVERVIEW (Exhibit F)</u>
Bill Anderson, Chief Economist, Research & Analysis Bureau, DETR

Chairman Havas introduced Bill Anderson to give his presentation to the Council.

Good morning, Mr. Chairman, members of the Council, Administrator Olson. For the record, my name is Bill Anderson. I'm Chief Economist in the Research and Analysis Bureau within DETR. My objective today is to provide you, as it is every year, is to provide you with the background information necessary to assess Mr. Schmidt's more technical presentation which will follow, and then follow, after that provide you with the information to better allow you to provide a recommendation to the Administrator about next year's tax rate. Just to kind of summarize my remarks, and to kind of give you the overall theme, while I was waiting in the audience, I looked back at last year's minutes and I was talking about things moving sideways, at that time. My guess is, if I had access today to the minutes from two years ago, we were probably still talking about an economy that, at the time, was still in decline. This year, I can bring slightly better news. We're starting to see some better numbers. Some numbers remain still worrisome, but they're moving in the right direction. I would characterize our outlook moving forward as expectations for a continued modest improvement. Nothing like where we were prior to the recession, but it certainly beats the alternative from just two or three years ago.

So with that, I'll go ahead and get started and begin with a brief overview of the U.S. economy, because as we've learned during this last downturn, Nevada is not immune to what's taking place nationwide. We're very much dependent upon the health of both the national and world economies. Consumer confidence, which is very important here in Nevada, is trending up. It's very volatile from month to month, but overall it's trending up. Of late, it's kind of been moving sideways. In the housing markets nationwide, recent indicators, just as they have been in Nevada, have been a little bit more positive than they were in prior months, and prior years. Outside of the unpredictable nature of gasoline and fuel, consumer prices or pressures on consumer prices are relatively constrained. Last month, price levels were up by about 1.7% from a year ago. The overall economy is measured by gross domestic product. I would characterize as growing modestly. We'd like to see roughly 3% growth sustainable. Last quarter, we were a bit below that at about 1.7%. And then in the factory sector, industrial production has been on the rise, in the low single digits. In terms of job growth, we'd like to see, kind of the consensus is that we'd like to see about 150,000 new jobs every month in order to drive the nation's unemployment rate down. As you can see (following the differenct charts provided) over the last half year, we've come up short of that benchmark. Early in the year, we had some pretty solid numbers. And if you look back at last year, we also had solid numbers at the beginning of 2011, and then we cooled off and then picked up towards the end of the year. So we're hoping for that kind of a rebound this year. But in August, we added just a little bit less than 100,000 jobs. I've been trying to look at alternative ways to assess the nation's labor market, and what we've been able to get our hands on is the level of job postings, job announcements that are posted online. We call it the Help Wanted Online Index. And you can see that since 2009, the number of job openings being posted and advertised online has been trending up. And at the same time, unemploymenthas been trending down. So again, we look at this as another indicator suggesting that although there's considerable room for improvement, the labor markets nationwide are showing some signs of stability and growth.

Switching to the Nevada side of the equation, most of our economic indicators are moving in the right direction. Taxable sales are up since I've put this presentation together. We've got one more additional month. They've been up for 25 straight months relative to a year ago and in many months by a very healthy amount. Gaming win is very volatile. In July, it was actually up about 17% from a year ago. That came off of, I think, two consecutive months of decline, but overall we're up about 2½% so far this year. Visitor volume in Las Vegas has been trending up. It's showing some signs now of leveling off, but it has trended up over the last two plus years. Nevada's rural counties are benefiting from historically high gold prices. Export activity in the state has been on the rise for the last three or four years with increases this year in excess of 35%.

I don't want to stray too far into Dave's presentation, but the number of Nevada employers covered by the unemployment insurance system has been rising for four straight quarters following ten quarters of decline. Our public assistance caseloads are showing signs of stabilizing. So all in all, much of the nonlabor market economy appears to be pointed in the right direction. As I mentioned earlier, we are seeing some signs of growth in the number of employers in the state. So far this year, up a little bit more than 2% from a year ago, and we're talking roughly, in case you're interested, about between 57,000 and 58,000 employers. I think it's closer to about 57,000, if memory serves me right.

On the gaming side, a lot of mention of late in the media about the role of Baccarat in driving our gaming win up. And you can see that here. That top green line shows the trend in Baccarat win, and that is swamping in terms of growth. Trends in gaming table win and slot win, all of our growth in gaming win over time has been coming from Baccarat. This is an interesting slide. I'm not sure it really belongs here, but as I said, it is interesting. And it kind of illustrates the challenges that the state's facing. Things have changed in Nevada, you know, we have historically been driven by gaming and by construction, and now we're looking elsewhere for growth.

And you can see how that structural shift has unfolded within the gaming industry, and you just look at the Las Vegas Strip. We look back 25 years ago; roughly 60% of their revenue came from the gaming floor. About 40% came from elsewhere. That's completely reversed itself. Now, we're getting about 60% of our revenue on the strip from nongaming sources, from retail, food and drinks, rooms, entertainment; things of that nature. Only about 40% of the industry's revenue, at least on the strip, is coming from the traditional gaming component.

On the construction side of things, basically the best that can be said for that is stabilized. We are seeing some signs of improvement. Unfortunately, that improvement is coming off of historical lows. Building permits statewide are up by about a third so far this year. Housing starts are up close to the same amount. The resale market in southern Nevada, we're starting to see price increases there. In fact, in July, prices were up by about 11½%. New home closings down south have risen in each of the past six months, and permit activity down south is up by about 90%. So we are starting to see signs of a rebound on the residential side of the construction market. But, again, we're coming off of historical lows, and you can see that here. You can see the uptrend in housing starts, but we are not coming near, or we're not nearly approaching the level of activity we saw prior to the recession. I mentioned earlier housing prices, especially in the resale market, have started to improve. As that gap narrows between resale prices and new home prices, that should help lift up the new housing market. And again, as I mentioned earlier, we are starting to see signs of increases in starts, new home closings, permit activity and whatnot. So, you know, it's a good news/bad news kind of situation. We are starting to improve, but we've got a big hole that we're facing.

Foreclosure activity, for a number of reasons, has started to ease. The number of new foreclosures peaked at about 21,000 early in the recession. Now, we're down to, as of the second quarter of this year, only about 6,000 mortgages went into the foreclosure process that quarter. The total inventory of foreclosed homes has declined by about half. But, again, you can still see that at our current levels, we're kind of swamping the level of foreclosure activity prior to the most recent recession.

Moving forward to the state's labor markets, August's unemployment rate came in at 12.1%, up just a bit from July. Overall, the unemployment rate's trending down despite some weakness the last month or two, if we look at a year ago when we were all the way up to 13.8%. Our record high was reached in October of 2010, at about 14%. But, again, you can see we've got a big hole to dig ourselves out of. At the official beginning of this recession in December of 2007, we had an unemployment rate of just barely above 5%, so we've got a considerable way to go. Again, we're trying to find new ways of looking at how the labor markets are working in Nevada.

One new piece of information that we've recently come across concerns the number of people that are working part-time involuntarily. They'd rather be working full-time, but because of general economic conditions, they can't find full-time employment and they are getting by with part-time jobs. And you can see that that measure is starting to improve over the course of the last year and a half or so. More and more people are starting to find full-time employment, and we're seeing a decline in the numbers, in the involuntarily part-time workers. But still, despite some signs of improvement, we do, unfortunately, maintain the highest unemployment rate in the nation. Right behind us is Rhode Island and California. You have to go to the middle part of the country to see many of the nation's lowest unemployment rates. Last year, at the request of the Administrator, I started displaying for you, and it's probably not easy to read on the screen, but you do have it in your packet, what we call alternative measures of labor underutilization. You know, we have our official unemployment rate, but oftentimes I'm asked what the real unemployment rate is. And typically what people mean when they ask that question is if we counted the folks, and there are about 15,000, 16,000 of them in Nevada who've given up their search for work. They've become discouraged, dropped out of the labor force and, hence, they aren't captured in our unemployment estimate. What would we have if that happened? And the bottom, or if we incorporated those into our measure, the bottom line is it would raise our unemployment rate. We've got these different measures, U1 to U6, as defined by the U.S. Department of Labor. The unemployment rate would rise from an official average, over the past year, of about 12.3% up to about 13.4%; as you go from U3 to U4. That would capture those discouraged workers. When you add in those involuntarily part-timers that I just talked about, if you counted them amongst your measure of unemployment, you're looking at a jobless rate in excess of 20, or right around 22%. But I think the key measure to look at is that change from U3, which is more or less the official rate, up to U4, which includes all those discouraged workers, and that would add about a point to our jobless rate.

It's interesting, I think, to note the different conditions throughout Nevada. Our lowest unemployment rates are in our rural counties, where they're benefiting from the booming mining industry. In fact, we're seeing job growth in mining that's in excess of 15% year over year. The highest unemployment rates are in what I like to call, and actually I think Dave coined this phrase for us a couple of years ago, the bedroom communities, outside of our major metropolitan areas. Places like Nye County down south and Lyon County here up north. Switching to the job picture, our jobs, total employment has been on the rise for 14 straight months at a modest pace. Nineteen times out of the past 20 months, we've seen increases in employment. Nevada job readings are up by about a half a percent from where they were a year ago. Well below the gains prior to the recession, but we only have to go back to 2009, and we had 10% year-over-year job losses.

I think it's also important to note the situation in the private sector. Our private sector jobs have been on the rise every month since January of 2011. We've added, during that time, well, we've added about 12,000 jobs from 2010 to 2011. So far this year, we're trending another 12,000, 13,000 or so jobs higher than a year ago, so we've essentially added, we're on pace to be adding about 25,000 jobs in the past couple of years. In terms of our performance, vis-à-vis the U.S., as it's been mentioned several times, Nevada took a hard hit during this recession. You can tell that by the depth of our job losses, especially in 2009, compared to the nation as a whole. More recently, we've been performing pretty much on par with the U.S. So far this year, job levels are up by about eight-tenths of a percent in Nevada, about 1.4% nationwide. So we're just barely trailing. But, again, despite the good news, you know, I have to point out that we have a big hole to fill. We're still down about 160,000 jobs from where we were at the start of the recession, despite the relatively good news of late. And then kind of the last informational slide, or one of the last informational slides, we've started looking at; we always report numbers on a net basis in total. I mean, there were so many net jobs lost or gained last month, things of that nature. It's important, I think, to look at what's happening beneath the surface, and this is what I do here.

That light blue line across the top shows the number of job losses in establishments where employment is contracting, okay, and this is Nevada specific. So prior to the recession, we were losing about 60,000 jobs a quarter in those establishments that were contracting. A lot of those job losses were voluntary in nature. Because of the healthy labor market, folks were finding better opportunities and leaving one job to promote to another. Then you can see that spike all the way up to about 100,000 jobs at the height of the recession, and it's since come back down to a pretty normal level. So our job loss situation appears to have stabilized. The dark blue line shows hiring activity or new jobs in establishments that are adding employment. And you can see that, prior to the recession, roughly 80,000 new hires every quarter. The difference between our gains and losses is represented by that green area towards the bottom of the graph. New job creation stumbled during the recession, and now we're hovering right around 60,000 jobs a quarter. Again, it looks to me in looking at this that the problem right now is not a continued job loss problem, rather it's the inability of businesses to hire right now or their unwillingness to hire because the economy just doesn't support it. But nonetheless, you can see that we've moved into positive net territory, hence, that green area towards the bottom of the graph, where we're starting to see our gains exceed our losses and we're moving into positive territory.

Looking at it very quickly on an industry basis, our major private sector employers are starting to grow. Leisure and hospitality has been on the rise for close to two years. Professional business services is rising; trade, transportation and utilities. We discontinue to be held back by the construction sector, which although it's stabilizing, it's still down from where it was a year ago. So far this year, leisure and hospitality has added about 7,500 jobs compared to the first half of last year. Trade, transportation, and utilities and professional business services have both added about 2,500 jobs. And you can see that construction is down about 3,500 positions so far this year. Now, looking forward, we expect to see continued moderate improvement. The unemployment rate, as I said, peaked at 14%. A year ago it was at 13.8%. Now, we're at 12%. We think we'll end up this year right around 11.8%.

So far this year, we're averaging 12.1. Next year we expect to continue to see roughly a point, point and a half decline in that rate, down to about 10.6%. And then finally in 2014, if current trends hold, and a lot can change during that time, we're looking at a rate of about 10%. More importantly, I think, on the jobs front, we expect to continue seeing overall employment increase led by the private sector. We returned to positive growth in 2011. As I said, we're adding roughly 12,000, 13,000 jobs so far this year. And then both in 2013, 2014, we expect job growth to strengthen ever so slightly. So that, you know, roughly we're going to be approaching 2% job growth on a year-over-year basis during that period. So with that, I'll wrap up my formal remarks. If there are any questions that you have, I'll be happy to answer those at this time.

Ross Whitacre, for the record. Thank you, Bill. Great presentation as always. But I have kind of an off-the-wall question, I think. But have you done any future forecasting for Nevada as to what could happen if this fiscal Armageddon we're hearing about at the end of 2012 takes place, what that would do to the state and our economy?

Bill Anderson responded, Mr. Chair, through you to Mr. Whitacre; we haven't done that specifically, but as I mentioned earlier, what we saw especially during this last downturn, was that we're very much dependent upon what happens nationwide.

So regardless of the catalyst, whether it's the fiscal cliff or whatever, to the extent that the national economy, you know, weakens, we're going to feel the impact here in Nevada. And already, you know, because of some uncertainty, I don't want to comment too much on it, but because it's not my role, but with respect to the upcoming elections and with respect to that fiscal cliff, we are starting to see things kind of moving to a temporary sideways pattern. As I said, just using visitor volume; visitor volumes essentially have been on the rise for two years nonstop. But in two of the past four months, we've seen some very slight declines on a year-over-year basis. So I think, that there is a lot of uncertainty out there; some of it related to the specific event that you brought up, and that can have a significant impact on Nevada.

VIII. B. <u>REVIEW OF UI TRUST FUND (Exhibit G)</u>
David Schmidt, Economist, Research & Analysis Bureau, DETR

Mr. Havas introduced Dave Schmidt again and asked for his presentation at this time.

Thank you again, Mr. Chairman, members of the Council. For the record, my name is Dave Schmidt. I'm an economist with the Research and Analysis Bureau. And this is the presentation where I will look more toward our specific forecast for the unemployment trust fund to assist you in making the recommendation for the tax rates for 2013. A brief overview; I'm presenting a, probably by now, familiar map to start off with, and that's the solvency state of the Union, as it were, at the end of 2007. You can see that there were a large number of states that had an average high-cost multiple, which is a federal solvency standard of less than 0.5 heading into the recession. One state, Michigan, was already in a borrowing situation when the recession started, and there were a smaller number of states that had a multiple of more than .5, but less than the recommended 1.0. And then there were some states, Nevada included, that had a trust fund that met that 1.0% solvency standard.

We fast forward a few years to 2010, and there's a whole lot of red because there's a whole lot of borrowing. Nevada is one of roughly 30 states that had to borrow in order to pay unemployment benefits at some point during this recession, but there were a very small number of states. Only five actual states; Nevada, Arizona, Florida, Vermont, and Hawaii that had an average high-cost multiple of 1.0 heading into the recession that later had to borrow. And obviously Nevada, Arizona, and Florida will jump right out as states that were particularly hard hit by this particular recession, by the crash of the housing market. So heading into the recession, Nevada had a pretty healthy trust fund, but borrowing has hit Nevada. It's hit the nation as a whole.

At the beginning of this year, there were 29 states that had outstanding loans either in the form of borrowing from the federal government or in the form of private bonds. As of September 18th, there were 20 states that had outstanding Title 12 loans specifically, and the amount outstanding was about $25.8 billion. Just sort of a quick recap of what's happened since the recession; we entered the recession with a solvent trust fund. Up through 2010, based on the recommendations of the Employment Security Council, Nevada has the state UI tax rate stable. The idea being that this was a very difficult recession for Nevada employers and that it wasn't the right time to start raising taxes yet. Beginning in 2011, and continued into 2012, the state unemployment tax rate was increased from an average of 1.33% to an average of 2% as the economy was starting to find some more stable footing and starting that slow path toward recovery to begin paying, reducing the amount that we were borrowing. And then 2012 actually shifting toward a point where we ended the federal fiscal year with a loan balance that was lower than it was a year before. Nevada does have the distinction of being the only state that managed to delay needing to borrow in order to pay benefits until our unemployment rate was up over 13%. This is in stark contrast to the two states that began to borrow within an unemployment rate of less than 5%. As I mentioned before, our monthly payment that we had to make spiked to incredibly high levels. You can see back in the late '90s, the early 2000s, our monthly payment for regular unemployment benefits was right around the $20 million a month. At the worst points of 2009, as I said before, we jumped up to over $100 million a month. We have come down significantly since then, and this has contributed significantly to that turnaround in our loan balance, where we are now, under about $40 million a month. Obviously, this number moves around a lot. There's some seasonality in there. It's still high. It's still in the neighborhood of where it was in October of 2001, but at the same time it's much lower than it was, which has helped the state to start moving in a more positive direction.

This chart shows you the cash flows. You can see there that our total revenues did exceed our total benefit payments in 2012. There are some estimates in here, because this is done on a calendar year basis, and obviously the year isn't quite finished yet, but it does appear that we will end the year in three months here with a better loan position than we started. And if you look at the federal fiscal year ending September 30th, we did end the federal fiscal year with about $675 to $680 million in borrowing. I think the number that Renee gave you was from today, and as it happens on Tuesdays is when we typically have most of our borrowing for a given week, so the number yesterday was, I don't have it in front of me, but it was about $677 million in loans. This time last year, we had about $742 million in loans. We've come down by about $70 million over the course of the year, making some steps toward beginning to repay those loans.

The next table shows you the benefit cost rate. As I said before, this is the tax rate that would be necessary in a given year in order to pay the benefit payments that happened in that year. You can see because of the tax rate increase in 2011, that was continued into 2012, we've gone up into a position where, at this particular scale of the chart, the thickness of the lines, you know, it's within that level of margin where we're pretty much right at bringing in enough money to pay benefits in this year with a small surplus, and also because this was the first year in which we had some loan repayment through the federal UI tax offsets. That also helped us to pay down our loan balance over the course of the year. So where we're at is we're pretty much even. Again, to remind you of the differences between federal and state unemployment taxes; I said all this before. I'm not going to repeat myself too much, but just reminding you that the wage base is increasing in 2013. We actually had a couple of years where that was declining, because average wages in the state were going down, the maximum benefit declined, and the index wage base declined. So that's beginning to go back up as average wages are starting to recover in the state.

To also refresh your memory, because it will be important for the recommendation or it may come into your thoughts as you think about what tax rate to recommend for this year. 2013 will be the first year in which we can achieve a cap on the federal tax offset. As I mentioned before, that'll be taxes that are due based on wages in 2013.

The actual payment of that tax isn't until 2014. So whatever tax rate recommendation you make today won't directly affect the federal unemployment taxes that employers will be paying or that will due by employers, rather, in early 2013 for wages in 2012. Those are pretty much what they're going to be. If we want to, or if the Council would like to look at a rate that would cap those increases to the federal taxes, the four criteria again are the state can't take any action that would reduce its unemployment tax effort; the state can't take any action which would result in a net decrease in the solvency of the state unemployment system, and the two sort of hard criteria really in front of you are that the unemployment tax rate has to be greater than or equal to the five-year average benefit cost rate for the five prior calendar years. As you consider where we'll be in 2013 that would mean that the state unemployment tax rate would need to be greater than about 2.9%. That's including some estimates for the remainder of this year since 2012 is part of that five-year average. But in order to achieve that cap, the state average tax rate would need to be above that 2.9% five-year average.

The other criteria is, that the state loan balance has to be lower than in the third prior year. So that means, again, thinking of 2013, the state loan balance on September 30th has to be lower than it was on September 30th of 2010. And at that time the loan balance was about $525 million. And, to achieve that criteria in 2013, the loan balance in 2013 would need to be lower than $525 million. As I said, we're currently at about $680 million. This provides a couple of different scenarios for if the Council wanted to try to cap the federal tax increase at 0.6%, which is the lowest cap you can achieve, and that would be in 2013. Or if the Council wanted to look at capping it at the next lowest rate, 0.9%, in which case we would be thinking about 2014. In order to achieve the cap in 2013, you need to have a tax rate that's above that 2.9%. Here I just round it off to 3% because that's in keeping with the scenarios that we typically provide you. And the loan balance would have to be less than $525 million. If we wanted to achieve that cap next year, delay the increase a little bit longer that would be necessary to achieve those criteria, the tax rate would still need to be pretty high.

In 2014, you're looking at about 2.9% there as well, but the loan balance criteria becomes easier to meet, because you're comparing to 2011 instead of 2010. And as I said, last year we had a loan balance of about $742 million on September 30th. So actually we would currently meet that criteria. So really, the hardest measure to meet, if you look at one of these two scenarios, is the state average tax rate, which is currently 2% and is well short of the 3% or 2.9% you'd need in either of those years to reach these caps. Some reasons why you might think about capping the federal tax rates; again, this is a slide we've presented before, but relying on the federal tax offset as the means by which you repay the loans is something that takes a long time to ramp up. Because it's 0.3% per year, you're talking about $21 per employee per year. With about a million employees in the state, general ballpark figure is $21 million this year, $42 million next year, $63 million the year after that. And at that sort of level of repayment for a $680 million loan, it takes a long time to get to the point where you're making substantial repayments of that loan. Also, the federal taxes rely on that $7,000 fixed wage base instead of the $26,900 index wage base that we have for 2013. This would put more of the burden of repayment on those employers that have a relatively larger number of relatively lower wage employees compared to an employer who might have the same total wages that he's paying out, but has a smaller number of very high wage employees.

By using the federal tax offsets, more of the burden falls on those employers that have lots of low wage employees. Finally, relying on state tax rates and state policy to repay the loans; it does allow the state a little bit more flexibility in terms of how do you want to structure this. Do you want to stick with the federal guidelines, because that is also an option, or do you want to look at raising the average tax rate, repaying it sooner trying to lower your overall interest payments? You just have a little bit more flexibility if you don't just rely on the federal tax offsets.

Looking at some of the costs of our borrowing; interest on these loans is due on September 30th of each year. As the Administrator mentioned, we, just this last week, made payment for this prior federal fiscal year. Not paying is not an option. That would result in program decertification, which carries some pretty stiff penalties. Employers' federal taxes, they would immediately lose that entire credit. So instead of a 0.3 or a 0.6% offset, the offset would be gone completely and their tax rate would be 6% or $420 per employee per year. The state would also lose all access to Title 12 loans and borrowing from the federal government, and the state would lose its administrative UI funding, which is worth about $25 million a year. Interest accrues from October 1st to September 30th each year, because it is based on the federal fiscal year. The interest rate to a nearly, a certain number of decimals that's on the slide there for you. But, again, it was just over 4% and it's now just under 3%. The 2012 interest costs, as the administrator mentioned, was just under $24 million, and across all states, estimated 2012 interest was about $1.1 billion.

Shifting from sort of the cost of borrowing to some trends that sort of inform the forecast that I'll be presenting for you; one is that similar to what Bill was saying before me. We have a very flat but sort of positive trend in, as far as initial claims, initial claims being the first step when someone begins to file for benefits. The blue dash line there is the number that we report to the federal government. The red line is a seasonal adjustment to try to take out some of those sharp swings, because unemployment is very seasonable in Nevada. In the winter months we see a big jump in claims. That tends to subside over the remainder of the year. You see small spikes in the summer, and other times when there is swings in employment within the state. But really, over the course of the last year, we've been improving on a year-over-year basis, but we've been improving by a much smaller amount as we've sort of come down from the peak that we saw during the recession, and now things are just kind of leveling off. If you draw a line from where we are back across, you can see again where we are is not far off of the peaks that we hit following 2001. We've had some population growth since then, as that accounts for a piece of it. But really, we're sort of plateauing at an elevated level of claims. We still have the nation's highest unemployment rate. We still have a lot of employment going on. So even though things are improving, the rate at which they're improving as far as declines in benefit payments appears to be slowing a little bit. We've also seen a decline in the average weekly benefit that claimants receive.

Looking back at 2010, the average was nearly $330 a week. That average has fallen to under $300 a week. What's happened is you have an increase in the number of claimants who have less wages. They've worked for less time. They might be working part-time for several months. They might work over the course of, you know, spring and summer and they get laid off when fall and winter roll around. And so you've had this sort of decline in the eligibility of claimants, which from a financial perspective means that we're paying out less in benefits, but it also means that people are earning less in wages at the same time. And so we've had that decline, which is based on the eligibility for the maximum weekly benefit. The percent of people that are eligible for the maximum payment each week, based on their prior wages, has fallen from where it was in 2008, peaking in early 2009 at 40 to 45%. It's now down to about 35%. So 10% of the people that are filing in 2012, compared to the people that were filing in 2008, are no longer eligible. They don't have enough earnings in their base period to qualify for the maximum benefits.

In slightly more positive news, we've seen some decline in the duration of unemployment. This is the number of weeks that people claim in that regular unemployment period. During the recession, that nearly got up to 20 weeks, where we were in a situation where two-thirds of all claimants used up their entire eligibility, all, up to a maximum of 26 weeks. We're now at just under 52%. So slightly over half of all claimants still continue to use all of their regular benefit payments, but that has been a significant increase that we've seen over the course of the last couple of years, and we continue to see declines in that. So people are getting off of unemployment sooner, which is by any measure a good thing. And that also reduces the amount of money that each individual claimant on average takes out of the trust fund. As it was alluded to earlier, as the Administrator mentioned, at the end of this year, the extent of benefit programs are all currently scheduled to expire.

This chart shows you the red line being total unemployment in the state each month, and then the area chart at the bottom being the number of people that are on average receiving unemployment benefits each month. And the gap then is the difference between the number of people who are unemployed and the number of people who actually get unemployment benefits; you can see that's gotten larger over time.

Since the early part of the recession, we've seen a pretty substantial decline in the number of people using extended benefits. In July, one of the extended benefit programs ended in Nevada, the SEB program, which is that light blue area. As a part of sort of the unwinding nationally of these extended benefit programs, different states hit that point at different times in July. It was Nevada SEB being the very last program, had a much smaller usage compared to the number of weeks that it offered. In September, there were some small changes to the EUC program, which will reduce the number of weeks that are available in that program. And then again in December, those programs are all scheduled to go away.

To look at it from another angle, the lines on this chart represent the percentage of people that were covered by some form of unemployment benefits of all of those who were unemployed. And you can see that we've declined from a peak of about 76% people who were unemployed, having access to some form of unemployment benefits, to now we're at about 37% of people. So only very nearly a third of the total number of people who are unemployed in the state have access to some form of unemployment benefits. About 20% of the people who are unemployed are receiving regular unemployment benefits, which is what gets funded by the state through the state unemployment taxes; the remainder of those being federal benefits. You can also see that the number of people who are unemployed that do not have unemployment insurance benefits, are not receiving those, has climbed in recent months to over 100,000 in the state.

To look at our forecast, where we thought we would be a year ago to where we are today, what we currently think; our unemployment rate is slightly lower than what we thought it would be. We were looking for about 12.4%. As Bill mentioned, year-to-date we're sitting at about 12.1%. So looking for some declines over the last four months of the year, we think we'll end up just under 12%. Our unemployment growth has been a little bit better than we expected. It's come in at 1.1% compared to expectations of 0.9%. So our covered employment is slightly higher than we expected, and our total number of weeks claimed is less than we expected, as the employment rate has been better we thought. What all of this means for the financial position of the trust fund is that we brought in more revenue than we were forecasting. We paid out fewer benefits than we were expecting. And instead of a situation where we continue to borrow over the course of the year, we actually shifted to where we were able to have some net repayment of the loan. So instead of going from $742 million to $867 million, we went from 742 to 676 and paid down some of the loans over the course of the year.

This slide shows the calculation that's outlined in NRS 612.550. According to that statute, we take four factors; the covered employment as of March 31st, the highest risk ratio, which is a comparison of employments to the number of people who receive a first payment. We took the highest ratio in the last 10 years of that. We take the highest week's duration in the last 10 years, which is 19.12 weeks, and we take the average weekly benefit payment, and the most recent data we have available there is $303.04 per week to claimants, and we multiply those factors to get an estimate of what would be required to hold in the trust fund to pay for benefits for one year. Because the state measure only looks at the highest point in the last 10 years, before the recession this was actually a very conservative measure. You can see some echo of that in 2008, when the requirement was only 560 million. That's actually risen substantially, because it so happens that during the last 10 years, and the last 3 or 4 years in particular, we've seen just about the worst recession we've had in the history of the unemployment insurance program. And that requirement, or that target rose to over $1 billion.

Before the recession, we were looking more at the federal average high cost multiple, because that had a longer time horizon and included more recessions to get a broader picture of what we might require; because that does look at the average of three different recessions, that target's actually much lower than the state measure, where the federal measure has been fairly consistent at around $800 million over the course of the last five years. The state measure has gone from $500 million to $1 billion because we had this significant recession that's now being taken into account. Looking at the actual cash flows of the trust fund, you can see that we started the year with a net position of $730 million. I said $742 million in loans earlier. That's just because of a slightly different way of looking at it, whereas this is total loans minus anything we have in the trust fund. Last year, we had $742 million in loans. We have about $12 million in the trust fund because of the timing difference between how revenue comes in and how revenue goes out. So that's why this number is a little bit different. We brought into the fund about $535 million, $511 million of that was through taxes and $24.4 million was brought in through those federal tax offsets from wages in 2011 that were paid, the taxes which were paid in 2012.

Again, that was, and you can see that's pretty close to the ballpark number I gave you earlier of about $21 million based on $21 per employee and a million employees. So that's right in that neighborhood. Compared to that $535 million we paid out, $481 million in benefits to have a net change in the trust fund or in our loan position, as it were, of $54 million, where we repaid some of those loans. The solvency level, or the ending trust fund balance, ending loan balance as of September 30th is about $676 million. The solvency level there is the gap between the target up in the blue section and the actual loan balance. And obviously, that's a pretty big number, because the target says you should have about $1 billion in reserve, and we actually have a loan balance of $676 million. The two multiples at the bottom take our net loan balance and compare it to the federal average high cost multiple target and the state target. Because we have a loan balance, the numbers are kind of weird. You can see that the average high cost multiple is actually a more negative number, but that's because if we had a negative 1.0 that would mean we had a loan balance for the state $1 billion, 54 million because it would be, what we should have positive we actually have negative.

Because the average high cost multiple is this more conservative target, says we would need about $800 million in reserve. We're actually closer to having $800 million in loans than $1 billion in loans, but that is a good thing. And then at the bottom of the chart you can see the average tax rate that was targeted in each of those years. The next two charts, I'm just going to flip pretty quickly through. They show the multiple looking back historically for the state measure where we're at that negative .06, and the average high cost multiple where we're at negative 0.8. Slide 28 shows you our forecasts for 2013. We think that the target will be roughly the same based on those declines in the average weekly benefit, but a small increase in covered employment. And we think the target will be slightly less than it is this year; still over $1 billion but $53 instead of $54 million. The columns here are all the same except for the tax rate. Because we have five different options here, tax rates ranging from an average of 2% to 3%.

A reminder, the Council isn't limited to discussion of these particular rates. These are for illustration to try to give you a broad range of options, but the Council could recommend a rate of 2.20. They could recommend a rate of 3.25 or any point on this continuum. But this gives you just a range of options to consider. We expect to pay out about $430 million in benefits next year, which is a small decline from where we are this year, but it represents sort of that flattening out in the trend that we've been expecting. We have a FUTA offset loan repayment of about $49 million. That's pretty much exactly double what we had this year, because in 2011, the offset was 0.3%; in 2012, the offset 0.6%. So we expect that much to be collected by the federal government and then applied directly to our loans. And you can see the taxes we expect to bring in would range from about $440 million to about $660 million.

Down at the bottom I outlined both the solvency gap and the average high cost multiple gap in terms of absolute dollars, so that you can see that, for example, with a 2% rate we would have an ending loan balance of about $614 million, which would leave us $1.66 billion below the state target; it would leave us about $1.4 billion below the federal target. With a rate of 3%, we would end the year with $391 million in loans, which would leave us about $1.4 billion below the state target, about $1.2 billion below the federal target. At the very bottom of the slide, you can see the average cost per employee, and this is done by taking the average tax rate and multiplying it by that $26,900 wage base for 2013.
So for an employer, who paid less than the base, say they paid $15,000 to an employee, you would take the average tax rate or the tax rate for that particular employer and multiply it by the

earnings up to that $26,900 cap. So this would be on average for an employee at or above $26,900 in earnings per year.

Slide 29 gives you a more long range impact of what would happen if we put the average tax rate at a given level for 2013, and then left it there indefinitely. You can see the first three rows give you sort of some timeline targets. One would be when would we see the maximum federal credit reduction. In what year would we see loans being repaid, and then in what year would the trust fund build itself back up to a positive balance, where we have an average high cost multiple of 1.0? You can see the cash flow that we would expect just from unemployment taxes, sort of not taking those federal offsets into account. You can see the maximum FUTA credit reduction that would take place under each of those scenarios. And I'd like to point out that as I mentioned earlier, if we have an average tax rate of 3%, it looks, at this point, that that would be sufficient to hit the target for capping the rate in 2013, at the 2012 level of a 0.6% offset. That would be sufficient not only to reach that five-year average benefit cost rate but to pay down our ending loan balance.

If I might flip back briefly, you'll notice I said the target we had was having less than $525 million in loans in order to achieve that other criteria for the cap, and we would expect that a 3% rate would leave us with a loan balance of just under $400 million. So we would achieve both of those targets. Moving on into this table, we also have the percentage of the loan repayment that takes place through the federal tax offsets. The average state tax that employers would see in 2013, and then the average FUTA or federal tax that employers would see in 2013, and again because the 3% rate would be expected to achieve that cap, the federal tax rate is $21 less under that scenario than it is for the other scenarios in which we wouldn't achieve that cap.

Also a reminder, just looking back historically, the average amount of time from the end of one recession to the beginning of the next one over about the last 50 years has been about 5½ years. I'm not saying that that will automatically hold this time around. Obviously, there is a big difference. Sometimes you have the 1980s, where you have two recessions in back to back years. Sometimes you have a recession in 1991, and you don't have another one until 2001, and you have 10 years in between. But on average over the last 50 years it's been about 5½ years from one to the next. Since we had our last recession end in June of 2009, according to the National Bureau of Economic Research, following that same time line would take you to December of 2014, which it feels a lot sooner than you might think because we've had such a slow recovery, but on average that's the amount of time from the end of one recession to the beginning of the next. And so it's important to consider as you think about different tax rates not only do we have these loans that we need to repay, but at some point in the future there will be another recession. And all of the things being equal, it would be nice if there were some reserves in place at that time so that in contrast to the national economy, which you may recall from my earlier presentation, started borrowing in the 1970s and some states didn't have all of their loans finally repaid for 40 years; a period of time that included, excuse me, for 20 years, a period of time, though, that included four different recessions. To help you consider different tax rates for 2013, this next chart shows the estimated benefit cost rate stretching out a few more years into the future.

Because we do expect benefit payment to continue to go down, we expect that benefit cost rate in each individual year to continue to go down, though not at quite the sharp pace that we saw from 2009 through 2012. And then those four different dots represent the different tax rate options from 2% to 3% to give you an idea of how they would compare to the estimated benefit cost rate for 2013, which is a little bit under 2%. Finally, obviously, looking into the future is something that if I could do it perfectly I'd be making lots of money, and not necessarily be working here. So the future is fuzzy. It's hard to say.

What are some things that might happen that we're not necessarily seeing here? Again, 5½ years from the end of one recession to the beginning of the next. Will this be a short period? Will it be a really long period? It's hard to say. You could make really good arguments on either side of that. Are we facing increasing economic headwinds? As the Administrator mentioned, we have the fiscal cliff on some peoples' minds where there's waiting in the wings both significant spending reductions as well as significant tax increases that are all automatically scheduled to come into play. And we have the expiration of federal benefit programs, where we have those 16% of the unemployed who are currently receiving benefits through an extension. If those go away, some of those will probably have a little bit of wages that they may have put together over the course of their unemployment spell and be able to qualify for regular benefit payments. In which case we'd see a small increase in the number of people that we're paying and the amount that's going out of the trust fund, but you also have a large number of people who are receiving on average about $300 to $320 per week that don't have that income; don't have the ability to spend that, and the possible economic ramifications that money leaving Nevada's economy could have.

In conclusion, it's hard to say where we're going to be, but we are continuing to grow. We are seeing some positive improvement and we are shifting into a spot where the decisions are not just how little are we going to borrow over all of the course of the year, but how much of the loans are we going to begin to repay next year. Under all of the different scenarios I've presented to you, we do expect to pay down the loans. We expect to continue to see improvement. The big question is how much. And with that, I will take any questions you might have.

Mr. Havas asked Dave what he thinks the best schedule is and Ms. Johnson said that Dave was not going to answer that yet. Ms. Olson spoke up and said that she was going to save Dave to have to answer that question. She said that we will be relying on the Council's recommendation to come up with a rate that we are going to establish for the year. Ms. Johnson said: Save by the bell".

Mr. Whitacre asked if Ms. Olson could go over, try to get a feel for what the Department is considering, could you go over the BDR's that you have at this time for potential legislation for next year? Ms Olson responded, Mr. Chairman, through you, to clarify, do you want me to go through all the BDRs or were there certain one that you had in mind in terms of the solvency? Mr. Whitacre only wanted those related to solvency. There was talk of bonding authority; he was more interested in what the thinking is along those lines.

Renee Olson: In terms of the bonding legislation, really what we're trying to do is provide Nevada an option to refinance that debt. If we get to the point where that legislation is approved and we can see that the terms under a bonding scenario would be preferential to the terms under the federal borrowing, what we could accomplish there, then we would want to definitely have that, in my opinion, option to do that in order to possibly provide some stability in the system to what the employers are paying in taxes for the unemployment insurance system and to improve the rate that we're paying, and possibly restore some solvency in that regard. But we're still actually studying the bonding proposition, at this point. We're gathering information and knowledge. It's quite a complicated road that we're going to travel down in looking at the bonding.

As far as the legislation goes though, that would just provide us the tool to issue those bonds. We don't even have that authority, at this point. In terms of the assessments that we proposed in the legislation, there are two separate assessments. One is for the interest assessment that we've talked about. And like we said, regardless of who we're borrowing from, whether it remains a federal borrowing or if we have the option to refinance that borrowing through a bonding situation, we would still owe the interest. We cannot alleviate ourselves from that, but we also cannot pay that interest from our regular trust fund money. We have to create some kind of mechanism for satisfying that interest. Then the third item is the solvency assessment. That, you know, really works two-fold in my mind, is that we not only get to the point where we repay all of the borrowing and stay out of a borrowing position so that we're not put back into a situation where we have to borrow again, but that we restore that solvency reserve. And like David was talking about, looking forward to the next downturn in the economy that we have reserves in place to address that. So that was really the point of those three items. And I hope I answered your question.

Mr. Whitacre said there was just one thing, or I didn't hear it, anyway. What monies are being used to repay the interest at this particular time? What is the source of it? Ms. Olson answered that for the past two payments that we've made, at the last legislative session, they approved the use of general fund to make those payments. We've proposed in going forward with it, obviously, with the assessment that we establish that mechanism for paying that interest. And I wouldn't want to predict what comes out of this legislative session in that regard.

Ms. Witteenberg said that she has a question. Is there any means, if we're discussing rate increases or not and then the bonding does come through, it has already been set at a certain date, certain, and then you have to live with that rate increase?

Mr. Havas: Well, if we have the mechanism in place and, you're right, we have to look at the time line that is structured. We should be able to do that. We should be able to predict and make a part of the operational definition as to what is going to be the trigger; how are we going to do that. And that's going to be worked upon, you know, at the time of the legislature. I sense that we might want to have some kind of a meeting, even if it's a subcommittee meeting of the kind, you know, during the legislative session.

At this point Mr. Susich wanted to add something to the conversation.

To the Council, all the bonding agreements we have looked at, and I think Renee and I have been in probably five meetings thus far all across the country. They require the trust fund would become whole. In other words, they don't want to do a bonding agreement if you haven't made your trust fund whole. They don't want you going back into borrowing.

Renee Olson mentioned: I would just add also to the concern about setting the rate today and looking forward to possibly having the authority to issue a bond. That's difficult. It creates some difficulty when really what you're doing today is setting a recommendation for a base rate. And since we don't yet have the authority for the bonding, it's hard to bring that decision into play. But we will be back here again in October next year, and so there will be an opportunity again to look at the base rate in relation to what authority we do achieve through the legislature to issue bonds at that time.

Mr. Chair, Danny Costella. So in essence, is the 2% going to hold until next year? Is that basically what I got out of a lot of this today? We would break even right now?

Dave Schmidt said: I expect that if we were to keep the rate at 2%, looking back at the table on slide 28, we would continue to see some positive loan repayment of about $62 million next year. Most of that would come from about $50 million in that federal tax offset, and the remainder of that would come from the excess between what we bring in through our state taxes and what we pay out in benefits. We would continue to pay down the loan, not by as much obviously as at a higher rate, but it would still be in that positive, you know, making steps toward repaying it down category.

Mr. Whitacre: On these numbers, that would be less than 10% of what our outstanding loan balance is now. The numbers, I'm getting confused by all the numbers that are getting thrown around. Mr. Schmidt said that yes, that would be slightly under 10% of our currently loan balance is about $680 million. So if we were to pay off $62 million next year, then that would be just a little under 10%. Mr. Whitacre asked that if you straight lined that out, it would be eith, nine years before we become positive?

Mr Dave Schmidt answere: If you look at slide 29 in the presentation, under a 2% rate, if that were carried forward, based on current forecasts, obviously, for benefits for several years into the future, we would expect the loans, actually, to be repaid in about 2016, because over the next four or five years, we expect benefits payments to continue to come down. And so even if you were to keep the tax rate flat, you would see a little bit more repayment in each of those years. In addition, at a 2% rate, you never really qualify for capping the federal tax offset. And so in future years that would grow from $42, $45 million in 2013, to $65, $70 million in 2014, to $90 to $100 million in 2015 and so on. And so more of that repayment in those years, you know, the federal tax offset keeps growing and keeps paying down a larger portion of our outstanding loans each year. Mr. Whitacre asked what rate would be needed to have us meet that cap.

Mr. Schmidt: It depends on the year in which you're looking at it. In order to cap the rates in 2013, the rate that you recommend today would have to go up to 3%. To cap it in 2014, the rate that you would recommend next year would probably have to go up to roughly 3%. It wouldn't necessarily have to change from 2% this year, because the loan balance, we would expect, that's

not really the hard criteria. The hard criteria is that five-year average benefit cost rate. Once you get out to 2015, 2016, it actually becomes much easier because 2009, when benefit payments spiked so high, it gets taken out of that five-year average. You're looking at 2010, '11, '12, '13, and '14 by the time you make it to 2015. And so that cap becomes easier to reach with lower rates like 2½ or even 2¼ , or if benefit payments were to be a little bit higher, even 2%, surging up toward 2017 or '18, if we were to still be borrowing at that point. So as time goes on, the caps get easier to reach, but the rate at which you cap it is higher because you can never cap it to bring it down from where it is. You can only cap it at the last year's rate or 0.6% if that's higher.
Mr. Whitacre: To summarize, to cap it at 0.6% we would need to go to 3% today?

Mr. Schmidt answered: That's correct. Also, if you look at slide 29, the very first row where I have the years for that maximum FUTA credit reduction. In every year where there are multiple years there, for example, the 2¼% rate, anything beyond the first year would imply that we achieved a cap. So for 2¼%, this would mean in 2015 we would expect if the rate were to go up to 2¼ for 2013, based on the recommendation today, and then stay at 2¼% in 2014 and 2015; that by 2015, we would achieve, in that year, a cap of the FUTA rate at the 2014 level, which would be 1.2%. Then if you were to keep it at 2%, the maximum rate we would hit in 2015 would be 1.5% offset.

Chairman Havase asked Mr. Schmidt: In terms of real money, as far as the FUTA offset, or the increase in the tax rate for the reschedule of the experience ratings categories, can you give us your cursory analysis of what might be best to focus on there?

Dave Schmidt responded: Well, on the one hand you can look at it from this perspective; where the overall cheapest thing that can happen is to pay off the loans immediately, if you could snap your fingers and make it happen, because interest is the real sort of wildcard in how much do you pay overall. Because the federal credit offset goes through actually toward the principal, even though that represents an additional cost on employers through one particular channel, it's the same channel as the state taxes. So if you're looking at, say, the 2.75% rate and the 3% rate, the 2.75% rate in 2013 doesn't cap the FUTA offset. In 2013, the 3% rate we expect would. Not achieving the cap costs, in the bottom row of the slide there you can see an extra $21 per employee per year. Raising the rate from 2.75% to 3% would cost employers it looks like about $67 per employee per year, because of that higher wage base. And so when you're looking at the differences between the federal rates and the state rates, there are things like what employers get hit by it.

The federal rate has a larger impact on people who have a larger number of small-wage employees. But as far as the cost to employers in any particular year, it's overall cheaper to them to have a low rate now and you spread out the repayment over more years. However, there's also the consideration of the federal taxes being something that sometimes catches employers by surprise. They're used to paying the same amount every single year. The more years that we're in this situation where we're not capping the rate and the rate goes up each and every year, that's something that employers have to take into account when they're planning, you know, their budgets each year, because this accrues over the course of the whole year and then they get their final tax bill, due in April, pay your taxes for all of last year, and suddenly it's larger than it was.

And so there's also those sort of not necessarily direct considerations but other impacts on employers depending on whether it's the state taxes, which they're sort of used to seeing shift around and change a little bit every year or the federal taxes which until recently have been the same as they always have been going back decades.

Chairman Havas: Now, if we go to a modification of the experience rate structure, which hopefully will be a true reflection of the composition of our society, as it actually is, we could do that. We'll probably look at Ray Bacon's notion on a revision of our experience rating structure. In any case, it's probably a fair thing to do. We should be doing that on, I think, on an accumulative basis anyway. If society is changing and we have conditions change, we should be looking at that and we should try to get the statutory justification and ability to do that; wouldn't you say?

Dave Schmidt responded: My point was more toward the current structure. Mr. Havas said: you didn't address that. I'm just saying I didn't really respond with that so much because I kind of feel like we should be doing that anyway. But what you're saying is that those employers with a greater number of employees and lower wages will benefit, probably, more from lower tax rates.

Mr. Schmidt: Well, the impact on those employers who have a large number of low-wage employees is, the larger percent of our loans are repaid through the federal tax rates. The more of that burden will fall on them compared to the overall spread of employee ease in wages throughout the system. And so if you're looking at slide 29, we have that third row from the bottom, which is the percentage of the loan repayment that comes through the federal taxes. Under a 2% rate, if you were to continue that out indefinitely, roughly 40% of the total repayment of our maximum borrowing, which peaked at just $850 million, about 40% of that repayment would come through the federal taxes, which because of their structure, because of that $7,000 wage base falls harder on those employers who have a large number of employees at, say, $10,000 a year compared to those who have a larger number of employees that are making $50,000 or $60,000 and therefore have a larger amount of their wages exempt from the federal tax as compared to the state unemployment tax.

As far as the distribution within the system, the different experience rating as Edgar will show you that is something we address every year. The average tax rate is adjusted by changing the reserve ratio requirements for that spread of tax rates. So there is some adjustment, that's how the rate would go from 2% to 3% as you make the 0.25% rate harder to achieve and on up through all of the different tax rates to 5.4% where that tax rate becomes easier to qualify for. So you adjust the average tax rate by changing the distribution of employers within that spread.

Ray Bacon: Let me start off by saying this guy does an amazingly good job of giving bad news. Let me just add one perspective on this thing. You start taking a look at the federal FUTA and the disproportioned thing that Dave was talking about. If you take a look at where the total number of lower paid employees is going to come from, it's going to come from the smaller businesses. So the more we shift towards the FUTA, the more we put the burden on the smaller businesses, because that's where the lower wage employees tend to come from. The only exception to that is, fortunately or unfortunately, if you take a look at the casino industry in only their housekeeping section, because those are the only places where there are reasonably low paid jobs, is in the housekeeping thing. But if you take a look at the smaller motels and the mom and pop shops and things like that, percentage wise, it's not a huge portion of their income or a huge portion of their revenue and things like that, but you're taking that burden and you're shifting a slightly larger portion to the smaller businesses and the businesses, not necessarily the big businesses with lower paid employees, but you're shifting that huge chunk towards the smaller businesses with the lower paid employees. And that's part of the reason why I, and I hate doing this; there is, as I said last year, there is absolutely, positively no good option in this thing. Nobody saw that the state of Nevada was going to walk off a cliff, and that's literally what we did. If you take a look at, the best comparison that I have is California just had an earthquake and fell off into the ocean. Well, you know, that first step, that first 5,000 feet to the ocean is really, really rough. So it's okay to have beachfront property provided you could make the first step. And that's the situation we're in, is we're literally to the situation, there's nothing we can do to keep from falling off the cliff to some level. You know, we can go through and fix the schedule and adjust the cap, which then equalizes the load to some degree. I think we need to do that. That doesn't impact this year whatsoever. It impacts next year, because when you do it in legislation it's next October, where you could do anything with it. The more we shift towards the federal stuff, David's exactly right.

The more you shift the burden towards those lower wage employees and the employers of those lower wage employees, which if it's Walmart that's fine. Unfortunately, that's not where the bulk of those lower wage employees are. Those lower wage employees are in the mom and pop hotels and the restaurants and the fast food places and places like that, where the tendency to do, I'm going to get philosophical on you here now. The tendency will be to improve productivity to eliminate jobs. And let me talk about how you can do that. I've had this wild imagination for 10 years now, that if I put the menu board from the cash register on the table of the Applebee's and the Bullys in those fast food, or those family restaurant-type operations, I can eliminate 40% of the wait staff, because all of a sudden they get more efficient. The card reader's on the table; the menu boards on the table. Yes, I have a capital expenditure to do that, but all of a sudden 40% of the jobs are gone. Don't encourage those people to do that. Not now. Five years from now, ten years from now they're going to do it anyway, because the first family restaurant that goes ahead and puts the card reader and all that menu stuff on the table is going to become more efficient because he's got lower labor cost, so the rest of them are going to follow, but don't open that door for them. They don't need to think about that yet. Let me give you a number that'll show you the differences in manufacturing.

When GM and Ford installed the first robots on their assembly lines, those robots were running about $10 million apiece and they needed 30 of them to make an assembly line, and they only did one task. The guy that did the iRobot vacuum cleaner thing that runs around your house on its own, he sold that company and has created a new company. That new company now has created a robot for about $22,000, not millions, but $22,000 that in most cases a person can walk through and teach it how to do a simplified task, do a little programming check and you can program it to do a task in five minutes at $22,000. It doesn't take long before you start replacing those low-end employees. So we're living in a whole new time. All the rules are going to change and we don't know what the rules are going to be, but, unfortunately, it looks like that it's going to be more difficult.

Now, I'm going to give you some really positive news. YESD, what Frank has done is cut a contract with ACT folks, because from Renee's standpoint the difficulty they have had and taking a look at the unemployment roles and figuring out what skills people had to get them to the right employers, to get them reemployed has always been a huge task. I'll give my bad news on a high school diploma. Every high school diploma varies by school, by district, by state, by nation, by when it was done, the courses they took, the teachers they had, and how much effort the kids put in. You only got eight factors in that. From the employer's standpoint, a high school diploma has very limited value as Danny knows, because his son is working with me on these things. There's a thing called the National Career Readiness Certificate, which levels all that stuff out. It says from employer that I don't care where you went to high school, you give me an NCRC and a drug test and now I've got something where I can compare every applicant relatively simply. And more important from her standpoint is she can now give you applicants that come off the unemployment roles that meet the criteria that the employer is looking for. The ability for ESD to match people to the employer's needs is going to dramatically change, dramatically improve. And I can't tell you what it's going to do to that chart. I think it changes it and I think it changes it dramatically in the right direction and it's an astronomical change. But all of a sudden, it makes the greatest projections from the greatest economy in the world. So, you've got all bad choices. Sorry about that, but there's a lot of good things going on.

Mr Havas gave the floor to the next presenter, Edgar Roberts.

VIII C <u>TAX SCHEDULE EXJPLANATION (Exhibit H)</u>
Edgar Roberts, Chief of UI Contributions, ESD/DETR

Good afternoon, Mr. Chairman, members of the Council. My name is Edgar Roberts and I serve as the Chief of Contributions for the Employment Security Division. You'll be glad to know that this is the last presentation today. I know you have a lot of presentations in front of you, so I want to go over the 2013 estimated tax rates schedules. And also we have provided an overview, an estimated tax rate schedule in a separate stapled example for you. So this is the information for your last presentation.

As previously mentioned, the purpose of the meeting and regulation workshop is for the Council members to receive information in order to recommend to the Administrator the next unemployment insurance tax rate schedule for calendar year 2013. State law requires the Administrator to set tax rates each year by regulation. Turning to slide 2; the Employment Security Administrator sets the tax rates each year by adopting a regulation pursuant to NRS 612.550(5). Also pursuant to NRS 612.310(2), 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. To complete this process, a small business workshop has also been scheduled for November the 2nd, followed by a public hearing to adopt a regulation tentatively scheduled for December the 4th. And this regulatory process is outlined in your presentation on slide number 3. Now, I would like to provide you with an overview on how the unemployment insurance tax system works, and how the annual average tax rate and associated revenue projections are developed. As previously explained by our DETR economist, the unemployment insurance program is a joint federal and state partnership.

Turning to slide number four; the amount an employer pays for federal unemployment or FUTA taxes depends on the employer's participation and the federally approved state unemployment insurance program. As outlined in slide four, the FUTA credit was reduced by .3% in 2011, by .6% in 2012, and by .9% in 2013. To ensure that a proper tax and a proper credit are given for state unemployment SUTA taxes, the IRS requires an annual crossmatch or certification process, with the states to validate the SUTA payment for FUTA credits.

Turning to slide number five; the state unemployment tax, or SUTA taxes, collected from Nevada's employers are deposited into a trust fund. This trust fund can only be used to pay benefits to unemployment, unemployed Nevada workers or to repay the principal of loans that were used to pay benefits. The revenue in the trust fund cannot be used for any other purpose. This unemployment insurance tax is paid entirely by employers, and there is no deduction from an employee's check for this tax. The tax rates will vary based on the employer's previous experience with unemployment. Also under federal law, these funds must be deposited with the U.S. Treasury. The funds cannot be invested in any other manner, and the fund does not earn interest. Turning to slide number six; at the core of the employment insurance program is a rating system known as experience 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 the employers is 2.95% of taxable wages pursuant to NRS 612.540. The annual taxable wage base or taxable limit is an annual figure calculated at 66 2/3% of the annual average wage paid to Nevada's workers pursuant to NRS 612.545. Unemployment insurance taxes are paid on an individual's wages up to the taxable limit during a calendar year.

Turning to slide number 7; in 2012, the taxable wage limit is 26,400 per employee. In 2013, the taxable wage limit will be increasing to 26,900 per employee. Employers pay at the new employer of 2.95% for approximately 3½ years until they are eligible for an experience rating. Once eligible for the experience rating, an employer's rate can range from .25% to 5.4%, depending on the individual employers' previous experience with unemployment. There are 18 different tax rate classifications pursuant to NRS 612.550(6). 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 only be assigned under a state's experience rating system, which is approved by the Secretary of Labor. The intent of any experience rating system is to assign individual tax rates based on employers' potential risk to the trust fund. Basically, those employers with a higher employee turnover rate are at a greater risk cost to the fund and pay higher rates than those with a lower employee turnover rate. As displayed on slide number 7; in 2012, an employer's annual cost for unemployment insurance ranged from the highest rate of $1,425.60 per employee to the lowest rate of $66 per employee.

In calendar year 2013, the maximum annual cost per employee will increase slightly by 1.89% due to an increase in the average annual wage and annual taxable wage limit. Turning to slide number 8; to measure an employer's experience with unemployment, Nevada along with a majority of other states use the reserve ratio experience rating system. 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 then subtract the benefit charge 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 an equal footing without regard to the 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, the employer would have a reserve ratio of 10%. The higher the reserve ratio, the lower the tax will be for the employer. If an employer has received more benefit charges than they have paid in taxes, the employer's reserve ratio will be negative and the employer will generally have a higher tax rate.

Turning to slide number nine; the reserve ration calculated for each experience rated employer are then applied to the annual tax rate schedule to determine which rate classification will apply to the calendar year. Before setting the annual tax rate schedule for the next calendar year, Nevada's unemployment law, NRS 612.550(7), requires the Employment Security Administrator to determine the solvency of the trust fund as of September 30th. Projections are then developed for the subsequent calendar year. These projections include estimates of the number of active employers, the amount of taxable payroll, the amount of UI benefits that will be paid, and the estimated revenue that the trust will need to meet those benefits payouts and maintain solvency. Using the employer's reserve ratio data, optional schedules are produced with a wide variety of average tax rates and revenue projections.

Now, let's look at the estimated tax rate schedules contained in your handout that you were provided with, or you can follow along with the presentation. In the estimated tax rate schedule handout, we have provided the Security Council with five tax schedules to consider. This information along with the public comment and information from DETR's economist today will assist you in giving us a recommendation for the next year's tax rate. 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. As we have provided the Council in previous years, we will present several different schedules to give you an adequate number of choices. This year, we again included five different schedules for the Council's consideration.

Turning to slide number 10; the first schedule of this presentation displays an average rate of 2%, which is the average UI tax rate currently in effect for 2012. In studying the annual tax rate schedule, the 18 tax rates displayed in the fourth column of the chart do not change. These rate classes ranging from .25% to 5.40% are fixed by statute, which are in NRS 612.550. The law requires the Employment Security 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 in each of the tax rates is changed and which, when applied to the average tax rate scenarios being discussed today, will increase or decrease the total estimated revenues. In other words, if you need to increase taxes, you adopt a reserve ratio schedule that puts more employers in the higher tax rates, and to lower taxes you select those that put more employers in the lower tax rates. The law also requires that increments between reserve ratios must be uniform pursuant to NRS 612.550(5). In this first schedule, the range is from a positive 10%, which will be in the second column, to a negative 15.6 with increments of 1.6 between each of the reserve ratios.

In this first example, if an employer's reserve ratio is a positive 10 or better, the employer receives the lowest tax rate of .25%. An employer with a reserve ratio of less than 15.6%, or negative 15.6 would receive the highest tax rate of 5.4%, and as you can see the rest of the employers fall somewhere in between. In this particular chart, approximately 29.2% of eligible employers are in the lowest .25% tax rate. And 10.1% of the eligible employers are in the highest tax rate of 5.40%. Today, you will see these numbers change as we walk through the individual schedules with the adjustments and average tax rate. Out of our 57,335 total employers today, there are 36,262 employers eligible for experience rating, which we estimate under this first schedule would generate $390.26 million in revenue to the unemployment insurance trust fund. To that estimate we add for new employers not eligible for experience rating $59.69 million for the total revenue of $442.95 million associated with keeping the average tax rate at the current 2%.

Turning to the second chart in your handout and to slide number 11 of this presentation; this chart displays the detail for the average rate of 2.25%. To achieve this average rate, please see the ranges of reserve ratios change to a range of a positive 11.6 to a negative 14. The estimated total revenue increases to $499.65 million and the number of employers in each rate classification once again shifts with 20.4% of eligible employers being in the lowest tax rate of .25% and 10.8% of eligible employers being in the highest tax rate of 5.40%. Turning to the third chart in our handout and to slide number 12 of this presentation; this chart displays the detail for an average rate of 2.50%. For this average rate, the range of reserve ratios change to a range of a positive 13.2 to a negative 12.5. The estimated total revenue increases approximately to $553.39 million and the number of employers in each of the rate classification shifts again with 12.7 of eligible employers being in the lowest rate of .25% and 11.6% of eligible employers being in the highest rate of 5.4%.

Turning to the fourth chart in your handout and to slide number 13; this chart displays the detail average rate of 2.75. For this average rate, the range of reserve ratios change to a range of a positive 14.7 to a negative 10.9. The estimated total revenue increases to approximately $609.99 million and the number of employers in each rate classification shifts again with 8.8% of eligible employers being in the lowest tax rate of .25% and 12.6% of eligible employers being in the highest tax rate of 5.4%. Turning to the fifth chart in your handout and slide number 14; this chart displays the detail for an average rate of 3%. For this average rate, the range of reserve ratios changes to a range of a positive 16.3 to a negative 9.3. The estimated total revenue increases approximately to $666.23 million and the number of employers in each rate classification shifts with 6.7% of eligible employers being in the lowest rate of .25% and 13.8% of eligible employers being in the highest rate of 5.4%. As a note that you will see on each of these schedules, there is an additional .05% tax for the career enhancement program, which is a separate state training tax set by NRS 612.606.

Moving on to the last slide in this presentation; you'll find a summary of the tax rates presented today. We have also provided a summary page in your estimated tax rate schedule handouts for comparison. The summary shows the ranges of reserve ratios, increments, average employment insurance tax rate, estimated revenue, and the distribution employers within each class. Thank you, Mr. Chairman, members of the Council. That concludes my presentation.

Chairman Havas thanked Mr. Roberts and thought it was very well stated.

VIII. D **PUBLIC COMMENT ON TAX RATE SCHEDULE**

Chairman Havas moved on to the next item on the agenda – public comment on the tax rate schedule. Las Vegas was invited to start off with comments.

Thank you, Mr. Chairman. My name is Brian McAnallen. I'm the vice president of Government Affairs with the Las Vegas Chamber of Commerce. Appreciate all the information we've received today. I know that you have a challenging issue in front of you as the Administrator and you as the Council make recommendations on rate suggestions. Last year we came before you and suggested kind of holding where we were at the 2% rate. I now know that we can no longer do that, and we've got to do what we can to start moving ourselves forward with this. While we would not like to see significant rate increases on employers in this economy that we're dealing with today, we do need to make steps forward and would suggest a rate increase to get us there. I think from everything I've heard through today's presentation the agency and the Administrator clearly have thought through these issues and are coming up with some strategies to get us there, and moving some of these BDRs making some recommendations to the legislature on areas that we can seek improvement are also the right way to go. And we would encourage you to continue in that direction.

I don't have a magic silver bullet answer for us here, but I think somewhere along the lines of looking at option 3 or thereabouts, maybe option 3 or modified option 4 is probably where we need to go to kind of get us heading in this direction. One of these issues is, trying to prevent those who receive a good rating, because they do not have to dip into the fund and they're not laying off their employees. Those employers, especially on the smallest of scales, shouldn't be burdened with a tremendous rate increase. So, whatever we do, as we move forward in that direction, if we can try to alleviate those problems and keep those smaller businesses afloat, I think, is important to keep in our mind as we move forward. So, I would encourage you to come up with a rate plan that will help to bring in some more dollars and get us in the reserve situation where we need to break away from federal borrowing and start to drill down there. I would love to keep my fingers crossed and hope for some federal assistance that the interest rates might be forgiven and some of the loans might be forgiven, but I think that's wishful thinking. I'll keep it on my Christmas list, but I don't think we're going to get that gift this year. So I would suggest to you that, if you can come up with a modified rate that will get you some more of those revenues, hopefully next year we'll be able to incrementally get there over time. Thank you for all your hard work and we look forward to working with you on this.

Jim Nelson, Executive Director of Nevada Association of Employers (NAE). Thank you very much. You guys have got a very difficult decision. There's no doubt about that. I'm just here to give you kind of a couple ideas maybe to mull over. First of all, NAE, we have a lot of small businesses that are members of ours. And ironically, three years ago when I was here I think I was the only one that proposed a slight uptake in the average tax rate, but it was kept at 1.33. Now, here I am and I'm going to be advocating staying at 2.0. Up until a couple of years ago, the payroll tax item on a budget, the line item on a budget was relatively obscure. A lot of employers didn't pay a lot of attention to that, because we had a relative low UI tax rate. Now all of a sudden that's become quite the attention getter when organizations are doing their budget, because of the significant increase in the tax rate over the last couple of years.

We've had a lot of members who three years ago were at the .25 and now they're 5.4. We've had a lot of employers that have had a substantial, and it's through no fault of their own. It's just the economy. It's the fact that they've gone through massive layoffs. They've had a huge hit when it comes to benefit payouts. It's been very, very difficult for them. I think that by increasing these rates, we're talking about business growth, jobs. I don't see how raising the tax rate is going to have any positive impact on doing what we all want to do and that is creating more jobs. Now, I have the comparison of receipts disbursements in Nevada unemployment trust fund balances as of July 31st of 2012. I just got this the other day. I get this on a regular basis from ESD. And it shows that as of July 31st of 2012, we've got a Nevada trust fund balance of over $108 million, which is a $43 million increase from year-over-year. So clearly the 2.0 is having a positive effect in terms of reestablishing the solvency of the trust fund. I mean, it's in your own document right here.

Another thing, maybe, to consider is, I remember back in the mid '80s when we created CEP. Of course, then it was the Claimant Employment Project back then. Now it's called career enhancement. And there was originally a sunset on that, it was either a two year or four year. I forget which, but you know, Mr. Gibbons was very integral in getting that program up and running. My real rudimentary math shows that if you take that nickel that's going into CEP right now and apply it toward the fund balance, it's about $22 million. I may be off on that. The economists are much better at doing the math than I am. But maybe one of the things to consider is, is the value of the CEP worth $22 million a year. That's something to think about. That's all. I'm not suggesting we do away with CEP, not at all, but something to consider. I think the worst thing we can do right now, you know, if we stay at 2.0 for one more year, see where we are next year, one of the unknowns, Renee, is the assessment. We have no idea what that number is going to be. So we've got a lot of unknowns right now.

We raise the tax rate. Who knows what the legislature is going to do with respect to the assessment. Who knows what further impact that's going to have on employers and small businesses. So I think until we have all of the numbers, until we know what all the numbers are going to be, I think it's, in my opinion, it's wise to stay where we are. It seems to be working, at least in terms of the solvency of the fund. I understand we've got the repayment and all that. I understand that, but we're not going in a negative direction. We're going in a positive direction right now, based on the numbers that I have from the state. So that's my two cents worth.

VIII. E. <u>COUNCI L DISCUSSION</u>

Mr Havas thanked all and opened up the meeting to hear from the Council.

Mr. Chair, Danny Costella. You hear from both sides of the employers' representatives. Which would have the greatest impact or least impact on the employers; going with the federal, I mean, there's going to be an increase one way or another on employers; am I correct? Which one will have the greatest impact as far as, you know, business or employment.

Mr Havas replied: Well, apparently the small business person is going to be impacted by an increase in the employer tax rate.

Mr. Costella: At the state level?

Mr. Havas: That's correct. The rate schedule that we adopt or recommend merely affects small business.

Mr. Nelson: Well, it affects all businesses.
Unknown: Mr. Chairman, if we're going to have additional public comment, could you please come to the microphones so that it can be recorded.

Mr. Costella: Well, my question is, if it's going to be the federal increase or the state increase, I mean, it's going to happen no matter what one way or another. Which one has the greatest impact, is my question?

Jim Nelson, Executive Director of Nevada Association of Employers. I didn't make the comment. I didn't have anything to testify with respect to that issue. I know that Ray did. But as far as what employers are going to be affected by, a change in the state tax rate, of course, everybody is. And so the employers that I represent are all of different industries and they're at all different levels of the UI tax rate, so there's going to be an impact for everybody.

Ray Bacon, Nevada Manufacturers Association. Through you, Mr. Chair to Danny. Because the federal structure looks at only the first $7,000 in wages, whereas our structure looks at the 26,900, 26,600, whatever the number is. The federal structure does a greater hit on the lower wage employees, in my estimation. And I think the economists confirmed that

Dave Schmidt, for the record. I don't have any specific information in front of me about the distribution of those average wages across large and small businesses. For the small business workshop, we will have a couple of tables that sort of show the impact of the proposed regulation after the recommendation today on how it falls on businesses. But broadly speaking, there is a slight difference small businesses, rather, at the state level typically have a slightly lower tax rate; where in 2012 looking at the first quarter, a lot of them had an average rate in the neighborhood of, recalling this to the best of my ability, about 1.8 to 2%. And they were about two-tenths of a percent lower for the state UI taxes than they are for the average, for all employers. When you look at it for federal unemployment taxes, because there is no experience rating, it falls completely evenly on everybody. So I hope that helps you answer your question.

Ross Whitacre for the record. I think Dave addressed, too, I'm going to ask the same question in a little different manner. It seems to me that if we stay at the 2.0 level that our employers are going to rapidly be affected with that FUTA tax to the point where they'll be paying, within a few years, that entire 5.4% or whatever it tops out at. So if we look down the road, do the employers take a bigger hit through FUTA, or do they take a bigger hit through the state?

Dave Schmidt, for the record. If you look at slide 29 in my presentation, I've got it back up on the screen here. Highlighting that this is just looking at 2013, but I'll try to extend that for you a little bit. For the sake of comparing two different numbers, let's look at the 2% column and the 2.25% column. You can see here, raising the state UI tax by a quarter of a percent, the rough impact on employers is a little bit under $70 per employee, if they're at that taxable limit, so $70 per employee to go up by a quarter of a percent on the state side. In 2013, there's not actually a difference between the two. It's $105 because since we're not capping the rate at 0.6 under either of those scenarios, it would be $105. But if you look at the far right column between 2.75 and 3%, if you do achieve the cap the difference for one year is about $21 per employee. So absent any caps, the federal UI tax on an employee goes up by $21 per employee per year.

So if we are estimating that loans will be repaid in 2016, that would be, what, three more years beyond 2015. And so without achieving any caps at the 2% rate, you would be going from a total of $105 per employee in 2013, to $168, if I did my math right there, per employee in 2016, because you continue to see that $21 per year increase. So that's an increase over the life, you know, from now until then of $63, whereas to go from 2% to 2.25%, you have an increase of slightly more than that just in one year. So to wait for FUTA to pay it back would, because it stretches it out over more time, the increase in any particular year is smaller. So that increase is numerically less. The question is, is it easier for employers to bear it when it's on the state UI tax side; is it easier for them to continually adjusting their estimates of what they have to pay for the federal taxes? I can't really answer that. That would be a question for the Council, the representing employers and sort of being able to try to say we think this is probably in their best interest.

Mr Whitacre had another question: Mr. Chair, another question for David. So in other words if they go up $70 in one year, but that $70 is every year after that, right? It's still, it's basically a $70 increase from what it is now, where you're just adding 21 each time. It's just spreading it out like you said.

Mr Schmidt replied: No, the $70 increase in this particular scenario would be the $70 increase this year and then flat at that rate…

Paul Barton, representing the public. When you do those numbers, I think you were leaving out the wage base. So an increase in wage base would increase those numbers; would it not?

Mr Schmidt replied: That's correct. The wage base, assuming average wages continue to increase would cause the cost per employee on the state side to continue to increase probably on the neighborhood of 1 to 2% each year, just as average wages go up with inflation.

Renee Olson, Administrator: I think, just in general comments, I would say this is a very complicated issue. There's lots to weigh here. And to weigh not only the impact to employers in terms of the cost that they're paying now, it's also weighing the amount of interest that's accruing against the loans over time, and getting to a point, also, where we are ready for the next downturn in the economy. So I think there's lots of complicated issues surrounding this. And so how do we figure out how to weigh all those issues and come to a rate? That is extremely difficult. But I would just urge everyone to consider those aspects, as well.

Katie Johnson for the record. To me, it's like you get a credit card bill every month and if you pay only the interest on it every month you're never going to get it paid off. So we have to begin making the payments. And, personally, I would rather have the state have control of what we're doing than the federal government.

VIII. F <u>COUNCIL ADOPTION OF RECOMMENDED TAX RATE SCHEDULE</u>

Ross Whitacre: Well, somebody's got to do it. So I'll make a recommendation or I'll make a motion that we increase the rate from 2% to 2.25%.

Mr. Havas: There's a motion for an increase to 2.25% and was rendered by Ross Whitacre. Do I hear a second?

Paul Barton: I'll second it.

Chairman Havas asked if there is going to be discussion.

Paul Barton, representative of the public: But I think what's bothering me about a rate increase, and something we need to think about, is the surcharge that may come on in top of it, which would be, in effect, a rate increase on the public. So I think we need to consider that as we do any increase; that possibly the legislature is going to throw another one in there. Or does that come back to us to recommend that increase?

Renee Olson: The way we proposed in the legislation is for the interest assessment, and Kelly will give me the elbow if I get this wrong here, is the interest assessment would be set to satisfy the interest due during that period. So it would be set and weighed just to satisfy whatever interest would be due. The other assessment would be recommended, the weight for that be recommended by this Council.

Ross Whitacre for the record. I think Paul's point is well taken, but on the other hand, I don't think we are in a position to anticipate what the legislature might do, and I think we have to act on what we have before us today.

Danny Costella: One more questions for Dave Schmidt. If this 2.25% does go in effect, does that guarantee that you are not going to get the FUTA tax increase also?

Dave Schmidt answered him: With a 2.25% rate for 2013, I don't think we would qualify for any caps. I don't think we would qualify for any caps in 2014 either. It looks like in 2015 we would be able to cap the rate at a 1.2% offset instead of it going up to 1.5% like it would if we kept it at 2% in that year. I don't have the numbers in front of me, but I believe that that's because we would meet the criteria of having, I think the constraint in there is the benefit cost rate that at 2% we're not yet below that five-year average benefit cost rate in 2014, whereas at 2.25% I believe we would be. So we would be able to get some cap in there. It wouldn't be next year, but it, if the rate were, at that point, in 2014, then that would certainly, or that would help us to qualify for that cap, when we get there. But the recommendation today, obviously, is just for 2013, and the Council would be free in next year's Council meeting and the following years to change it. So I can't say that if you say 2.25 now, you would definitely achieve that cap even then, because the Council can act again in future years to change that.

Paul Barton again. I think I was alleviated from some of my concerns by the fact that any surcharge through the legislature would come before this body. So that alleviates some of the difficulty I had with it.

At this point the Chairman announced that he would call for a vote on the motion. All those in favor of increasing the average tax rate to 2.25%, please indicate by the expression, verbal expression of saying Aye.

The Council unanimously said "AYE".

IX. CLOSING PUBLIC COMMENT

Chairman Havas announced: Let it be known for the record that the motion was carried unanimously. In closing, I am calling now for closing public comment.

Ray Bacon, Nevada Manufacturer's Association. I believe that for the legislature to seriously consider changing the rate structure, the 5.4 cap, that they would really need a recommendation from this Council. You already see in the data that that stacks up with more and more people at the top end as you move the rate. I think at some point in time we have to adjust that rate. I don't care what the number is, but I think at least there should be a recommendation from this group that tells the legislature you need to look at that rate structure, because we're probably out of whack with where we're realistically at. And I think your recommendation to look at that would go a long way towards getting them to open that box. They didn't last session.

Mr. Whitacre noted that would have to be done at another meting as an agendized item. Mr. Havas agreed. I think we would have to have presentation by staff on the matter. I mean, at a minimum I think that we should invite Renee and staff to provide us with the subject matter and focus on it at our next meeting.

Mr. Havas asked if there were any additional comments from the public.

Mr Whitacre said he is to believe that we will have another meeting before the next one start?
Ms. Olson answered that they will work on a date and see what can be done to schedule that.

X. ADJOURNMENT

Chairman Havas asked if there is any other business that needs to be raised. Hearing none, he invited a motion to adjourn.

Mr. Bacon made a motion to adjourn. Mr. Havas asked for a second. Ms. Katie Johnson seconded it. Chairman Havas asked if there was any discussion and not hearing any, he adjourned the meeting/workshop.

NOTE: These minutes have not been approved and are subject to revision/approval at the next Employment Security Council meeting scheduled for October 2, 2013.

AN AMENDMENT TO THESE MINUTES WAS MADE AT THE OCT. 2, 2013 MEETING. And the Minutes were approved with the Amendment in place as follows:

It was noted on the last page of the minutes that at adjournment time, a motion as made by Mr. Ray Bacon, who is not a member of the Council. So at that point the change was made at the 10/2/2013 meeting before approval. Council member Ross Whitacre made the motion to adjourn in 2012. This was seconded by Paul Barton and all members voted to adjourn by saying AYE.
The minutes then were approved at the 10/2/2013 meeting as mailed with the Amendment.
Ross Whitacre again made the motion and Paul Barton seconded this motion. It was approved unanimously.