

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

LCB FILE R191-22_V3

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 2023.

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.

On October 7, 2022, the Employment Security Division and the Employment Security Council held a meeting to review, discuss, and solicit comment on the potential UI Contribution rate scenarios for calendar year 2023. On August 30, 2022, the Division publicly noticed the Employment Security Council meeting in accordance with Nevada Revised Statute NRS 241.020. In the meeting notice, written comment was requested on or before September 28, 2022. As of October 7, 2022, no written comments were received. The division then held a Small Business Workshop to solicit further public comment on the proposed amendment of a regulation pertaining to Chapter 612 of Nevada Administrative Code. The Small Business Workshop was noticed on October 18th, 2022, and held on November 14th, 2022. The Division received no public comment. After the Small Business Workshop, and with new data available on economic indicators, the Administrator chose to maintain a steady tax rate (representing no increase from calendar year 2022). The division held a hearing to adopt the regulations on November 18th, 2022 (noticed on October 18th, 2022 and amended to correct the agenda items on October 25th, 2022) and no public comments were received regarding the Administrator's decision to maintain the steady tax rate.

https://detr.nv.gov/page/public_meetings (DETR Public Meetings page),
https://detr.nv.gov/Page/PUBLIC_NOTICES (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
- 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
- Reno Casual Labor Office, 420 Galletti Way, Sparks, NV 89431
- American Job Center of Nevada, 4001 South Virginia Street, Reno, NV 89502
- 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, 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-Sparks, 2281 Pyramid Way, Sparks, NV 89431
- Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445
- All county libraries

During the Small Business Workshop, DETR staff members reviewed the proposed 2023 Tax Rate regulation. The final draft of the regulation was drafted by LCB on September 28th, 2022; the Division posted the revised language to the DETR website and posted the revised language to the Nevada Legislature website once it was made available, 30 days or more prior to the hearing to adopt. The Small Business Impact Statement per NRS 233B.0608 pursuant to Subsection 3 was also reviewed by staff at the Small Business Workshop.

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 2023 Tax Rate, providing an explanation of the Regulation.

In compliance with NRS 233B, a Hearing for the adoption of the regulation was held on November 18th, 2022 at 9:30 a.m through Zoom. 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.

The transcript of the Hearing is not yet available, but will be posted to DETR's Public Meeting Minutes page within 30 days of the Hearing at the following link;

https://detr.nv.gov/Page/Minutes_of_Employment_Security_Division_Employment_Security_Council

3. The number of persons who:

a. Attended at each meeting:

Employment Security Council Meeting:

October 7, 2022: Carson City: 13

Small Business Workshop:

November 14, 2022: Carson City: 6

Hearing:

November 18, 2022: Carson City: 7

b. Testified at each meeting:

Employment Security Council Meeting:

October 7, 2022

- No public comment

Small Business Workshop:

November 14, 2022

- No public comment

Hearing:

November 18, 2022

- No public comment

c. Submitted to the agency written comments:

Employment Security Council Meeting: No written comments were received

Small Business Workshop: No written comments were received

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.

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.

The Administrator, following the engagement with the business community and the latest economic data, chose to change the proposed regulation from a tax rate increase to maintaining a steady tax rate.

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 58,564 employers, or 58.9% of all employers registered with the Employment Security Division. This regulation represents maintaining the average UI contribution rate at 1.65% in 2023.

Beneficial Impacts

With no change in 1.65% average contribution rate, the total wages subject to contributions costs paid by Nevada employers will remain the same. This regulation will help reduce the state's Trust Fund borrowing and, in a best-case scenario, allow the state to begin re-building its Trust Fund reserves following the Covid-19 recession.

Adverse Impacts

A statutory increase in the wages subject to unemployment contributions, which rose from \$36,600 in 2022 to \$40,100 in 2023, will cause the average cost per employee at the maximum taxable wage base to increase from \$623.50 in 2022 to \$661.65 in 2023. While projected contribution payments exceed the projected benefit payments under the proposed rate, the uncertainty of the state's economy looking forward due to the COVID-19 pandemic could present challenges to building up the Trust Fund to solvency over the next three years. By leaving the average unemployment insurance tax rate unchanged, unemployment insurance reserves will grow at a slower pace than they would if that rate were to increase. If another recession like scenario were to occur in Nevada, the state would likely need to borrow funds to pay unemployment benefits.

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 decline 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.

Immediate Effect:

This Regulation will adopt the experience rating schedule that will be in effect for calendar year 2023. The Average Unemployment Contribution Rate of 1.65%, together with the Career Enhancement Program Assessment (CEP), will maintain the total of 1.70% of wages subject to unemployment contributions in 2023.

Long-Term Effect:

This Regulation will continue to build reserves and/or offset costs 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.

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 maintains the 2022 average UI contribution rate at 1.65% into calendar year 2023. By law, money collected from state unemployment insurance contributions can only be used to pay unemployment insurance benefits, so these funds will remain deposited in the Nevada Unemployment Insurance Trust Fund.

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 maintaining the average UI contribution rate to 1.65% from 2022 to 2023. The overall average rate, which includes the CEP rate of 0.05%, will remain to 1.70%.