

**STATE OF NEVADA  
DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION  
EMPLOYMENT SECURITY DIVISION**

**PUBLIC HEARING  
Notice of Intent to Act Upon a Regulation**

**December 7, 2010  
10:00 a.m.**

**Live Meeting:**

**Auditorium  
500 East Third Street  
Carson City, Nevada 89701**

**Video Conference To:**

**Department of Employment, Training and Rehabilitation  
2800 E. St. Louis Avenue, Conference Room C  
Las Vegas, Nevada 89101**

## CALL TO ORDER AND WELCOME

Ms. Cindy Jones, Administrator of the Employment Security Division (ESD) called the meeting to order, introduced herself and welcomed all those present at this hearing.

She began the hearing by saying that the purpose of this public hearing is to receive comments on the proposed regulation to establish the unemployment insurance tax rate schedule for calendar year 2011. NRS 612.550 requires the Administrator of the Employment Security Division to establish the schedule each year by regulation.

A regulation workshop to solicit comments from interested parties as well as the public was conducted on October 5, 2010, as required by NRS 233B.061. Additionally a small business workshop was held on October 25, 2010 to address the impact of the proposed regulation on small businesses, as required by NRS 233B.0608.

At this point Ms. Jones asked Ms. Joyce Golden, Administrative Assistant for the agency, if proper notice of today's public hearing was given, as required by NRS 233B.060. Ms. Golden answered that proper notice was given.

The proposed tax rate schedule provides for an increase of the average unemployment insurance tax rate from 1.33% to 2.0% for calendar year 2011. It is the role of the Employment Security Council to recommend a change in rates, when it becomes necessary to protect the solvency of Nevada's Unemployment Insurance Trust Fund.

Two public meetings of the Employment Security Council were held. The first meeting was on August 3, 2010, to discuss the status of Nevada's Trust Fund and the impact of federal borrowing to supplement the state Trust Fund. The second Employment Security Council meeting was on October 5, 2010 and held in conjunction with the regulation workshop, for the purpose of making a recommendation regarding the unemployment contribution tax rate schedule to be adopted for calendar year 2011.

The Unemployment Insurance program is a vitally important economic stimulus program, protecting workers from the hardship of unemployment at the individual and family level and preserving the purchasing power of our workforce with the goal of stabilization for the economy.

Since the start of the recession in December 2007, regular Unemployment Insurance payments have injected over \$2.3 billion into the economy, helping to maintain customer's purchasing power and easing the decline resulting from the recession. Including federally-paid extensions, almost \$4.1 billion has been paid out. Using a 2.15 multiplier for total economic activity, all unemployment benefits have been responsible for almost \$9 billion worth of economic activity in the state.

As a result of these record payouts, Nevada's Trust Fund reserves have been depleted. In October 2009, Nevada began borrowing from the federal unemployment account, in order to pay regular state benefits to Nevada's unemployed workers.

In the 2 years ending September 30, 2010, Nevada brought in \$570 million in unemployment contributions, while paying out 1.8 billion in regular unemployment benefits. In the year ending September 30, 2010, Nevada received \$264 million in UI contributions, and paid out \$854 million in regular unemployment benefits. Such levels of deficit spending are unsustainable.

Ms. Jones reminded the audience of an important provision of the Unemployment Insurance program. If a State does not pay back loans after the 2<sup>nd</sup> year, the federal government increases the federal unemployment insurance tax in order to recover owed funds. The basis of the federal tax is different than the state one. By taking steps to increase Nevada collections of taxes with the intent of capping the potential federal tax increases, a more equitable distribution of program costs are achieved. Nevada unemployment tax is indexed and paid on a portion of average wages, while the federal tax is paid on only the first 7,000 of wages. Should the state allow the payback of loans to be achieved primarily by federal tax increases, a higher burden is placed on businesses with lower wage earners. By taking steps at the state level toward Trust Fund solvency, Nevada has more control on how and when repayments are made.

By bringing UI contributions more in line with UI benefit payments, Nevada will also significantly reduce the interest expense that employers would otherwise need to pay in the long run.

At the public meeting and regulation workshop held on October 5, 2010, the Employment Security Council recommended that the average tax rate for calendar year 2011 be increased to 2.0% from the 2010 average rate of 1.33%. The average tax rate established by this regulation affects those employers eligible for an experience rating. Out of approximately 56,600 total registered businesses, approximately 35,000, or 62%, of businesses are eligible for experience rating. With the average 2.0% tax rate, 7.1% of experience rated employers will be at the highest tax rate (5.4%) and 33.0% of employers will experience the lowest rate (0.25%). The rest fall somewhere in between.

The proposed increase in the average tax rate from 1.33% to 2.0% is expected to increase unemployment insurance contributions by over \$136 million in calendar year 2011, reducing the current deficit spending and reducing the amount of interest accrued on outstanding loans.

On September 30, 2010, the final balance of loans covering the Unemployment Insurance Trust Fund was \$526 million. Under the proposed schedule, the Trust Fund loan balance is estimated to be \$820.5 million on September 30, 2011. At that level, the fund would be approximately \$1 billion, 915 million under the minimum state solvency requirement as provided in NRS 612.550.

Ms. Jones asked Ms. Golden if we have received any written comments on the proposed regulation. To this Ms. Golden replied that one was received, but not in a timely manner to be accepted. Ms. Jones said she received one email signed by a business coalition of about 100 individuals advocating not to increase the tax rate at this time, due to the potential impact on businesses in Nevada. This decision has not been taken lightly and Ms. Jones said she understands this will have an impact on Nevada businesses. However, we must take steps towards resolving Trust Fund solvency.

At this point Ms. Jones opened the hearing for public comment. She asked if there were any comments from the public in the South on the proposed regulation.

Ms. Veronica Meter, representing the Chamber of Commerce in Las Vegas took the floor. She said that the small businesses have been affected severely, some more than others. She appreciates the fact that the Employment Security Division and Council have been conservative about the increase and kept it as low as we could. She advocated a deferment to give our businesses some breathing room so that they could recover, create more jobs and hire more people. Ms. Meter thanked the Administrator for listening to their concerns.

Ms. Jones thanked Ms. Meter for her support and participation on behalf of her membership in this important process.

Ms. Jones asked if there were any comments from the public in the north. There were none.

Ms. Jones continued, saying that after careful consideration of input received from interested parties and on the advice of the Employment Security Council, she had chosen to accept to Council's recommendation to increase the unemployment insurance average tax rate and that hereby she adopts the proposed regulation to establish the average unemployment tax rate of 2.0% of taxable wages for Nevada employers for calendar year 2011.

Ms. Jones adjourned the public hearing at 10:15 a.m., hearing no other comments from the public or from members who wished to testify.

Attachments:

1. Notice of Intent to Act Upon a Regulation  
Notice of Hearing for the Adoption of a Regulation of the Employment Security Division
2. Proposed Regulation of the Administrator of the Employment Security Division  
LCB File No. R149-10

Attendance:

Las Vegas:

Veronica Meter, Chamber of Commerce  
Art Martinez, DETR/ESD

Carson City:

Cindy Jones, Administrator, DETR/ESD  
Jim Nelson, NV Association of Employers  
Sandra Chereb, Associated Press  
Ed Vogel, Las Vegas Review Journal  
Brian Burke, LCB Fiscal  
Cy Ryan, Las Vegas Sun  
Geoff Dornan, Nevada Appeal  
Cat Allison, Photographer  
Tom Susich, Legal Counsel, DETR/ESD  
Dave Schmidt, DETR/R&A  
Lynn Brooks, DETR/ESD  
Flo Bedrosian, DETR/ESD  
JoAnne Wiley, DETR/ESD  
Joyce Golden, DETR/ESD

STATE OF NEVADA

Jim Gibbons  
Governor



Larry J. Mosley  
Director  
Cynthia A. Jones  
Administrator

Department of Employment, Training and Rehabilitation  
EMPLOYMENT SECURITY DIVISION  
500 E. Third Street  
Carson City, Nevada 89713-0001

**NOTICE OF INTENT TO ACT UPON A REGULATION**  
**Notice of Hearing for the Adoption of a Regulation of the**  
**Employment Security Division of the**  
**Department of Employment, Training and Rehabilitation**

The Employment Security Division of the Department of Employment, Training and Rehabilitation (DETR) will hold a public hearing at 10:00 a.m., on Tuesday, December 7, 2010 in the auditorium at 500 E. Third Street, Carson City, Nevada. The hearing is also available by videoconference at DETR's southern headquarters at 2800 E. St. Louis Avenue, Conference Room C, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of a regulation that pertains to Chapter 612 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. **Statement of need and purpose**

The regulation is required to establish the schedule of unemployment insurance tax rates for those employers eligible for experience rating for calendar year 2011. The Administrator of the Employment Security Division is required to establish this schedule annually, pursuant to NRS 612.550.

2. **How to obtain the revised text of regulation**

You may obtain a copy of the proposed regulation as revised or approved by Legislative Counsel by writing to the Department of Employment, Training and Rehabilitation, Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713, or telephone Joyce Golden at (775) 684-3909.

3. **Estimated economic effect**

The resources of the state unemployment insurance trust fund were exhausted in October of 2009, and Nevada began borrowing from the federal unemployment account to continue benefit payments to unemployed workers. Due to the unprecedented economic downturn with historical levels of unemployment benefit claims, it is projected that Nevada will borrow up to \$1 billion in order to pay claims through calendar year 2011. It was, therefore, determined that an increase in the average unemployment insurance tax rate is necessary to begin to address the insolvency of the trust fund. The proposed increase in the average tax rate from 1.33% to 2.0% is expected to increase the Unemployment Compensation Trust Fund by over \$136 million in calendar year 2011, reducing state borrowing from the federal account.

(a) **Effect on businesses**

All Nevada employers subject to Nevada Unemployment Compensation Law that pay an unemployment insurance tax rate subject to the experience rating system are affected by the tax rate schedule in the proposed regulation. This constitutes approximately 35,000 or 62% of total registered businesses. The immediate effect of the proposed regulation is an increase in the average tax rate from 1.33% to 2.0%. However, the effect on individual businesses will vary, depending upon each individual business' experience record within the program. Employers with high employee turnover will be more likely to shift into a higher tax rate, while those who retained their employees, and have low employee turnover, may not have a change in their tax rate. An increase in the average tax rate provides a benefit to employers as it will allow the unemployment trust fund to recover a portion of the current deficit spending and reduce the amount of interest accrual on outstanding loans.

(b) **Effect on the public**

The tax rate schedule will become effective January 1, 2011 and remains in effect for the calendar year. The immediate and long-term beneficial effect on the public is to ensure the payment of unemployment benefits to workers who are unemployed through no fault of their own. Unemployment benefits enable unemployed persons to purchase goods and services and put those resources back into the local economy. Since July 2008, unemployment insurance benefits payments have infused approximately \$3.8 billion into Nevada's economy, providing a direct economic stabilizer for both Nevada workers and employers. No immediate or long-term adverse effects on the public are known.

4. **Statement of impact on small businesses**

Pursuant to NRS 233B.0608, the Department of Employment, Training and Rehabilitation, Employment Security Division, provided a Small Business Impact Statement and solicited public comments at a Small Business Workshop conducted on October 25, 2010.

5. **Estimated cost**

There are no additional costs involved in enforcing the proposed regulation, since funds are provided by the U.S. Department of Labor to administer the Unemployment Insurance Program.

6. **Overlap or duplication of regulations**

The proposed regulation does not overlap or duplicate any regulations of other state or local government agencies.

7. **Required pursuant to federal law**

The proposed regulation is not required pursuant to federal law, nor is there a federal regulation that regulates the same activity.

8. **Summary of provisions more stringent than the federal regulations**

Not applicable.

9. **Comments**

Persons wishing to comment on the proposed action of the Department of Employment, Training and Rehabilitation, Employment Security Division, may appear at the scheduled public hearing or address their comments, data, views or arguments in written form to the Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713. The Employment Security Division must receive all written submissions on or before December 3, 2010. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Employment Security Division may proceed immediately to action upon any written submissions.

10. **NRS 233B.064, Subsection 2**

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption or incorporate therein its reason for overruling the consideration urged against its adoption.

11. **New or increased fee**

The regulation increases the average tax rate from 1.33% to 2.0%. This may or may not increase the tax rate on individual businesses since each employer's tax rate is based on their experience with unemployment compensation.

12. **Mailing list**

Copies of this notice and the proposed regulation will be mailed to all persons who have requested to be placed upon the mailing list of the Employment Security Division. Also, copies will be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

13. **Submission to Legislative Counsel Bureau**

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>.

We are pleased to make reasonable accommodations for individuals with disabilities who wish to attend the hearing. If special arrangements for the hearing are necessary, please notify the Employment Security Division in writing at 500 E. Third Street, Carson City, Nevada 89713, or call Joyce Golden at (775) 684-3909, within 72 hours of meeting date and time.

**This notice of hearing and a copy of the proposed regulation have been posted at the following locations:**

Nevada State Library and Archives, 100 N. Stewart Street, Carson City, NV 89701  
Legislative Building, 401 South Carson Street, Carson City, NV 89701  
Grant Sawyer State Building, 555 E. Washington Ave., Las Vegas, NV 89101  
Legislative Counsel Bureau Web Site  
Department of Employment, Training and Rehabilitation Web Site

All County Libraries in Nevada

Employment Security Division, Northern Administrative Office, 500 E. Third Street, Carson City, NV 89713  
Employment Security Division Southern Administrative Office, 2800 E. St. Louis Ave, Las Vegas, NV 89104  
Unemployment Insurance Contributions, 1320 South Curry Street, Carson City, NV 89710  
Reno Field Audit Office, 1325 Corporate Blvd, Suite B, Reno, NV 89502  
Las Vegas Field Audit Office, 2800 E. St. Louis Ave, Las Vegas, NV 89104  
Reno Appeals Office, 1325 Corporate Blvd, Suite C, Reno, NV 89502  
Las Vegas Appeals Office, 2800 E. St. Louis Ave, Las Vegas, NV 89104  
Reno Casual Labor Office, 420 Galletti Way, Sparks, NV 89431  
Las Vegas Casual Labor Office, 1001 North A Street, Las Vegas, NV 89106  
Nevada JobConnect-Carson City, 1929 North Carson Street, Carson City, NV 89701  
Nevada JobConnect-Elko, 172 Sixth Street, Elko, NV 89801  
Nevada JobConnect-Ely, 480 Campton Street, Ely, NV 89301  
Nevada JobConnect-Fallon, 121 Industrial Way, Fallon, NV 89406  
Nevada JobConnect-Henderson, 119 Water Street, Henderson, NV 89015  
Nevada JobConnect-Las Vegas, 3405 South Maryland Parkway, Las Vegas, NV 89169  
Nevada JobConnect-North Las Vegas, 2827 Las Vegas Boulevard North, North Las Vegas, NV 89030  
Nevada JobConnect-Pahrump, 2101 East Calvada Blvd., Pahrump, NV 89041  
Nevada JobConnect-Reno Town Mall, 4001 South Virginia Street, Suite H-1, Reno, NV 89502  
Nevada JobConnect-Sparks, 1675 E. Prater Way, Suite 103 Sparks, NV 89431  
Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445

**PROPOSED REGULATION OF THE ADMINISTRATOR OF THE  
EMPLOYMENT SECURITY DIVISION OF THE DEPARTMENT  
OF EMPLOYMENT, TRAINING AND REHABILITATION**

**LCB File No. R149-10**

November 5, 2010

EXPLANATION – Matter in *italics* is new; matter in brackets [~~emitted material~~] is material to be omitted.

AUTHORITY: §§ 1 and 2, NRS 612.220 and 612.550.

A REGULATION relating to unemployment compensation; prescribing the contribution rate schedule for calendar year 2011; and providing other matters properly relating thereto.

**Section 1.** NAC 612.270 is hereby amended to read as follows:

612.270 The Administrator establishes the following schedule of contribution rates for eligible employers for calendar year ~~{2010;}~~ *2011*:

- 1. Class 1: A rate of 0.25 percent is assigned to each employer whose reserve ratio is ~~{5.2}~~ *8.5* percent or more;
- 2. Class 2: A rate of 0.55 percent is assigned to each employer whose reserve ratio is at least ~~{3.8}~~ *6.9* percent but less than ~~{5.2}~~ *8.5* percent;
- 3. Class 3: A rate of 0.85 percent is assigned to each employer whose reserve ratio is at least ~~{2.4}~~ *5.3* percent but less than ~~{3.8}~~ *6.9* percent;
- 4. Class 4: A rate of 1.15 percent is assigned to each employer whose reserve ratio is at least ~~{1.0}~~ *3.7* percent but less than ~~{2.4}~~ *5.3* percent;

5. Class 5: A rate of 1.45 percent is assigned to each employer whose reserve ratio is at least ~~{-0.4}~~ 2.1 percent but less than ~~{+1.0}~~ 3.7 percent;
6. Class 6: A rate of 1.75 percent is assigned to each employer whose reserve ratio is at least ~~{-1.8}~~ 0.5 percent but less than ~~{-0.4}~~ 2.1 percent;
7. Class 7: A rate of 2.05 percent is assigned to each employer whose reserve ratio is at least ~~{-3.2}~~ -1.1 percent but less than ~~{-1.8}~~ 0.5 percent;
8. Class 8: A rate of 2.35 percent is assigned to each employer whose reserve ratio is at least ~~{-4.6}~~ -2.7 percent but less than ~~{-3.2}~~ -1.1 percent;
9. Class 9: A rate of 2.65 percent is assigned to each employer whose reserve ratio is at least ~~{-6.0}~~ -4.3 percent but less than ~~{-4.6}~~ -2.7 percent;
10. Class 10: A rate of 2.95 percent is assigned to each employer whose reserve ratio is at least ~~{-7.4}~~ -5.9 percent but less than ~~{-6.0}~~ -4.3 percent;
11. Class 11: A rate of 3.25 percent is assigned to each employer whose reserve ratio is at least ~~{-8.8}~~ -7.5 percent but less than ~~{-7.4}~~ -5.9 percent;
12. Class 12: A rate of 3.55 percent is assigned to each employer whose reserve ratio is at least ~~{-10.2}~~ -9.1 percent but less than ~~{-8.8}~~ -7.5 percent;
13. Class 13: A rate of 3.85 percent is assigned to each employer whose reserve ratio is at least ~~{-11.6}~~ -10.7 percent but less than ~~{-10.2}~~ -9.1 percent;
14. Class 14: A rate of 4.15 percent is assigned to each employer whose reserve ratio is at least ~~{-13.0}~~ -12.3 percent but less than ~~{-11.6}~~ -10.7 percent;
15. Class 15: A rate of 4.45 percent is assigned to each employer whose reserve ratio is at least ~~{-14.4}~~ -13.9 percent but less than ~~{-13.0}~~ -12.3 percent;

16. Class 16: A rate of 4.75 percent is assigned to each employer whose reserve ratio is at least ~~{15.8}~~ -15.5 percent but less than ~~{14.4}~~ -13.9 percent;

17. Class 17: A rate of 5.05 percent is assigned to each employer whose reserve ratio is at least ~~{17.2}~~ -17.1 percent but less than ~~{15.8}~~ -15.5 percent; and

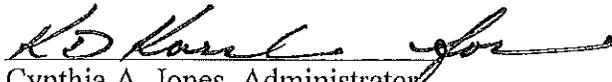
18. Class 18: A rate of 5.4 percent is assigned to each employer whose reserve ratio is less than ~~{17.2}~~ -17.1 percent.

**Sec. 2.** This regulation becomes effective on January 1, 2011.

**NOTICE OF PROPOSED REGULATION**

**LCB File No. R149-10**

The Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation, Employment Security Division, proposes a REGULATION relating to unemployment compensation; prescribing the contribution rate schedule for calendar year 2011; and providing other matters properly relating thereto.

  
Cynthia A. Jones, Administrator