

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

LCB File No. R134-01

Effective January 1, 2002

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.

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 ~~2001:~~ **2002:**

1. Class 1: A rate of 0.25 percent is assigned to each employer whose reserve ratio is 7.0 percent or more;
2. Class 2: A rate of 0.55 percent is assigned to each employer whose reserve ratio is at least 5.6 percent but less than 7.0 percent;
3. Class 3: A rate of 0.85 percent is assigned to each employer whose reserve ratio is at least 4.2 percent but less than 5.6 percent;
4. Class 4: A rate of 1.15 percent is assigned to each employer whose reserve ratio is at least 2.8 percent but less than 4.2 percent;
5. Class 5: A rate of 1.45 percent is assigned to each employer whose reserve ratio is at least 1.4 percent but less than 2.8 percent;
6. Class 6: A rate of 1.75 percent is assigned to each employer whose reserve ratio is at least 0.0 percent but less than 1.4 percent;

7. Class 7: A rate of 2.05 percent is assigned to each employer whose reserve ratio is at least -1.4 percent but less than 0.0 percent;
8. Class 8: A rate of 2.35 percent is assigned to each employer whose reserve ratio is at least -2.8 percent but less than -1.4 percent;
9. Class 9: A rate of 2.65 percent is assigned to each employer whose reserve ratio is at least -4.2 percent but less than -2.8 percent;
10. Class 10: A rate of 2.95 percent is assigned to each employer whose reserve ratio is at least -5.6 percent but less than -4.2 percent;
11. Class 11: A rate of 3.25 percent is assigned to each employer whose reserve ratio is at least -7.0 percent but less than -5.6 percent;
12. Class 12: A rate of 3.55 percent is assigned to each employer whose reserve ratio is at least -8.4 percent but less than -7.0 percent;
13. Class 13: A rate of 3.85 percent is assigned to each employer whose reserve ratio is at least -9.8 percent but less than -8.4 percent;
14. Class 14: A rate of 4.15 percent is assigned to each employer whose reserve ratio is at least -11.2 percent but less than -9.8 percent;
15. Class 15: A rate of 4.45 percent is assigned to each employer whose reserve ratio is at least -12.6 percent but less than -11.2 percent;
16. Class 16: A rate of 4.75 percent is assigned to each employer whose reserve ratio is at least -14.0 percent but less than -12.6 percent;
17. Class 17: A rate of 5.05 percent is assigned to each employer whose reserve ratio is at least -15.4 percent but less than -14.0 percent; and

18. Class 18: A rate of 5.4 percent is assigned to each employer whose reserve ratio is less than -15.4 percent.

Sec. 2. This regulation becomes effective on January 1, 2002.

State of Nevada
Department of Employment, Training and Rehabilitation
Employment Security Division

Informational Statement

Nevada Administrative Code 612.270
LCB File R134-01

In response to the questions posed by NRS 233B.066, the following information is provided pertaining to the adoption of NAC 612.270 for calendar year 2002.

I. DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM THE PUBLIC

A copy of the proposed regulation and Notice of Intent to Adopt a Regulation were submitted to the Legislative Counsel Bureau and the Nevada State Library on October 24, 2001 as required by NRS 233B.063, providing at least 30 days' notice of the Employment Security Division's intention to adopt the regulation in compliance with NRS 233B.060.1. This notice identified the proposed regulation which establishes the assignment of contribution rates to designated ranges of reserve ratios for 2002. The notice included a copy of the proposed regulation and contained a statement of the need and purpose of the regulation. It further specified a time and location for a public hearing, at which interested individuals would be given an opportunity to present their views, and to submit any oral or written evidence. Notices were sent to all persons who are presently on a mailing list kept by the division for this purpose, and were published in four newspapers of general circulation in the state, including the Las Vegas Review Journal and the Las Vegas Sun in Las Vegas, the Nevada Appeal in Carson City, and in the Reno Gazette Journal in Reno. Notices were also posted at the principal office of the Employment Security Division, as well as numerous other offices within its jurisdiction, and mailed to public libraries in each of the Counties, in compliance with NRS 233B.0607 and the Nevada Open Meeting Law under NRS 241.020.

A public hearing was held on November 26, 2001, at the Legislative Building, 401 South Carson Street, Room #2135, Carson City, Nevada. The hearing was also video conferenced to the Grant Sawyer Building, 555 East Washington Avenue, Room #4406, Las Vegas, Nevada. A total of eleven persons attended the hearing, including The Administrator of the Employment Security Division, along with eight staff members. The administrator and one staff member testified at the hearing. Mathis Winkler from the Las Vegas Sun and Jim Smith from the Nevada Attorney General's office also attended the hearing, and made no comments regarding the proposed regulation.

In compliance with NRS 233B.061, a workshop was conducted at a public meeting of the Employment Security Council on October 19, 2001 at the Grant Sawyer Building, 555 East Washington Avenue, Room #4401, Las Vegas, Nevada, to solicit comments from interested persons, and to enable the council to recommend a rate schedule to the Administrator of the Employment Security Division. The workshop was also video conferenced to the Legislative Building, 401 South Carson Street, Room #1214, Carson City, Nevada. The council consists of

three members representing labor, three representing management, and three representing the public at large. This meeting was open to all interested individuals to express any views they may have had. In addition to the eight council members, 24 individuals attended the workshop. Four members of the Employment Security Division staff testified at the workshop regarding the proposed regulation. Notices of the workshop were posted at least fifteen days prior to the meeting at the principal office of the Employment Security Division, as well as numerous offices within its jurisdiction, and mailed to public libraries in each of the Counties. Notices of the meeting were sent to all parties on the division's mailing list. In addition to Employment Security Division staff and members of the council, representatives from the Gates McDonald Company, Employers Unity, Nevada Taxpayers Association, and three newspaper reporters attended the workshop. None of those individuals commented on the proposed tax rate schedule.

SUMMARY OF RESPONSE FROM PUBLIC

Response from the public was received during the Employment Security Council meeting and workshop from the five members who represent the public and labor who were present. The three members representing labor and one member representing the public voted in favor of the tax rate schedule contained in the adopted regulation. One member of the public voted against adoption. Some concern was expressed by council members about the uncertainty of future economic events and potential impact on the Unemployment Trust Fund. The adopted tax rate schedule provides for an estimated average employer tax rate of 1.29% of taxable wages for calendar year 2002.

The employment security division did not receive any other response, written or oral, from the public at large concerning the adopted regulation.

II. DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES

Comment was solicited from affected businesses in the same manner as comment was solicited from the general public. A number of businesses and employer agents are on the Employment Security Division mailing list, and all received copies of the notice directly.

SUMMARY OF RESPONSE FROM AFFECTED BUSINESSES

The three members of the Employment Security Council representing management who were present at the meeting voted in favor of the tax rate schedule contained in the adopted regulation.

Interested individuals may request copies of the minutes from the Employment Security Council meeting and the public hearing, as well as copies of this summary from the Department of Employment, Training, and Rehabilitation, Employment Security Division, 500 East Third Street, Carson City, Nevada 89713.

The Employment Security Division did not receive any other response, written or oral, from affected businesses.

III. ESTIMATED ECONOMIC EFFECT OF THE ADOPTED REGULATION

The estimated economic effect of the adopted regulation on the businesses it is to regulate, and on the public, is provided below.

A) BENEFICIAL AND ADVERSE EFFECTS

1. Affected businesses: All Nevada employers who are required by Nevada Unemployment Compensation Law to pay state unemployment insurance taxes, and who are eligible for a reduced rate under the experience rating system, are affected by the adopted regulation which sets the employer tax rates for 2002. The adopted tax rate schedule provides for an estimated 1.29 percent average tax rate on taxable wages, which is the same average rate on taxable wages in effect for 2001. The balance in the Unemployment Trust Fund on September 30, 2001 was \$520.1 million, which was \$151.6 million more than the state solvency test of \$368.5 million, as provided in NRS 612.550. It is projected that the adopted rate schedule and the interest earned on the Unemployment Trust Fund will enable the fund to produce an ending balance of \$495.5 million on September 30, 2002, which will be approximately \$106.4 million more than the projected state solvency test of \$389.1 million under NRS 612.550.

2. Public: Although it is difficult to estimate the direct impact of the regulation on the public, as it involves a tax on employers, it is anticipated that the adopted regulation will have a beneficial impact on the public through continued payment of unemployment insurance benefits to unemployed workers. Those benefits will enable unemployed workers to purchase basic goods and services, while preserving a pool of skilled workers for Nevada businesses. This will have a stabilizing effect on the Nevada economy and may encourage employers to hire additional workers. There are no anticipated adverse effects on the public.

B) IMMEDIATE AND LONG-TERM EFFECTS

1. Affected businesses: The estimated average unemployment insurance tax rate for 2002 will be 1.29% of taxable wages. However, there may be increases or decreases for individual employers, since rates are based on each employer's experience with unemployment claims. The long-term effect of the tax rate schedule will be to protect the financial integrity of the trust fund, ensure that benefits will continue to be paid, and that Nevada will not have to borrow federal funds. It is anticipated that the fund will continue to have sufficient reserves so that the State will not have to borrow money from the Federal Government at any time in the foreseeable future. Loans from the Federal Government must be repaid with interest. Employers in states with federal loans experience higher federal unemployment taxes. Payment of interest on the outstanding loan must come from a source other than the trust fund, such as state general revenues or a surcharge on employers. Further, the Federal Government sets guidelines with respect to tax rates and unemployment insurance benefits, which the borrowing state must comply with as a condition of receiving the funds.

2. Public: There are no immediate effects on the public, as the tax rate schedule would not have an impact on benefit payments. However, long-term effects may be identified in terms of a fiscally sound Unemployment Insurance Trust Fund which will ensure that Nevada may continue to pay benefits to those individuals who are unemployed through no fault of their own. The payment of benefits, particularly in times of economic downturn, has a stabilizing effect on the economy in terms of the benefits which are reinvested by the claimant into the economy, thereby lessening the "snowball effect" of an economic downturn, and preserving jobs in the Nevada economy.

IV. ESTIMATED COST FOR ENFORCEMENT

Funds are provided by the Department of Labor to administer the Unemployment Insurance Program, which is a State-Federal joint program. Funds are also provided to conduct

audits and investigations of employers to ensure compliance with the State and Federal Unemployment Compensation Laws. NAC 612.270 is adopted each year to set employer tax rates for the coming year, and is mandated under NRS 612.550. There are no additional or extraordinary costs involved in enforcing the adopted regulation.

V. OVERLAP OR DUPLICATION OF REGULATION WITH OTHER STATE AND GOVERNMENTAL AGENCIES

The Employment Security Division administers the Unemployment Insurance Program which is a unique State-Federal program. A regulation is adopted each year as provided for under NRS 612.550. As such, the adopted regulation does not overlap or duplicate any regulations of other state or governmental agencies.

VI. FEDERAL REGULATIONS

There are no federal regulations that regulate the same activity.

VII. NEW FEE OR INCREASE TO EXISTING FEE

The regulation does not provide a new fee, nor does it increase an existing fee.