VERBATIM TRANSCRIPTION

OF

the

SMALL BUSINESS WORKSHOP OF THE
DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION

held on

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Prepared by

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DETR - Nevada Employment Security Council
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Verbatim Transcript

Note: *If a portion of the recording could not be transcribed due to the quality of the recording or because the words could not be distinguished, this has been indicated as follows: "(Incomprehensible)".*

OLSON: …Security Division. Sitting to my right I would like to introduce Tom Susich, Senior Legal Counsel for the Employment Security Division, and to my left is Kelly Karch, Deputy Administrator for the Employment Security Division. This Small Business Workshop is being conducted in compliance with Nevada Revised Statute Section 233(B) 0608 to solicit public comment on a proposed amendment to the regulation setting the Unemployment Insurance Tax Schedule for calendar year 2013, and contained in Nevada Administrative Code 612.270. Mrs. Golden, for the record, was proper noticed for this meeting given in accordance with Nevada Revised Statute 233.061?

GOLDEN: Joyce Golden, Assistant to the Administrator. Yes, proper notice was given.

OLSON: I'm sorry. I don't know if I was using the microphone before. Was what I said previously adequate for the record -- for the recording?

FEMALE: I believe so.

OLSON: Thank you. Thank you, Mrs. Golden. Were any written comments submitted in response to this posting?

GOLDEN: Yes. We received two after the deadline. One was from Peterson Wealth Management from a Cindy Peterson, Office Manager, and her office opposes the recommendation given by the Council of the increase. The second one is from the Nevada Manufacturers' Association, written by Mr. Bacon, Ray Bacon, and he's in support of the Council's recommendation.

OLSON: Thank you, Mrs. Golden. So let's begin with Agenda Item 2, by inviting public comment. If there is anyone in Las Vegas or Carson City who would like to provide public comment, please make your way to the microphone and start by identifying yourself and who you represent for the record, and please limit your remarks to five minutes each. If you have any written testimony to present, please provide it to staff. Do you have public comment? Please come forward.

MAN: And will you activate the mic, the white button on the bottom? Thank you.

FLAGG: It's on. Hi. My name is Andrew Flagg. I live at 490 East 8th Street in Reno, Nevada. Why I'm here is -- I should be at work because I have a lot of work to do to, and I have one employee, but I want to share five items. This, why I'm here, and I'm surprised there's a not a lot more people who are small business owners, because I shared it with over 600 of my peers, this is more of a logical testimony than emotional. Some people told me that speaking up is like speaking out and should be frowned on, but I want to be here and give you my honest feedback.

Briefly, my story, I've been in business six years. I run a small computer repair company. I have one employee. I pay my federal 941s and my DETR stuff. I've always been on time, I've never been underpaid, unpaid. I'm a veteran with 12 years from the Army. I'm a farm boy from Oregon, and I landed in Nevada in 1997 in Winnemucca and I lived up there for five years and served the community well. I've been in Reno since 2002 and have worked at several corporations. My business, like I said, has been in business for six years successfully. We do make a profit, we do well, and we have a little bit over 8,000 customers, and that's because of hard work.

Number two, I want to sort of tell my story here. I have customers that come in over 50 years old, male and female both, and DETR is very helpful for them, because I'm approaching that age and I know it'd be hard to compete against some 30-somethings for the same job, and then the 30-somethings get that job. So I'll be there soon.

I believe the federal and state taxes, number three, should be filed, no exceptions, no loopholes. I believe K through 12 funding should be from property tax owners, and I want to keep this in the scope of taxes. K through 12 should be property owners only, no businesses. Higher ed should be businesses. Both are recipients of the results. Kids graduate in both areas. I get college graduates.

Number four, I wrote two articles to the RGJ on this subject over the past month. One was accepted and published and one was not because they said it was too complicated and too long, though it was simple. Number five, my UI rates have been zero percent for five years and went up to five and a quarter in the past year and a half, and it's very difficult to pay. And it's down to 4.75. And the reason why I'm here today is because when I was talking to DETR how to lower that so I can afford to pay things, the lady told me there's a meeting on the subject and she recommended that I attend because she looks at me as another payee of your system, and so that's about it. I was wondering why the CEP rate has always been so low, and I think it's for education.

I have had previous employees that have used your system. I'm struggling to pay that. I didn't know when they left that I had to still continue to pay them as an employee through your system. One just walked out, didn't show up for two weeks. I complained. They did not honor me. They made me pay -- you made me pay. The other one was RIF, reduction in force, she wanted to go to school, but she claimed unemployment, and I said, no, not really, I mean, you want to go to school. But I paid unemployment for a long time. It's very difficult. But that's all I have, and if you have any questions -- I want to thank you for this moment, and if you have any questions, you can ask me later. Thanks.

OLSON: Thank you for your comments today. We appreciate it. Is there any other public comment? Looks like we have someone in the south.

MARTINEZ: For the record, Art Martinez, ESD Southern Region Supervising Auditor. There's no comments right now from Las Vegas.

OLSON: Thank you. With that then we'll move on to Agenda Item 3, the workshop to consider adoption of the regulation. We'll continue now, and as part of the regulatory process, a meeting of the Employment Security Council was held along with the regulation workshop on October 2, 2012. After hearing testimony regarding the status of the employment insurance trust fund, the impact of federal borrowing, and considering the public comment from several individuals, the Employment Security Council voted unanimously to recommend to the Division's Administrator to raise the average unemployment insurance tax rate to 2.25 percent for calendar year 2013. With that, we'd like to have a couple of presentations for you. The first presentation will be a review of the unemployment insurance benefit payment trust fund. Presenting this information for us today is Mr. David Schmidt. Mr. Schmidt is an Economist with the Department's Research and Analysis Bureau. Thank you.

SCHMIDT: Thank you. For the record, my name is David Schmidt, and I'm an Economist with the Research and Analysis Bureau as our administrator said. And today I'm going to be providing a summary of the comments that I made at the Employment Security Council in early October.

To start, I'd like to look at the solvency nationwide of the 50 states in the month -- in the quarter that we entered the last recession in December of 2007. You can see that a number of states actually had fairly low solvency. This is looking at the average high cost multiple where a multiple of 1.0 represents having approximately one year's worth of benefit payments in reserve in the UI trust fund that would be sufficient to pay benefits at a rate equal to the worst payments rates in the last 20 years, or a period of time sufficient to include three recessions.

In this map, you can see that Nevada had a solvency multiple of just over one heading into the last recession. By the time we look at 2010, a number of states have had to borrow in order to pay benefits. A relatively small number of states were able to maintain solvency through the recession and have solvency multiples of at least 1.0 as of 2010. Most of the states that had to borrow are states that entered the recession with very low solvency, however, Nevada, Arizona and Florida are among the small number of states that had solvent trust funds heading into the recession that nevertheless had to borrow. And I point out Nevada, Arizona and Florida because these are three states that were hit particularly hard by the housing boom, and then the housing bust that followed during the recession.

One area in which Nevada is unique among these states is that Nevada's unemployment rate increased over 13 percent by the time we finally had to borrow in order to continue paying unemployment benefits. A couple of states had to borrow when they had unemployment rates of less than five percent. The majority of states had to borrow with an unemployment rate of between 6 and 11 percent. And if we had the information displayed here for Arizona and Florida, you'd see that they were in the 9 to 11 percent range. So those states that had solvent trust funds heading into the recession were also much better able to weather higher unemployment rates, prolong the point at which they had to borrow further than some other states.

The effect of that unemployment rate on Nevada is you can see that we went from paying roughly $20 million a month in unemployment benefits to a peak of over $100 million a month as the housing bust unfolded. We've now come down from that. We're under about $40 million a month now. As with many states, we endured a shock during the recession, but we're slowly recovering. We're still paying out benefits at a very high rate. You can see even at $30 to $40 million a month, this is comparable to the very worst points that we had following 9/11 in that 2001 recession.

But benefit payments are coming down, and this has allowed us to begin net paying back of the loans that we've taken. In this chart you can see, again, benefit payments spiking. This is on a calendar year basis. And in the worst year of the recession, we paid out over $1 billion in regular benefits in a single year. This does not include any extended benefit programs. This is only benefits for the first 26 weeks. Those very high benefit payout rates took us from having about $800 million in reserve to where, at the end of calendar year 2011, we had just under $800 million in loans. So we had a $1.6 billion swing from our surplus to our net borrowing position. However, by the end of calendar year 2012, we are seeing some net paying back of those loans on the order of $50 to $70 million. So our loan balance is declining. This is in part due to the tax increase that the Council recommended in -- or for 2011, as well as the declining benefit payments. This has helped us to come to a point where we're very nearly breaking even.

Another way you can look at that is on average throughout the states, if you look at the average tax rate that we have, and the benefit cost rate which is the tax rate that we would need to have in order to pay for benefits in any given year, and you can see as the recession peaked, the rate that we would have needed to charge in order to pay for benefits in 2010 actually was over four-and-a-half percent, and that couldn't have been accomplished without a legislative change to the UI tax law. Because we have a fixed rate on all new employers of 2.95 percent, in order to bring the average up to over four-and-a-half percent, we would have had to have every other employer at a rate higher than the current statutory maximum of 5.4 percent. So benefit payments have jumped so high that we actually couldn't have paid for benefits in that year.

But you can also see here that the state generally pursues counter-cyclical funding because you can see that benefit payments tend to spike during a recession and recover afterwards. And then as that recovery is taking place, the tax rate tends to go up in order to recoup the losses to the trust fund, or in the late 1970s, and in the current recession, taxes need to go up in order to repay borrowing and rebuild that solvency in the trust fund.

Nevada's been very fortunate. Over the last 20 years we were able to have an unusually low and stable tax rate. This is in part because Nevada has an index taxable wage base that allows our tax revenues to keep up with inflation without needing to make those changes through the tax rates each year, and so it affects the total amount of wages that are subject to taxation and allows the solvency of the trust fund to keep up with unemployment benefits which are also indexed to average wages.

Looking at some of the costs of borrowing, since we do have just under $700 million in loans, and expect to continue to have loans through at least the next several years, one important thing to keep in mind is that there's two unemployment taxes. There's the federal unemployment tax, or FUTA, and the state unemployment tax, or SUTA. Federal unemployment taxes are on the first $7,000 of each employee's wages, and these are paid directly to the federal government each year. State unemployment taxes, as I mentioned, are on an indexed wage base. In 2013 that will $26,900. That wage base is set at two-thirds of the average annual wage in the state each year. These are collected by Nevada. The state unemployment taxes can only be used to pay for benefits or the principle of loans which are used to pay benefits. State unemployment taxes are not allowed to be used for any other purpose.

Federal unemployment taxes fund the administration of the UI program. They also finance the fund from which our borrowing can take place. They finance the state share -- or the federal share, excuse me, of extended benefit programs. The federal taxes are also a fixed tax rate of six percent, however, most employers, if a state has a compliant UI system, receive a 5.4 percent credit toward that and pay an effective rate of 0.6 percent. That rate, however, is increased through a reduction of that 5.4 percent credit as states are borrowing. In 2011 Nevada experienced the first reduction of that credit from 5.4 to 5.1 percent. In 2012 that credit will be further reduced from 5.1 to 4.8. In 2013 it will go from 4.8 to 4.5, effectively increasing the federal taxes from 0.6 percent in 2010 to 0.9 percent in 2011, 1.2 percent in 2012, and so on.

The additional funds that are raised through the increasing of that federal tax, this is imposed on us by the federal government, all those extra revenues are applied directly toward our loan balance in order to pay down our loans. It's effectively a way of the federal government starting to force us to repay our loans if we don't do it rapidly enough. The state unemployment taxes by comparison are set each year by regulation. For 2012 it's currently 2.00 percent, and as the Administrator mentioned, the Council's recommendation was to increase that from 2 percent to 2.25 percent for calendar year 2013.

It is possible to cap the increases in the federal tax rate. The state has four benchmarks in order to do this. These benchmarks are that no state action can be taken from October 1 to September 30 that would reduce our state's unemployment tax effort. Effectively we can't cut our state unemployment taxes. We can't take any action that would be expected to result in a net decrease in the solvency of the state UI system. Effectively we can just raise benefits without paying for it, and, again, we can't cut our UI taxes. Third, the state's unemployment tax rate has to be greater than or equal to the five-year average benefit cost rate. The benefit cost rate would be that orange line in the graph that I showed earlier. And this is to ensure that the state's tax effort is comparable to the amount of benefits it's paying out. And finally, the state's outstanding loans have to be lower than in the third prior year. Effectively this means that in order to cap the federal tax increases, which are going to repay your loans, you have to show a declining trust fund balance.

In looking at what it would take to cap those rates, the lowest rate at which you can cap it is at 0.6 percent offset, and that's where Nevada is currently in 2012. So 2013 would be the first year for which we could achieve one of these caps on the FUTA rates. However, to do that, the average tax rate would need to be three percent in 2013. With an average tax rate of 2.25 percent, we would not be expected to qualify for that cap in 2013. Our loan balance on September 30 is also projected to be higher than 525 million, so we would not qualify for the cap under either of those two criteria, and we need both in order to qualify.

The next rate cap that would be possible would be delaying it a year. We could cap the federal tax increase at 0.9 percent in 2014. In order to achieve that, we would need an average tax rate in 2014 of approximately 2.9 percent. Again, that's higher than 2.25 percent, but this is a rate that the Council would be needing to consider in October of 2013. And the loan balance would have to be lower than 742 million, which, under all current projections, without a significant cut in the state UI tax rate, we would actually achieve that particular criteria.

The other main cost of borrowing is that the loans that we have from the federal government do accrue interest. Interest accrues each year from

October 1 through September 30 over the federal fiscal year. Interest is due on September 30th of each year. In 2011 the interest rate that was charged was 4.08 percent. In 2012 the rate was 2.94 percent. The interest rates are based on the fourth quarter yield of states that have a positive trust fund balance. So we don't have any current information on what the rate will be for 2013, however, the third quarter yield, that was about 2.5 percent. So unless that trend were to reverse itself, it's likely the interest rate would be slightly lower in 2013.

The reduction in the interest rate from 4.08 to 2.94 percent from 2011 to 2012 did reduce our estimated interest expense in 2012 by about $9 million. The actual interest cost for 2012 was 23.9 million. This was paid slightly before September 30th, and across all states estimated interest from 2012 was about 1.1 billion.

This table shows the range of tax rates that were presented to the Employment Security Council in October with the 2.25 percent rate that was recommended highlighted. Under this rate we would expect that the trust fund balance on September 30 of 2013, or rather the loan balance would be approximately $560 million. This would be down from the approximately 676 million that we had as of October 1 of this year. We expect benefit payments to continue to decline to approximately 430 million. We expect that the 2.25 percent tax rate that we would bring in, approximately $500 million in state UI taxes, as well we have the 0.6 percent federal income tax reduction for 2012 will be collected in early 2013, and as that's collected, it'll be applied to our trust fund balance. We expect this would also pay down our loan balance by a little less than $50 million.

All combined we expect the 2.25 percent average tax rate would pay down approximately $120 million in our total loans. This would leave us still well short of having no loan balance and even further short of the measures that we would need in order to have a solvent trust fund, and we would be short by about 1.4 to 1.6 billion depending on the solvency measure being used. The average cost per employee at the 2.25 percent tax rate would be a little over $600. Of course, that's just the average rate. The actual rate that any individual employer would pay would be depending on their own tax rate ranging from 0.25 percent to 5.4 percent.

Slide 13 looks at the long-term effect if we were to leave the tax rate to fix from 2013 indefinitely to see when might we be able to pay back our loan balance, when might we have a solvent trust fund, how much total would be pay in interest and so on. Looking at the 2.25 percent tax rate, a couple of highlights, we would expect the total interest expense for 2013 until the loans are repaid would be about $54.5 million. We would expect that loans would be able to be repaid in 2016. This is largely due to further projected declines in our overall benefit costs as we are slowly recovering from the recession.

And we project it would take another two years of the 2.25 percent rate to build the trust fund back up to an average high cost multiple of 1.0.

We expect that in 2013, as I said before, the average state unemployment tax cost per employee per year would be about $605. We also project that the federal tax per employee per year would be about $105, and that's based on that $7,000 wage base, and an effective tax rate in 2013 of 0.6 percent, which is the baseline plus 0.9 percent which would be an additional credit reduction, for a total of 1.5 percent. So that's 1.5 percent times $7,000 to get $105. You can see that under the three percent rate projection, the projected federal tax for 2013 would be $84, and that's because we would have expected to achieve the cap on that federal credit reduction.

One other point to consider is looking back over the last 50 years, the average amount of time from the end of one recession to the beginning of the next has been roughly 5.4 years. This is not, I'd like to emphasize this, a projection that we will have another recession in December of 2014, but rather if another recession were to come at the average length of time between recessions, that would be December 2014. And this gives us some perspective on how long it would take to not only pay back the loans that we have because of the last recession, but also rebuild a solvent trust fund in advance of a future recession so that we could avoid borrowing again.

I'd like to add a couple of slides that are more focused on the small business impact and looking at the 2.25 percent rate in particular, and that increase. The first slide here looks at the average tax by employer size and the number of different categories in 2010 and 2011. These two years are picked because it was between 2010 to 2011 that the average tax was increased from 1.33 percent in 2010 to 2 percent in 2011. Now, you can see that the largest impact on average was actually with larger employers between these two increases. You can also see that overall the slope of the different tax rates as you increase an employer's size is actually much flatter in 2011 than it was in was 2010. In 2010, employers of one to four employees paid over 1.5 percent, while employers of 1,000 or more paid under one percent on average for their state unemployment tax. In 2011 that discrepancy had shrunk by a couple of tenths of a percent.

Another comparison is to look at the average unemployment tax rate by industry. Tax rates are not set based on industry, but sometimes industries have common characteristics that will cause their tax rates to be higher or lower. Specifically, this would relate to how much employers are paying -- or how much employers are having charged to their account as far as benefits, versus how much they paid in taxes. The employers in this chart that have rates of over two percent are on average those employers who have had more benefits charged to their account than they paid in unemployment taxes, and those who have rates of less than two percent in general are those who have paid more in taxes than they've had benefits charged to their account.

You can also see that on average in 2011 all but one industry had average tax rates of less than the new employer rate of 2.95 percent, which tells us that on average once an employer has stuck around long enough to achieve an experience rating, it does get a tax cut on average. Of course, again, it depends all on individual employers' experience, but this is just looking in general.

The last point I'd like to make is that between 2012 and 2013, with the recommended increase to 2.25 percent from 2 percent, there's actually a very small change in the reserve ratios that would achieve these tax rates. So the increase in the average tax from 2 to 2.25 percent is largely dependent on individual employers' experience with the system. If their reserve ratio has improved, they're likely to still see a tax cut. As their reserve ratio improves, if their experience ratio -- reserve ratio, rather, has stayed the same, they're likely to remain at the same tax rate that they are currently. If their reserve ratio has gotten worse, they're likely to see a tax increase. This is largely because in order to keep the average tax rate at two percent, we would have had to move the goal post back to make it harder to qualify for high tax rates and easier to qualify for low tax rates. Whereas with the 2.25 percent recommendation, these reserve ratios are very close to where they were in 2012. And so the largest effect will be based on individual employer's experience.

The final chart that I have looks at the different average tax rates that were presented to the Council, as well as a future expected path for the benefit cost rate. The red dot would be the 2.25 percent rate, and you can see that this is above the benefit cost rate, so we expect that our state unemployment tax collections will exceed our benefit payouts, and that if that rate were maintained as benefits decline, this is where the ability to repay our loans and eventually build solvency would come from.

Finally, a couple of questions. The two big questions as we look at the forecast for 2013, is first, how long will it take the economy to recover? Obviously the Nevada economy of the last couple of years is very different from the Nevada economy in the last decade when we were in the middle of an unprecedented boom in our population growth and in our economic growth. Obviously, if the average time between recessions is only about five-and-a-half years, Nevada is likely to still be growing slowly, still be recovering from the last recession when the next recession comes.

The other big question is the expiration of extended unemployment benefits. Currently all the extended benefit programs are scheduled to expire at the end of 2012, which is just a couple of months away. Once that happens, there's a couple of effects that would take place. First, the extended benefit programs currently represent an infusion of money from the federal government into the state here through the payment of individuals who have been unemployed for an extended period of time. So we would see some money coming out of the economy once these extended benefit programs go away.

Secondly, there's a possibility that as extended benefits are removed, some people may come back and file reduced unemployment benefit claims under the state system. Currently if their federal extensions are significantly higher than their state eligibility, then they can continue to claim benefits through the federal extensions. Once those federal extensions go away, it's possible that people that have been working off and on during their unemployment spell will have some significantly reduced eligibility, but we still may see an increase in the beginning of the new year in the number of regular UI claimants, even if the average amount that they're being paid has been reduced. That's the end of my comments.

OLSON: Thank you, Mr. Schmidt. Our next presentation provides an explanation of the tax rate schedule and the impact on small businesses. Let me now introduce Mr. Edgar Roberts, the Chief of Contributions for the Employment Security Division.

ROBERTS: Good morning. For the record, my name is Edgar Roberts. I serve as the Chief of Contributions for the Employment Security Division. The purpose of this Small Business Workshop is to discuss the proposed unemployment insurance tax rate schedule for calendar year 2013, and its impact on small businesses. Turning to slide number two, state law requires the administrator to set the tax rates each year by adopting a regulation per NRS 612.550(5). Also pursuant to Nevada Revised Statute 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, today's Small Business Workshop is being conducted and will be followed by a public hearing scheduled for December 4, 2012.

Today our economist Dave Schmidt for the Agency has discussed the economic condition of the trust fund, the impact of federal borrowing to supplement the state trust fund, and the forecast for next year. Now I would like to provide an overview on how the unemployment insurance tax system works and the projected impact of the repose unemployment tax rate schedule for calendar year 2013.

Turning to slide number three, the unemployment insurance program is a joint federal and state partnership. The amount an employer pays for federal employment or FUTA taxes depends on the employer's participation and a federally approved state unemployment insurance program. In addition, FUTA credits are reduced when a state has to borrow funds from the federal government to maintain its UI program. Due to the State of Nevada borrowing funds, the FUTA credit was reduced by .3 percent in 2011, by .6 percent in 2012 and by .9 percent in 2013. To ensure that a proper tax and a proper credit are given for the state unemployment or SUTA taxes, the IRS requires an annual cross match or certification process with states to validate the SUTA payments for FUTA credits.

Turning to slide number four, the state unemployment 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 unemployed Nevada workers, or to repay the principle loans that were used to pay benefits. The revenue in this trust fund cannot be used for other purposes. The 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 an 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 five, at the core of the unemployment 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 new employers is 2.95 percent of taxable wages pursuant to NRS 612.540. The taxable wage base or taxable limit is an annual figure calculated at 66 2/3 percent of the annual average wage paid to Nevada's workers pursuant to NRS 612.545. Unemployment insurance taxes are paid to an individual's wages up to the taxable limit during the calendar year. In 2012 the taxable wage limit is 26,400 per employee and in 2013 the taxable wage limit will be increasing to 26,900 per employee. Employers pay at the new employer rate of 2.95 percent for approximately 3 1/2 to 4 years until they are eligible for an experience rating. Once eligible for an experience rating, an employer's rate can change from .25 percent to 5.4 percent depending on the individual employer's previous experience with unemployment.

There are also 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 percent. The standard rate established by federal law is 5.4 percent. Rates lower than 5.4 percent can only be assigned under a state's experience ratings system approved by the Secretary of Labor. The intent of any experience ratings system is to assign individual tax rates based on an employer's potential risk to the trust fund. Basically, those employers with high employee turnover and a greater risk cost to the fund paid higher rates than those with lower employee turnover.

Turning to slide number six, based on the 2.25 percent recommendation from the Council, this slide shows an employer's maximum cost per employee with ranges from the highest rate of $1,425.60 per employee, to the lowest rate of $66 per employee in calendar year 2012. In calendar year 2013, the maximum annual cost per employee will increase slightly by 1.89 percent due to an increase in the average annual wage and the annual taxable wage limit with ranges from the highest rate of $1,452.60 per employee to the lowest rate of 67.25 per employee.

Turning to slide number seven, to measure an employer's experience with unemployment, Nevada, along with the majority of other states use a 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 of UI taxes paid by the employer, and then subtract the benefits charged to the employer. The result is then divided by the employer's average taxable payroll for the last three completed calendar years. This calculation establishes the employer's reserve ratio. The purpose of using this method is to put large and small employers on equal footing without regard to 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 a positive 10 percent. The higher the ratio, the lower the tax rate 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 a negative, and the employer will generally have a higher tax rate. The reserve ratio calculated for each experience rated employer is then applied to the annual tax rate schedule to determine the rate classification that will apply to that employer for that calendar year.

Turning to slide number eight, now, let's look at the detailed tax schedule proposed for adoption by the Council and for calendar year 2013. In setting the annual tax rate schedule, the 18 different contribution rates displayed in the fourth column of this chart do not change. These contribution rate classes range from .25 percent to 5.4 percent, are fixed by statute NRS 612.550(5). This statute also requires the Employee Security Division Administrator to designate the ranges of reserve ratios to be assigned to each contribution rate class for the calendar year. By doing so, the number of employers in each contribution rate class are changed which increases or decreases the taxable wage column rate and the total estimated revenue. The law also requires that the increments between reserve ratios must be uniform.

In this chart, the average tax rate of 2.25 percent, the contribution ranges from a positive 11.6 to a negative 14 with increments of 1.6 between each of the reserve ratios. If an employer's reserve ratio is a positive 11.6 or more, they will receive the lowest tax rate of .25 percent. An employer with a reserve ratio of less than a negative 14 or more would receive the highest rate of 5.4 percent, and the rest of the employers fall somewhere in between. This chart also shows us that approximately 20.3 percent of eligible employers remain in the lowest rate of 2.25 percent, and 10.8 percent of eligible employers are in the highest rate of 5.4 percent. Out of the 57,335 total employers, there are 36,262 employers eligible for experience rating which is estimated to generate 446.96 million in revenue to the Unemployment Insurance Trust Fund. To this we add the estimate for new employers, not eligible for experience rating, an estimate of 52.69 million for a total revenue of approximately 499.65 million for the average unemployment tax rate of 2.25 percent. As a note, you will see that there's an additional .5 percent tax for the Career Enhancement Program or CEP, which is a separate state training tax set by statute. This is being provided for informational purpose only and is not included in the projected revenue amount.

Turning to slide number nine, on October 2, 2012, the Employment Security Council recommended increasing the unemployment tax rate to 2.25 percent for experience rated employers for the upcoming calendar year 2013.

Turning to slide number ten, in compliance with NRS 233(B), I'm now going to provide a statement of the projected impact of raising the unemployment tax rate to 2.25 percent for small businesses in Nevada. All Nevada employers are subject to Nevada's unemployment compensation law that pay unemployment insurance tax subject to the experience rating system are affected by the proposed regulation. This constitutes approximately about 36,262 or 63 percent of the total registered businesses. The rate for individual small businesses will either increase or decrease depending on each individual business' experience record within the program. Employers with a high employee turnover rate will more likely to shift to a higher tax rate while those who retain their employees will have a lower employee turnover rate and move into a lower tax rate.

Turning to slide number 11, the beneficial effects of this regulation will assist in the repayment of our federal borrowing which will lower our interest costs. The proposed regulation will continue to support Nevada's unemployment insurance system, which has paid over 480 million in regular unemployment benefits to Nevada's workers in the last year. This regulation will also continue to allow experience rated employers to pay a tax rate that is lower than the new employer rate of 2.95 percent.

Turning to slide number 12, the recommendation by the Employment Security Council to raise the tax rate from 2 percent to 2.25 percent is anticipated to shift the tax burden in all the tax rates. Because the individual experience of all employers statewide are constantly changing, increasing the average tax rate from 2 percent to 2.25 percent for 2013 will also move employers into both the maximum and minimum rates. Overall, the tax burden is only shifting slightly. The primary cause of a change in employer's SUTA tax rate will be due to changes in the employer's own reserve ratio.

Turning to slide number 13, this slide shows a number of small employers distribution highlighted in yellow at the rate of 2.25 percent. The 2.25 percent rate will apply to an estimated 35,273 small businesses. This chart also shows us that approximately 20.8 percent of eligible small employers remain in the lowest rate of .25 percent, and 10.9 percent of eligible small employers are in the highest rate of 5.4 percent. For this analysis, a small business is defined as those with 149 employees or less by NRS 233(B).

Turning to slide number 14, the new rate at 2.25 percent is expected to generate approximately 500 million to the trust fund in calendar year 2013. Since small businesses' taxable wages account for 42.68 percent of all taxable wages in the state, approximately 213 million of the total revenue will be credited to small businesses. The direct impact on each individual business will vary based on each employer's experience record with the Unemployment Compensation Program.

Turning to slide number 15, by increasing the rate from 2 percent to 2.25 percent, the State of Nevada will be in a better position to control the current deficit spending and accrual of interest on outstanding Unemployment Compensation Program loans. Improving the status of Nevada's trust fund may also reduce mandatory federal tax increases under the Federal Unemployment Tax Acts or FUTA.

Turning to slide number 16, Nevada's Unemployment Compensation Program is based on an experience rating system which is approved by the U.S. Department of Labor. The ratings system is designed to ensure that employers are fairly rated based on their unique experience with unemployment, regardless of size or industry type. By having a federally approved rate system, employers are allowed to offset credit against the Federal Unemployment Tax. This is a savings of about 400 million per year to Nevada's employers.

Turning to slide number 17, in regards to this regulation, there is no additional cost for the enforcement of this regulation. Per NAC 612.270, each year the administrator establishes the employer contribution rates as required by NRS 612.550. All funds for the administration of the Unemployment Compensation Program are provided by the U.S. Department of Labor.

Turning to slide number 18, the new tax rate of 2.25 percent is anticipated to assist in maintaining the integrity of the trust fund in calendar year 2013. Small businesses will account for approximately 42.68 percent of the revenues, or approximately 213 million of the total revenue to Nevada's Unemployment Insurance Trust Fund. Increasing the rate from 2 percent to 2.25 percent is necessary to reduce the amount of federal borrowing required to fund unemployment insurance benefit payments to Nevada workers, which is a critical lifeline for people who find themselves out of work through no fault of their own.

Turning to the last slide in this presentation, as a final note, this regulation does not duplicate or provide a more stringent standard than any other regulation or federal state or local government. This concludes my presentation.

OLSON: Thank you, Mr. Roberts. At this point I would like to open the workshop for public comment. If you would like to provide public comment, please come forward to the microphone either in Las Vegas or Carson City. Please identify yourself and who you are representing, and limit your comments to five minutes. Any written testimony should be provided to staff. Seeing no one coming forward for public comment in Las Vegas -- do we have public comment? It looks like we do, thank you.

VILARDO: For the record, Carole Vilardo, Nevada Taxpayer's Association. It's difficult to support tax increases in this environment, but I think the reality is, for at least the members of the Association or small businesses, we're going to pay either through this mechanism, or we're going to wind up paying because of the increases in FUTA. And so for that reason, we appreciate the fact that the hearing has been held, that you've presented the information. I think it makes a very strong case for the fact that you had to do in effect what you're currently doing, and for that reason, we're not raising any objections on this, and look forward to working with you in the future on some of the regulations, or some of the bill drafts that were presented at the full meeting in the hopes that we'll be able to get our arms around this and not have this situation occur again in the future the next time that we do have a recession. So thank you for your efforts. Thank you very much for the work that you put in to developing the Small Business Impact Statement.

OLSON: Thank you very much for your comments. Is there anyone else in Las Vegas that would like to come forward? Seeing none, we'll move to Carson City. Is there anyone in Carson City that would like to come forward again?

FLAGG: Hi. My name's Andy Flagg from 490 East 8th Street, Reno, Nevada, and I'm a small business owner. And the presentation by both gentlemen was incredible. Eye opening for me, but also at the same time I have a couple comments and a couple questions that the presentation didn't address. I like the fact that, if I understand it correctly, all small businesses, or any business that opens up in the state, they all have to pay -- everybody has to pay a UI tax. Great. That's -- I like that. Flat is fine, and the 2 to 2.25 doesn't bother me at all. It's got to be something. My previous testimony talked about everybody should chip in, no exceptions. Question, the CEP rate wasn't mentioned. I don't understand that on my statement then, so maybe somebody after this can explain to me why the CEP rate is so low or why does it even exist.

Next, third question, there's the letter of the law and there's the spirit of the law. I have a hard time with one government agency like the federal government charging another government agency like the State of Nevada interest on a loan. The golden rule applies. I mean, if you used to borrow money from your parents, they didn't charge you interest, they just wanted you to pay it back. So I know that doesn't make sense, but to me it should be like that. We shouldn't be charging each other interest rates on a bad situation. And so if there's policy opportunity there, please entertain that because I believe we're double taxing the taxpayer at both ends. So I don't know.

I got a chuckle out of the middle of the Chief's presentation because he really opened my eyes to say why we're doing this and it's an unfortunate situation, but I moved to Winnemucca in 1997, which was approximately two to three years before one recession, and I learned because of Nevada we go through a recession every decade, and the gold follows that and blah, blah, blah. But as a business owner, this is my third business, very good one, too, the moral of the story is don't start a business in the years between and the two to three years before a recession because it negatively affects my experience so badly. Even though the people who left were no fault of my own, yet I'm still paying for it, so that was the chuckle I got out of that. But thank you.

OLSON: Thank you again for your comments, and if you have any questions, we could probably handle those questions offline, and I'm sure staff would be willing -- very happy to talk to you about any of your specific technical questions about the rates. That concludes public comment. Oh, do I see somebody in Las Vegas again? I'm sorry.

MCANALLEN: Yes. Brian McAnallen with the Las Vegas Chamber of Commerce, Vice President of Government Affairs. Thank you for the presentation today. I also wanted to echo the comments from Carole Vilardo and the Nevada Taxpayer's Association on staff's thorough business impact statement, both in the PowerPoint presentation and then in the written document, and we appreciate that. You know, some of your other sister agencies within state government and the local governments don't always do that, so we like to make sure that we're congratulating and supporting those entities that actually come out with the responses in the business impact statement making those as clear as possible.

I just wanted to comment on this as well. You know, I know this is a difficult time for a lot of businesses out there, and it is hard to suggest that we ought to be paying more in taxes at a time when unemployment is as high as it is, but as all of you are dealing with those particular issues, I think at arriving at a recommendation of the 2.25 percent is very fiscally sound for us in this state and is well -- is strategically a good position for us to be in line to pay the loans by 2016. I think the analysis from the Department and in your reviews and this recommendation at that level, while we would prefer not to have to see an increase I think is the right way to go, and we just wanted to go on record and say thank you for your hard work and appreciate that. And as I understand the adoption meeting would be December 4; is that correct?

OLSON: That's correct.

MCANALLEN: Okay. Thank you.

OLSON: Thank you for your comments, and I will echo those comments to staff that I really appreciate the work that they do and the presentations. And they continue to impress me and they are my teachers, so I definitely appreciate that too, and I appreciate your comments. With that, I believe that concludes public comment. We'll move on to the next item, and I want to thank everyone who has participated in the regulatory process for the Unemployment Insurance Tax Schedule for calendar year 2013, and to echo what we've already said is the next step in the process is the adoption of the recommendation for the tax rate scheduled for 2013. The public hearing for the intent to act upon a regulation is scheduled for December 4, 2012 at 10:00 a.m., and will be held in the same location as today's meeting. Once again, before we adjourn, I'll open up for public comment. Seeing none, thank you everyone. This meeting is adjourned.

END OF RECORDING