

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

LCB File No. R139-14

Effective January 1, 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 2015; 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 2015.

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 ~~2014~~ **2015**:

1. Class 1: A rate of 0.25 percent is assigned to each employer whose reserve ratio is ~~10.8~~ **11.9** percent or more;
2. Class 2: A rate of 0.55 percent is assigned to each employer whose reserve ratio is at least ~~9.2~~ **10.3** percent but less than ~~10.8~~ **11.9** percent;
3. Class 3: A rate of 0.85 percent is assigned to each employer whose reserve ratio is at least ~~7.6~~ **8.7** percent but less than ~~9.2~~ **10.3** percent;
4. Class 4: A rate of 1.15 percent is assigned to each employer whose reserve ratio is at least ~~6.0~~ **7.1** percent but less than ~~7.6~~ **8.7** percent;
5. Class 5: A rate of 1.45 percent is assigned to each employer whose reserve ratio is at least ~~4.4~~ **5.5** percent but less than ~~6.0~~ **7.1** percent;
6. Class 6: A rate of 1.75 percent is assigned to each employer whose reserve ratio is at least ~~2.8~~ **3.9** percent but less than ~~4.4~~ **5.5** percent;
7. Class 7: A rate of 2.05 percent is assigned to each employer whose reserve ratio is at least ~~1.2~~ **2.3** percent but less than ~~2.8~~ **3.9** percent;
8. Class 8: A rate of 2.35 percent is assigned to each employer whose reserve ratio is at least ~~0.4~~ **0.7** percent but less than ~~1.2~~ **2.3** percent;

9. Class 9: A rate of 2.65 percent is assigned to each employer whose reserve ratio is at least ~~+2.0~~ ~~-0.9~~ percent but less than ~~+0.4~~ ~~0.7~~ percent;
10. Class 10: A rate of 2.95 percent is assigned to each employer whose reserve ratio is at least ~~+3.6~~ ~~-2.5~~ percent but less than ~~+2.0~~ ~~-0.9~~ percent;
11. Class 11: A rate of 3.25 percent is assigned to each employer whose reserve ratio is at least ~~+5.2~~ ~~-4.1~~ percent but less than ~~+3.6~~ ~~-2.5~~ percent;
12. Class 12: A rate of 3.55 percent is assigned to each employer whose reserve ratio is at least ~~+6.8~~ ~~-5.7~~ percent but less than ~~+5.2~~ ~~-4.1~~ percent;
13. Class 13: A rate of 3.85 percent is assigned to each employer whose reserve ratio is at least ~~+8.4~~ ~~-7.3~~ percent but less than ~~+6.8~~ ~~-5.7~~ percent;
14. Class 14: A rate of 4.15 percent is assigned to each employer whose reserve ratio is at least ~~+10.0~~ ~~-8.9~~ percent but less than ~~+8.4~~ ~~-7.3~~ percent;
15. Class 15: A rate of 4.45 percent is assigned to each employer whose reserve ratio is at least ~~+11.6~~ ~~-10.5~~ percent but less than ~~+10.0~~ ~~-8.9~~ percent;
16. Class 16: A rate of 4.75 percent is assigned to each employer whose reserve ratio is at least ~~+13.2~~ ~~-12.1~~ percent but less than ~~+11.6~~ ~~-10.5~~ percent;
17. Class 17: A rate of 5.05 percent is assigned to each employer whose reserve ratio is at least ~~+14.8~~ ~~-13.7~~ percent but less than ~~+13.2~~ ~~-12.1~~ percent; and
18. Class 18: A rate of 5.4 percent is assigned to each employer whose reserve ratio is less than ~~+14.8~~ ~~-13.7~~ percent.

Sec. 2. This regulation becomes effective on January 1, 2015.

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

LCB FILE R139-14

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 2015.

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 Wednesday, October 8, 2014 at 10:00 a.m., and a Small Business Workshop was held on Tuesday, October 28, 2014 at 10:00 a.m., the Live meetings were held at the Legislative Building, 400 S. Carson Street, Room 2134, Carson City, Nevada 89701 and Video conferenced to the Grant Sawyer Building, 555 E. Washington Ave, Room 4412E, Las Vegas, Nevada 89101. 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 2015.

Notice of the Employment Security Council meeting was sent on August 28, 2014 requesting comments by October 1, 2014 and the Workshop notice was sent on October 9, 2014 requesting comments by October 21, 2014 by U.S. mail, to all individuals and employers on the Employment Security Division mailing list. Notice 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. 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 (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
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, 1500 Avenue F, Suite 1, 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, Las Vegas, NV
89030
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 89434
Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445

A copy of the proposed regulation was posted to the DETR website and provided at the meeting. During the Employment Security Council Meeting and Workshop, DETR staff members reviewed the 2015 Tax Rate regulation. Staff also reviewed the Small Business Impact Statement per NRS 233B.0608 pursuant to Subsection 3.

On October 8, 2014 during the Employment Security Council Meeting verbal comments were received from the public. Carol Vilardo from the Nevada Taxpayers Association commented she would very much like to encourage the Division to maintain the lowest rates possible. An additional verbal comment was received from Jim Nelson, Executive Director with the Nevada Association of Employers who concurred with Ms. Vilardo's comments.

On October 28, 2014, at the Small Business Workshop a subsequent verbal comment was received from Carol Vilardo who sent the Small Business Impact Statement out to members of the Nevada Taxpayers Association who had no adverse comments whatsoever. Carol Vilardo stated as an association, the Nevada Taxpayers Association support what the Council is doing. Carol Vilardo was also asked by the Las Vegas Chamber to identify they had no questions and are supportive of the rate that was being proposed and the assessment. The transcript of the Employment Security Council meeting and the Small Business Workshop, attached hereto, contains the discussion of the above public comments.

On October 30, 2014, the Division issued an Agenda and a Notice of Intent to Act upon the 2015 Tax Rate Regulation. An amended Agenda and Notice of Intent to Act up the Regulation was issues on November 5, 2014. Both Notices and Agendas were sent by U.S. mail, to all individuals and employers on the Employment Security Division mailing list. The Notices and Agendas 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, 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 (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 final draft of the regulation was drafted by LCB on October 23, 2014; 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 hearing. During the Hearing, DETR staff members reviewed the Amended Regulation to the 2015 Tax Rate, provided an explanation of the Regulation.

In compliance with NRS 233B, a Hearing for the adoption of the regulation was held on Wednesday, December 3, 2014 at 2:00 p.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. Written comment was received on December 1, 2014 from Paul J. Moradkhan, Vice President, Government Affairs Las Vegas Metro Chamber of Commerce in favor of the 2015 Tax rate regulation. Written comment was read into the record and is attached hereto.

The Division is in the process of having the audio recording of the Hearing meeting transcribed and the transcript will be posted to the DETR website as soon as it is available.

3. The number of persons who:

a. Attended at each meeting:

Employment Security Council

October 8, 2014: Carson City: 21; Las Vegas: 4

Small Business Workshop:

October 28, 2014: Carson City: 15; Las Vegas: 2

Hearing:

December 3, 2014: Carson City: 11; Las Vegas: 1

b. Testified at each meeting:

Employment Security Council

October 8, 2014: Carson City: 1; Las Vegas 1

- Jim Nelson - Nevada Association of Employers
P.O. Box 7515
Reno, NV 89510
Email: jnelson@nae-online.org
- Carol Vilaro - Nevada Taxpayers Association
2303 East Sahara
Las Vegas, NV 89104
Telephone Number: (702) 457-8442
Email: info@nevadataxpayers.org

Small Business Workshop:

October 28, 2014: Carson City: 0; Las Vegas: 1

- Carol Vilaro - Nevada Taxpayers Association
2303 East Sahara
Las Vegas, NV 89104
Telephone Number: (702) 457-8442
Email: info@nevadataxpayers.org

Hearing:

December 3, 2014: Carson City: 0; Las Vegas: 0

c. Submitted to the agency written comments:

Employment Security Council: No written comments were submitted

Small Business Workshop: No written comments were submitted

Hearing: Written comment was received from Paul J. Moradkhan, Vice President, Government Affairs Las Vegas Metro Chamber of Commerce. Comment was received on December 1, 2014 past the submission deadline

of November 26, 2014, however the Division did accept the written comment and it was placed in the record by the Deputy Administrator at the Hearing.

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 37,300 employers, or 62.3% of all employers registered with the Employment Security Division. This regulation represents a net increase in the average UI contribution rate from 1.95% in 2014 to 2.00% in 2015, as recommended by the Employment Security Council on October 8, 2014. This change would increase the estimated revenue collected by \$15 million compared to keeping the average contribution rate at 1.95% in 2015, and would increase the average cost per employee with wages greater than or equal to \$27,800 by \$14.

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 37,300 employers, or 62.3% of all employers registered with the Employment Security Division. This regulation represents a net increase in the average UI contribution rate from 1.95% in 2014 to 2.00% in 2015, as recommended by the Employment Security Council on October 8, 2014. This change would increase the estimated revenue collected by \$15 million compared to keeping the average contribution rate at 1.95% in 2015, and would increase the average cost per employee with wages greater than or equal to \$27,800 by \$14.

Beneficial Impacts

This regulation will lead to an improved Unemployment Trust Fund balance at the end of 2015. That will mean an additional \$300,000 in interest earned from the federal government on a higher Trust Fund balance over the 12 months affected by the regulation. The additional \$15 million represents slightly more than 2 weeks of unemployment benefit payments, strengthening the state's ability to withstand a future economic downturn without needing to borrow funds to pay benefits.

Adverse Impacts

This regulation, compared with one which kept the average UI contribution rate at 1.95% represents a small increase in the cost of employing workers. However, the increase was recommended in the context of a drop in the bond contribution rate from 2014 to 2015, from an average of 0.63% to an average of 0.56%. Because the overall cost to employers will fall from an average of 2.58% (1.95% regular UI + 0.63% bond assessment) to 2.56% (2.00% regular UI + 0.56% bond assessment), the average rate paid by employers will fall slightly. Because of an increase in the average wages in the state from 2012 to 2013, the wages subject to unemployment insurance contributions will rise from \$27,400 in 2014 to \$27,800 in 2015, as laid out in NRS 612.545. Due to that increase, the cost per employee will rise from \$706.92 in 2014 (2.58% x \$27,400) to \$711.68 in 2015 (2.56% x \$27,800), a 0.7% increase.

Direct Impacts

The direct impact of this regulation on any particular Nevada business depends on that business's 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 2015. The average unemployment contribution rate, together with the average unemployment bond contribution will fall from a total of 2.58% of wages subject to unemployment contributions in 2014 to 2.56% in 2015.

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 is expected to increase UI contributions by \$15 million, compared to a scenario in which rates remained at an average of 1.95%. Because these funds are unemployment insurance contributions, they are deposited in the Nevada Unemployment Insurance Trust Fund and may only be used to pay for unemployment insurance benefits.

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 represents a net increase in the average UI contribution rate from 1.95% in 2014 to 2.00% in 2015, while the overall average rate, including the bond contribution rate calculated pursuant to NAC 612.607-625, will fall from 2.58% to 2.56%.