

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

**LCB File No. R118-15**

Effective January 1, 2016

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.

**LEGISLATIVE REVIEW OF ADOPTED  
PERMANENT REGULATIONS AS REQUIRED BY  
NRS 233B.066**

**LCB FILE R118-15**

The following statement is submitted for adopted amendments to Nevada Administrative code (NAC) Chapter 612.

**1. A clear and concise explanation of the need for the adopted regulation.**

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. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

In compliance with NRS 233B.0603, an Employment Security Council Meeting and Workshop was held on Thursday, October 1, 2015, at 10:00 a.m., the Live meeting was held at the Legislative Building, 401 S. Carson Street, Room 3137, Carson City, Nevada 89701 and Video conferenced to the Grant Sawyer Building, 555 E. Washington Ave, Room 4406, Las Vegas, Nevada 89101. A Small Business Workshop was held on Tuesday, October 27, 2015 at 10:00 a.m., the Live meeting was held at the DETR – SAO Auditorium, 500 East Third Street, Carson City, NV 89713 and Video conferenced to the DETR – Stan Jones Building, 2800 E. St. Louis Avenue, Las Vegas, NV 89104. The purpose of the Employment Security Council Meeting and Workshop was to review, discuss, solicit comment, and recommend a Tax Rate schedule on a proposed amendment to the regulation pertaining to NAC 612, pursuant to Nevada Revised Statute (NRS) 612.550 to establish the Unemployment Insurance Tax Rate schedule for Nevada Employers for calendar year 2016.

Notice of the Employment Security Council meeting was sent on August 25, 2015, requesting comments by September 24, 2015, and the Small Business Workshop notice was sent on October 7, 2015, requesting comments by October 20, 2015, by U.S. mail, to all individuals and employers on the Employment Security Division mailing list. Notices were posted at the principal office of the Employment Security Division in Carson City, as well as numerous offices of the Employment Security Division throughout the state. In addition, the notices were submitted to the Legislative Counsel Bureau, the Nevada State Library, and all main county libraries in the state. The meetings were also noticed in three newspapers, the Reno Gazette Journal, the Nevada Appeal and the Las Vegas Review Journal. These documents were also made available at the website of the Department of Employment, Training and Rehabilitation (DETR):

<http://www.nvdetr.org/index.htm> (DETR home page),  
<http://www.nvdetr.org/publicmeetings.htm> (DETR Public Meetings page),

[http://www.nvdetr.org/public\\_notices.htm](http://www.nvdetr.org/public_notices.htm) (DETR Public Notices page),  
<https://notice.nv.gov/> and at the Nevada Legislature website at  
<http://www.leg.state.nv.us/App/Notice/A/>.

**Posting locations:**

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

During the Employment Security Council Meeting and Workshop, DETR staff members reviewed the proposed 2016 Tax Rate regulation. The final draft of the regulation was drafted by LCB on October 26, 2015; the Division posted the revised language to the DETR website and posted the revised language to the Nevada Legislature website. A copy of the revised regulation was available to the public at the Small Business Workshop. During the Small Business Workshop, DETR staff members reviewed the Amended Regulation to the 2016 Tax Rate, provided an explanation of the Regulation. The Small Business Impact Statement per NRS 233B.0608 pursuant to Subsection 3 was also reviewed by staff at the Small Business Workshop.

On October 1, 2015, during the Employment Security Council Meeting verbal comments were received from Bob Ostrovsky representing the Nevada Resort

Association. Mr. Ostrovsky expressed support of the 1.95% SUTA rate. On October 28, 2014, at the Small Business Workshop no comments were received. The transcript of the Employment Security Council meeting and the Small Business Workshop, attached hereto, contains the discussion of the above public comment.

On November 3, 2015, the Division issued a Hearing Agenda and a Notice of Intent to Act upon the 2016 Tax Rate Regulation. The Notice and Agenda was sent by U.S. mail, to all individuals and employers on the Employment Security Division mailing list. The Notice and Agenda was posted at the principal office of the Employment Security Division in Carson City, as well as numerous offices of the Employment Security Division throughout the state. In addition, the notice was submitted to the Legislative Counsel Bureau, the Nevada State Library, and all main county libraries in the state, including all locations in the workshop notification list above. The meeting was also noticed in three newspapers, the Reno Gazette Journal, the Nevada Appeal and the Las Vegas Review Journal. These documents were also made available at the website of the Department of Employment, Training and Rehabilitation (DETR):

<http://www.nvdetr.org/index.htm> (DETR home page),  
<http://www.nvdetr.org/publicmeetings.htm> (DETR Public Meetings page),  
[http://www.nvdetr.org/public\\_notices.htm](http://www.nvdetr.org/public_notices.htm) (DETR Public Notices page),  
<https://notice.nv.gov/> and at the Nevada Legislature website at  
<http://www.leg.state.nv.us/App/Notice/A/>.

The division posted the regulation drafted by LCB to the DETR website and posted the revised language to the Nevada Legislature website. A copy of the revised regulation was also made available to the public at the Hearing and DETR staff reviewed the Amended Regulation to the 2016 Tax Rate, providing an explanation of the Regulation.

In compliance with NRS 233B, a Hearing for the adoption of the regulation was held on December 8, 2015 at 10:00 a.m., the Live meeting was held at DETR – SAO Auditorium, 500 East Third Street, Carson City, Nevada, 89713 and Video conferenced to the DETR – Stan Jones Building, Conference Room C, 2800 E. St. Louis Avenue, Las Vegas, Nevada 89104. The purpose of the hearing was to receive comments from all interested persons regarding the adoption of the regulation pertaining to Chapter 612, of the Nevada Administrative Code. During the Hearing verbal comments were received from Paul Moradkhan representing the Las Vegas Metro Chamber of Commerce. Mr. Moradkhan expressed support of the 1.95% SUTA rate. No written comments were received.

The transcript of the Hearing, attached hereto, contains the discussion of the above public comment.

**3. The number of persons who:**

**a. Attended at each meeting:**

**Employment Security Council**

October 1, 2015: Carson City: 25; Las Vegas: 2

**Small Business Workshop:**

October 27, 2015: Carson City: 10; Las Vegas: 2

**Hearing:**

December 8, 2015: Carson City: 12; Las Vegas: 2

**b. Testified at each meeting:**

**Employment Security Council**

October 1, 2015: Carson City: 0; Las Vegas 1

- Bob Ostrovsky - Nevada Resort Association  
165 West Liberty Street, Suite 210  
Reno, Nevada 89501  
Telephone Number: (702) 498-9477  
Email: rao@theferrarogroup.com

**Small Business Workshop:**

October 27, 2015: Carson City: 0; Las Vegas: 0

**Hearing:**

December 8, 2015: Carson City: 0; Las Vegas: 1

- Paul Moradkhan – Las Vegas Metro Chamber of Commerce  
575 Symphony Park Ave  
Las Vegas, NV 89106  
Telephone Number: (702) 810-9124  
Email: pmoradkhan@lvchamber.com

**c. Submitted to the agency written comments:**

**Employment Security Council:** No written comments were submitted

**Small Business Workshop:** No written comments were submitted

**Hearing:** No written comments were submitted

- 4. A description of how comments were solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in response to question #2.

- 5. If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

No recommended changes submitted in written or public comment.

6. **The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**
- a. Both adverse and beneficial effects; and**
  - b. Both immediate and long-term effects.**

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.

#### **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.

#### **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.

#### **Direct Impacts**

The direct impact of this regulation on any particular Nevada business depends on that business' prior experience with respect to unemployment. Because the rates that employers pay are fixed in statute, the average rate is adjusted each year in the regulatory process by adapting a range of reserve ratios which will apply to those rates. Each employer's reserve ratio changes each year as well, rising or falling, depending on the net balance of UI contributions and benefit charges from and to that account.

#### **Indirect Impacts**

This regulation complies with the federal compliance regulations governing unemployment insurance contribution rates. Therefore, employers maintain eligibility for a full 5.4% credit toward their federal unemployment insurance taxes.



In addition, the additional solvency in the UI system will help to pay for unemployment benefits in the future. On average, evidence suggests that for each dollar in UI benefits, \$2 or more in economic activity results. In addition, employers benefit as funds are returned to the economy through UI benefit payments, helping to mitigate the drop in consumption that takes place in a recession. Finally, the UI system helps to maintain the attachment of workers to the local workforce and facilitate a faster return to work, both through job search and training services and through mandatory work search requirements.

**Immediate Effect:**

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 Effect:**

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.

**7. The estimated cost to the agency for enforcement of the adopted regulation.**

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 U.S. Department of Labor.

**Anticipated Revenue Increase and Use**

This regulation does not raise any additional revenue compared to keeping the average unemployment contribution rate at 2.00% in 2016, as it results in a decline in the average contribution rate to 1.95%.

**8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

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

**9. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

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

**10. If the regulation establishes a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

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%.