

STATE OF NEVADA

Brian Sandoval
Governor



Don Soderberg
Director

Renee Olson
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 to adopt the amended regulation for the
2016 Unemployment Insurance (UI) Tax Rate Schedule for Nevada Employers**

The purpose of the hearing is to receive comments from all interested persons regarding the proposed amendment to the regulation pertaining to NAC 612, pursuant to Nevada Revised Statute (NRS) 612.550, which will establish the Unemployment Insurance Tax Rate schedule for Nevada Employers for calendar year 2016.

This notice complies with Attorney General's form of notice NAC 233B.010.

Name of Division: Nevada Employment Security Division – Department of Employment, Training and Rehabilitation (DETR)

Date and Time of Hearing: Tuesday, December 8, 2015; 10:00 A.M.

Place of Meeting:	<u>Live Meeting:</u>	<u>Video Conference To:</u>
	DETR – SAO Auditorium 500 East Third Street Carson City, Nevada, 89713	DETR - Stan Jones Building, Conf. Rm. C 2800 E. St. Louis Avenue Las Vegas, Nevada 89104

AGENDA

- I. Call to order and welcome – Employment Security Division (ESD)
- II. Public Comment – *ESD may limit public comment to 5 minutes per speaker, but may not restrict comment based upon viewpoint. No action may be taken upon a matter raised under the public comment period, unless the matter itself has been specifically included on this agenda as an action item.*
- III. Confirmation of Posting – Employment Security Division (ESD)
- IV. Review Written Comments – Employment Security Division (ESD)
- V. Review of amended regulation to the 2016 Tax Rate Schedule
- VI. Closing Public Comment - *ESD may limit public comment to 5 minutes per speaker, but may not restrict comment based upon viewpoint. No action may be taken upon a matter raised under the public comment period, unless the matter itself has been specifically included on this agenda as an action*
- VII. ****For possible action;*** Adjournment

Agenda items may be taken out of order. Two or more agenda items may be combined for consideration. An item may be removed or discussion on an item may be delayed at any time.

NOTICE AND EXPLANATION

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 the need and purpose of the proposed regulation or amendment**

The proposed amendment to the regulation pertaining to NAC 612, pursuant to Nevada Revised Statute (NRS) 612.550, will establish the Unemployment Insurance Tax Rate schedule for Nevada Employers for calendar year 2016.

2. **Description of the proposed regulation**

This regulation affects all Nevada employers subject to Nevada's Unemployment Compensation Law that pay a tax rate subject to the experience rating system.

3. **Estimated Economic Impact**

All Nevada employers subject to unemployment insurance (UI) contributions and eligible for experience rating will be affected by the proposed regulation, constituting approximately 38,400 employers, or 61.5% of all employers registered with the Employment Security Division. This regulation represents a net decrease in the average UI contribution rate from 2.00% in 2015 to 1.95% in 2016, as recommended by the Employment Security Council on October 1, 2015. This change would decrease the estimated revenue collected by \$14 million compared to keeping the average contribution rate at 2.00% in 2016, and would decrease the average cost per employee with wages greater than or equal to \$28,200 by \$14.

Adverse Impacts

The reduction in the average employer contribution rate from 2.00% to 1.95% was recommended in light of an increase in the special bond contributions paid by Nevada employers from 0.56% to 0.62% in 2016 (which is not a part of this regulation). With the 1.95% average contribution rate, the total costs paid by Nevada employers will rise from 2.61% on average to 2.62% on average. Because of a statutory increase in the wages subject to unemployment insurance contributions from \$27,800 to \$28,200 (NRS 612.545), the average cost per employee of all unemployment insurance contributions will rise from \$725.58 in 2015 to \$738.84 in 2016.

Beneficial Impacts

This regulation will lead to an improved Unemployment Trust Fund balance in 2016 compared to 2015. The balance is expected to grow from \$409 million to \$585 million. The Trust Fund is expected to earn \$13.6 million in interest from the US Treasury, continuing to rebuild reserves in advance of a future recession.

Immediate Impacts

This regulation will adopt the experience rating schedule that will be in effect for calendar year 2016. The average unemployment contribution rate, together with the average unemployment bond contribution and Career Enhancement Program Assessment (CEP), will rise from a total of 2.61% of wages subject to unemployment contributions in 2015, to 2.62% in 2016.

Long Term Impacts

This regulation will continue to build reserves in the Nevada Unemployment Insurance Trust Fund, earning interest to the credit of that fund and helping to improve the State's ability to pay unemployment benefits in advance of a future recession.

4. Methods used in determining the impact on a small business

This analysis was conducted by the state employee with the most understanding of the subject of unemployment insurance data. Analysis of expected benefit costs comes from a model of estimated employment growth and estimated average wage growth on a quarter-by-quarter basis throughout the time period to which the regulation would apply. Data about the number, size, and distribution of employers comes from the records of the Division from the required reports filed by those employers.

Because the regulation lowers the average contribution rate, because the distribution of small business employers closely matches the overall distribution of all employers in the state, and because US unemployment insurance law does not allow states to assign rates of less than 5.4% except on the basis of an employer's prior experience with respect to unemployment; the agency believes that there is no disparate impact to small businesses due to this regulation.

5. Estimated Cost of Enforcement

This regulation will be enforced as a regular part of ongoing UI operations, and does not represent any additional burden on staff time, as the regulation is used to modify contribution rates each year. Funding for the administration of the UI program is provided to the Department by the US Department of Labor.

6. Overlap or duplication of regulations

This regulation is only an annual modification to the unemployment insurance contribution schedule. Therefore, this regulation does not overlap or duplicate any other regulation of federal, state, or local governments.

7. Required pursuant to federal law

The proposed regulation is not required by federal law.

8. More stringent than federal regulations

This regulation is an annual update of Nevada's unemployment insurance contribution schedule and does not overlap any federal or local rules or regulations. Therefore, this regulation does not provide a more stringent standard than any other regulation of federal, state, or local governments.

9. New or increased fee

This regulation does not impose any new or increased fees on employers, as it represents a net decrease in the average UI contribution rate from 2.00% in 2015 to 1.95% in 2016. The overall average rate, which includes the CEP rate of 0.05% and the bond contribution rate calculated pursuant to NAC 612.607-625 which are not a part of this regulation, will increase from 2.61% to 2.62%.

10. Public Comments

Persons wishing to comment upon the proposed action of the Department of Employment, Training and Rehabilitation (DETR), 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 – Attention Joyce Golden. The Employment Security Division must receive all written submissions on or before December 1, 2015. 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.

11. Locations where the text of the rule may be inspected and copied

A copy of this notice and the regulation to be amended will be on file at the Nevada State Library and Archives, 100 N. Stewart Street, Carson City, Nevada 89701, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the Department of Employment, Training and Rehabilitation, Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. 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>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. To obtain a copy of the proposed regulation and Small Business Impact Statement, write 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. Copies of pertinent documents will also be made available on the DETR web site at: <http://nvdestr.org>. 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.

This proposed regulation has been publicly noticed in accordance with Nevada's open meeting law, public comment has been solicited, and the regulation has been submitted to the Legislative Counsel Bureau for review, as outlined in NRS 233B.064 cited below.

12. Subsection 2 of NRS 233B.064

Permanent regulation not to be adopted until text approved or revised by Legislative Counsel; agency's reasons for adoption.

"1. An agency shall not adopt, amend or repeal a permanent regulation until it has received from the Legislative Counsel the approved or revised text of the regulation in the form to be adopted. The agency shall immediately notify the Legislative Counsel in writing of the date of adoption of each regulation adopted.

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, and incorporate therein its reason for overruling the consideration urged against its adoption."

Note: Persons with disabilities who require reasonable accommodations or assistance at the meeting should notify the Employment Security Division in writing at 500 East Third Street, Carson City, Nevada 89713, or call Joyce Golden at (775) 684-3909 (for individuals who are deaf or have hearing disabilities, dial TTY (800) 326-6868 or 711 for Relay Nevada), or send a fax to (775) 684-3910, within 72 hours of meeting date and time. Supporting materials as provided for in NRS 241.020(5) may be obtained by contacting Joyce Golden at the above-noted contact information.

Notice of this hearing was posted at the following locations on or before the *thirtieth* (30th) working day prior to the meeting:

Nevada State Library & Archives, 100 North 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, State Administrative Office, 500 East 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 89703
Las Vegas Field Audit Office, 2800 E. St. Louis Ave., Las Vegas, NV 89104
Appeals Office, 2800 E. St. Louis Ave., Las Vegas, NV 89104
Reno Day Labor Office, 420 Galletti Way, Sparks, NV 89431
Las Vegas Day 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, 1500 Avenue F, Suite 1, Ely, NV 89301
Nevada JobConnect-Fallon, 121 Industrial Way, Fallon, NV 89406
Nevada JobConnect-Henderson, 4500 E. Sunset Road, Suite 40, Henderson, NV 89014
Nevada JobConnect-Las Vegas, 3405 South Maryland Parkway, Las Vegas, NV 89169
Nevada JobConnect-North Las Vegas, 2827 Las Vegas Boulevard North, Las Vegas, NV 89030
Nevada JobConnect-Reno Town Mall, 4001 South Virginia Street, Suite H, Reno, NV 89502
Nevada JobConnect-Sparks, 2281 Pyramid Way, Sparks, NV 89431
Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445

Notice of this meeting was posted on the Internet on the following websites: DETR's Public Notices website at: http://nvdetr.org/public_notices.htm, the State of Nevada's Public Notices website at: <https://notice.nv.gov/>, and the Administrative Regulation Notices website at: <http://www.leg.state.nv.us/App/Notice/A/>.

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

LCB File No. R118-15

October 26, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets [omitted 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 2016; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Unemployment Compensation Law requires employers to make contributions to the Unemployment Compensation Fund for the purpose of providing temporary benefits to persons who become involuntarily unemployed. (Chapter 612 of NRS) The amount of each employer's contribution is a percentage of the employer's average annual payroll. Existing law establishes a standard contribution rate of 2.95 percent. (NRS 612.540) However, after an employer has accumulated a specified number of consecutive calendar quarters of contribution and benefit experience, depending on the quarter in which the employer became subject to the Unemployment Compensation Law, the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation assigns the employer to a class of employers whose contribution rate is based on their previous experience with unemployment, as determined by a reserve ratio formula. An employer's reserve ratio is calculated by subtracting the benefits charged to the employer's account for all previous years from the contributions paid by the employer during all previous years, and dividing the difference by the employer's average payroll for the previous 3 years. Each year the Administrator prescribes the contribution rate schedule for each such class of employers. (NRS 612.550) This regulation prescribes the contribution rate schedule for calendar year 2016.

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 ~~[2015:]~~ 2016:

1. Class 1: A rate of 0.25 percent is assigned to each employer whose reserve ratio is ~~[11.9]~~ 12.2 percent or more;
2. Class 2: A rate of 0.55 percent is assigned to each employer whose reserve ratio is at least ~~[10.3]~~ 10.6 percent but less than ~~[11.9]~~ 12.2 percent;
3. Class 3: A rate of 0.85 percent is assigned to each employer whose reserve ratio is at least ~~[8.7]~~ 9.0 percent but less than ~~[10.3]~~ 10.6 percent;
4. Class 4: A rate of 1.15 percent is assigned to each employer whose reserve ratio is at least ~~[7.1]~~ 7.4 percent but less than ~~[8.7]~~ 9.0 percent;
5. Class 5: A rate of 1.45 percent is assigned to each employer whose reserve ratio is at least ~~[5.5]~~ 5.8 percent but less than ~~[7.1]~~ 7.4 percent;
6. Class 6: A rate of 1.75 percent is assigned to each employer whose reserve ratio is at least ~~[3.9]~~ 4.2 percent but less than ~~[5.5]~~ 5.8 percent;
7. Class 7: A rate of 2.05 percent is assigned to each employer whose reserve ratio is at least ~~[2.3]~~ 2.6 percent but less than ~~[3.9]~~ 4.2 percent;
8. Class 8: A rate of 2.35 percent is assigned to each employer whose reserve ratio is at least ~~[0.7]~~ 1.0 percent but less than ~~[2.3]~~ 2.6 percent;
9. Class 9: A rate of 2.65 percent is assigned to each employer whose reserve ratio is at least ~~[-0.9]~~ -0.6 percent but less than ~~[0.7]~~ 1.0 percent;
10. Class 10: A rate of 2.95 percent is assigned to each employer whose reserve ratio is at least ~~[-2.5]~~ -2.2 percent but less than ~~[-0.9]~~ -0.6 percent;

11. Class 11: A rate of 3.25 percent is assigned to each employer whose reserve ratio is at least ~~[-4.1]~~ -3.8 percent but less than ~~[-2.5]~~ -2.2 percent;

12. Class 12: A rate of 3.55 percent is assigned to each employer whose reserve ratio is at least ~~[-5.7]~~ -5.4 percent but less than ~~[-4.1]~~ -3.8 percent;

13. Class 13: A rate of 3.85 percent is assigned to each employer whose reserve ratio is at least ~~[-7.3]~~ -7.0 percent but less than ~~[-5.7]~~ -5.4 percent;

14. Class 14: A rate of 4.15 percent is assigned to each employer whose reserve ratio is at least ~~[-8.9]~~ -8.6 percent but less than ~~[-7.3]~~ -7.0 percent;

15. Class 15: A rate of 4.45 percent is assigned to each employer whose reserve ratio is at least ~~[-10.5]~~ -10.2 percent but less than ~~[-8.9]~~ -8.6 percent;

16. Class 16: A rate of 4.75 percent is assigned to each employer whose reserve ratio is at least ~~[-12.1]~~ -11.8 percent but less than ~~[-10.5]~~ -10.2 percent;

17. Class 17: A rate of 5.05 percent is assigned to each employer whose reserve ratio is at least ~~[-13.7]~~ -13.4 percent but less than ~~[-12.1]~~ -11.8 percent; and

18. Class 18: A rate of 5.4 percent is assigned to each employer whose reserve ratio is less than ~~[-13.7]~~ -13.4 percent.

Sec. 2. This regulation becomes effective on January 1, 2016.