VERBATIM TRANSCRIPTION

of the

SMALL BUSINESS WORKSHOP

NEVADA DEPARTMENT OF

EMPLOYMENT, TRAINING AND REHABILITATION

held on

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KARCH: Good morning. Can you hear me in Las Vegas? Art?

MARTINEZ: Yes, we hear you.

KARCH: Okay. We're going to begin the meeting. Good morning. My name is Kelly Karch, and I serve as Deputy Administrator for Nevada's Employment Security Division. Sitting to my right, I would also like to introduce Tom Susich, senior legal counsel for the Employment Security Division. I would like to call this meeting to order. This Small Business Workshop is being conducted in compliance with NRS 233b.0608 to solicit public comment on a propose, proposed amendment to the Unemployment Insurance Tax Schedule Regulation for Calendar Year 2011 contained in Nevada Administrative Code 612.270. Ms. Bes, Bedrosian, was proper Notice of this meeting given in accordance with Nevada Revised Statutes 233b.061?

BEDROSIAN: For the record, Flo Bedrosian. Yes, proper Notice was provided for this meeting.

KARCH: Thank you, Ms. Bedrosian. For the record, were any written comments submitted in response to this posting?

BEDROSIAN: Yes, again for the record, Flo Bedrosian. Yes, written comment was received from one small business in Sparks, Nevada recommending no tax increase.

KARCH: Thank you. As part of an annual regulatory process, a meeting of the Employment Security Council and Regulation Workshop was conducted on October 5, 2010. After hearing testimony regarding the status of the Unemployment Insurance Trust Fund, the impact of federal borrowing, and the variety of public comments, the Council voted unanimously to raise the average Unemployment Insurance Tax Rate from 1.33% to 2.0% for Calendar Year 2011. For those viewing this meeting on the Internet, the PowerPoint© presentations being made today are available on the Department website, www.nvdetr.org. Under Public Meetings, right hand side of the web page, click, oh, I'm sorry, under Public Meetings, I would, you can click the right hand side of the web page, Quick Link Section. I would like to intro, I would now like to introduce our first presenter at today's workshop. David Schmidt, Economist with DETR's Research and Analysis Bureau will provide a review of the Nevada Unemployment Insurance Trust Fund.

SCHMIDT: Ah, thank you Deputy Administrator Karch. For the record, my name is David Schmidt. I'm an Economist with the Research and Analysis Bureau, ah, in DETR, and I'm going to provide a brief overview of the Trust Fund and the, uh, economic considerations that went into the Council's recommendation earlier this month. The computer is, ah, frozen here. Alright, as you see, ah, over about the last twenty years Nevada, the tax rate for Unemployment Insurance Benefits in Nevada has remained relatively low and stable. Ah, the rate was actually last above, significantly above 1.5% back in mid-1980s. Ah, in this recession we had a significant spike in the cost of benefits, which is represented by the orange line on this graph. Because of the large increase in the benefits that the Trust Fund has had to pay out for just the first twenty-six weeks of benefits, ah, which is all Nevada's responsible for paying, the Trust Fund has declined from a balance of over $800 million earlier, prior to the recession, to where we have now borrowed over $500 million as of the beginning of October. This chart shows you the impact that those surging benefit payments have had on the Trust Fund wherein over the last two years, from 2009 to 2010, we've paid out over $2 billion in benefit payments from the Trust Fund and through borrowing while the revenue to the Trust Fund has declined slightly because of declining employment in the state. Ah, the big factor is the surge in benefit payments, but the declining revenues also played some role in this decline. As we look at the impact of borrowing, there's a couple of key costs to take into consideration. One of those is a potential for increases in the federal unemployment tax rate that employers pay. This chart outlines the differences between the federal unemployment taxes and the state unemployment taxes. Ah, the federal unemployment tax is on a fixed-wage base of the first $7,000 of an employee's wages. It's paid to the federal government, and it funds federal and state unemployment insurance administration, and the tax rate is 6.2%, but employers generally receive a 5.4% credit which make the effective tax rate 0.8% or $56 per employee, and this is called the FUTA Tax, which is for Federal Unemployment Tax Act. The State Unemployment Tax Act, or SUTA, is the primary means of funding that, those first twenty-six weeks of benefits in Nevada. Ah, we operate on an indexed taxable wage base, which is $27,000 in 2010, and will be declining slightly to $26,600 in 2011 due to falling average wage in the state. Because this is indexed, it rises and falls with the averages wages in the state. This is paid to Nevada to, it can only be used for unemployment insurance benefit payments or to repay just the principal of loans which are used to pay benefits, and this rate is set by regulation each year, and that's the workshop that we're, what's on October 5th. The small business impact for that regulation is what we're here for today. Ah, the average rate is currently targeted at 1.33%, but as noted earlier, the tax rate was voted to go up to 2.0% for 2011. I'm having some more technical difficulties here. Alright, the table on page six outlines the cost of potential increases in the FUTA Tax Rate. If Nevada is borrowing for two consecutive January 1sts, the feds will begin to reduce the credit, that 5.4% credit that Nevada employers receive on their federal unemployment taxes. This is outlined in the, the first column under "Base Reduction" where, ah, in the first year of borrowing, which is 2010, there's no reduction in that credit, but every year thereafter the credit is reduced by 0.3%, which is an effective tax increase on employers of 0.3% per year, and that continues to increase until it's 0.6% in the third year, 0.9% in the fourth year and so on. In addition, after, beginning with the fifth year, another reduction can be imposed on top of that which is known as the BCR add-on for Benefit Cost Rate. This calculates the five-year average cost that Nevada, or average tax rate that Nevada would have to charge in order to pay for benefits, and subtracts the average tax rate in the state. So, for example, in 2014 we currently estimate that there would be a five-year average benefit cost rate of 3.3%. If Nevada's tax rate in that year were stay at the 2010 level of 1.33%, then 1.3% would be taken away from that, for a BCR add-on of 2%. This is added to the base reduction in that year of 1.2% for a total of FUTA credit reduction of 3.2%, ah, which would be a cost per employee of about $224. If the tax rate were to be at 2%, which is the recommended rate for 2011, then because the SUTA Tax Rate is subtracted from the Benefit Cost Rate, that would make the BCR add-on less, in this case it would be 1.3% in 2014, for a total reduction of 2.5%. In addition to the FUTA tax offsets, another cost of borrowing is interest that we have to pay on these loans. Under the ARRA Stimulus Bill, interest has been deemed paid through end of 2010. Interest will be due on September 30, 2011 under the Title 12 loans. That interest will be accruing for about nine months, so really 2012 is the first year that we see a full year's worth of interest. At the, ah, recommended tax rate of 2.0%, we would expect that we'll, in 2011 we'll have about $29 million of interest due, and in 2012 if we continue to borrow and have that full year of borrowing to pay for, we expect the interest rate to go up to about $48.9, to about $48.9 million. Ah, the cost per employee here is based on a bill draft resolution to pay for that interest. Since the interest expense cannot be paid from the SUTA Unemployment Taxes, we are currently proposing another method, or another means of raising the money that will be needed in order to pay for that interest expense. Slide eight shows the, ah, estimated revenue numbers and the consequences of those numbers for 2011 that were presented to the Employment Security Council. I've highlighted the 2.0% tax rate that was recommended by the Council. We would expect that, at that rate, we'll see about $136 million in additional revenue, which will reduce our borrowing from about $430 million to a little under $300 million, ah, with, and we expect that the Trust Fund balance on October 1, 2011 would be a borrowing of about $830 million lower than the $965 million we would have had if we were to leave the tax rate at 1.33%. Finally, some additional considerations were presented to the Employment Security Council. One of those is that with the official end of the previous recession being dated in June, 2009, ah, we thought it was appropriate to bring up that over the last fifty years, the average length of time from the end of one recession to the beginning to the next has been 5.4 years. If you were to carry that out from June, 2009, you'd be looking at about December, 2014. This isn't necessary a forecast of when the next recession will take place, but just provides some historical perspective and remind the Council that recessions do, ah, keep coming down the pipe. And, so we want to have them consider that in addition to trying to pay for benefits now, we also want to preserve, or, we want to pursue the principle of forward-funding where we try to build up the Unemployment Insurance Trust Fund in advance of recessions in order to pay for benefits and avoid having to raise taxes on employers during the midst of that recession when the cost of benefit payments surges. We also presented a summary of some of the questions that are currently facing the federal government as far as Unemployment Insurance Trust Fund financing goes: whether or not the state, the federal government might provide any relief to the states. This is a big question and it's something that could definitely impact the strategy that the Employment Security Council could take when they try to figure out how we're going to pay for unemployment benefits over the next few years. This concludes my remarks. I'll turn it back to you.

KARCH: Thank you Mr. Schmidt. Our next presenter is Donna Clark, Chief of Contributions with the Employment Security Division. Ms. Clark will provide an explanation of the Tax Rate Schedule and the small business impact.

CLARK: Thank you Deputy Administrator Karch. Members of the public, for the record, my name is Donna Clark and I serve as Chief of Contributions for the Unemployment Insurance Program in Nevada. The purpose of this small business workshop is to discuss the proposed Unemployment Insurance Tax Rate Schedule for Calendar Year 2011. State law requires the Employment Security Division Administrator to set the tax rates each year by adopting a regulation. Pursuant to the Nevada Revised Statute 612.310, it is the role of the Employment Security Council to recommend a change in contribution rates whenever it becomes necessary to protect the solvency of the Unemployment Compensation Fund. As Deputy Karch explained, I'm going to provide an overview of how the unemployment insurance tax system works, and the projected impact of the proposed UI Tax Rate Schedule for Calendar Year 2011 on small businesses. And, we're having technical difficulties again I take it, we okay? Okay. As previously explained by DETR Economist Dave Schmidt, the unemployment insurance program is a joint federal/state partnership. The amount an employer pays for federal unemployment, or FUTA Taxes, depends on the employer's participation in a federally approved state unemployment insurance program. To ensure proper credits are given for state unemployment, or SUTA Taxes, IRS requires an annual cross-match or certification with states to validate SUTA payments for FUTA credits. The state unemployment, or SUTA Taxes, collected from Nevada employers are deposited into a Trust Fund. This Trust Fund can only be used to pay benefits to Nevada unemployed workers, or repay the principal of loans that were used to pay those benefits. The revenue cannot be used for any other purpose. The tax is paid entirely by employers. There is no deduction from an employee's paycheck. The tax rates will vary based on the employer's previous experience with unemployment, and under federal law, these funds must be deposited with the U.S. Treasury and cannot be invested in any other manner. The Fund itself does earn interest. At the core of the unemployment insurance tax program is a rating system known as "Experience Rating". To be in conformity with federal law, all states are required to have a method of Experience Rating approved by the U.S. Secretary of Labor. The rating system works as follows. In Nevada, the rate for all new employers is 2.95% of taxable wages. The taxable wage base, or taxable limit, is an annual figure calculated at sixty-six and two-thirds percent of the average annual wage paid to Nevada workers. UI taxes are paid on an individual's wages up to the taxable limit during the calendar year. As Mr. Schmidt mentioned, in 2010, the taxable wage limit is $27,000 per employee. In 2011, the taxable wage limit will be decreasing to $26,600 per employee. Employers pay at the new employer rate of 2.95% for approximately three and one-half to four years until they are eligible for Experience Rating. Once employers are eligible for Experience Rating, an employer's rate can range from 0.25% to 5.4% depending on the employer's previous experience with unemployment. There are eighteen different tax rate classifications. The annual Tax Rate Schedule adopted through regulatory process applies only to Experience Rates employers. It has no impact on new employers. They continue to pay at a rate of 2.95%. The intent of an Experience Rating system is to assign individual tax rates based on an employer's potential risk to the Trust Fund. Basically, those employers with high employee turnover and a greater cost to the Fund pay higher rates than those with low employee turnover. As displayed on the chart on slide six, in 2010 employers' annual costs for unemployment insurance ranged at the highest rate from $1,458 per employee to the lowest rate of $67.50 per employee. In Calendar Year 2011, these maximum annual costs per employee will decrease slightly by 1.48% due to the decrease in the average annual wage and the associated annual taxable wage limit. To measure an employee's experience, excuse me, an employer's experience with unemployment, Nevada with the la, along with the majority of states, uses what is called a "Reserve Ratio Experience Rating System". This system is essentially cost-accounting. Under the Reserve Ratio System, the Employment Security Division keeps separate records for each employer to calculate their reserve ratio each year. In the formula used to calculate each employer's reserve ratio, we add all contributions, or UI taxes, paid by the employer for the life of the account and subtract the benefits charged to the employer for the life of the account. The result is then divided by the employer's average taxable payroll for the last three completed calendar years. This calculation establishes the employer's reserve ratio. The purpose of using this method is to put large and small employers on equal footing without regard to industry type. For example, if an employer paid $6,000 in contributions, had $2,000 in benefit charges, with an average taxable payroll of $40,000, he would have a reserve ratio of positive 10%. The higher the ratio, the lower his tax rate will be. If an employer has received more benefit charges than he has paid in taxes, his reserve ratio will be negative, and he will generally have a higher tax rate. The reserve ratio's calculated for experience-rated employer and then applied to the Annual Tax Rate Schedule to be determined, to determine which rate classification will apply for that employer for that calendar year. On slide number eight let's now look at the detailed Tax Schedule proposed for adoption for Calendar Year 2011. In setting the annual Tax Rate Schedule, the eighteen different tax rates displayed in the fourth column of this chart do not change. These rate classes, ranging from 0.25% to 5.4% are fixed by statute. Instead, the law requires the Employee Security Division Administrator to designate the ranges of reserve ratios to be assigned to each tax rate for a calendar year. By doing so, the number of employers in each of the tax rates is changed, which increases or decreases the average tax rate and the total estimated revenues. The law also requires that the increments between the reserve ratio ranges must be uniform. In this Schedule, for an average tax rate of 2.0% the ranges are from positive 8.5 to negative 17.1 with increments of 1.6 between each of the reserve ratios. If an employer's reserve ratio is better than 8 positive 8.5, he gets the lowest rate of 0.25%. An employer with an reserve ratio of less than negative 17.1 would get the highest rate of 5.4%, and the rest, as you can see, fall somewhere in between. In this particular chart, approximately 33% of eligible employers remain in the lowest rate of 0.25%, with 7.1% of eligible employers at the highest rate of 5.4%. Out of 56,667 total employers, there are 35,089 employers eligible for Experience Rating, which we estimate under this Schedule will generate $356.9 million in revenue to the Unemployment Insurance Trust Fund. To that, we add the estimate for new employers not eligible for Experience Rating a total of $53.1 million for total revenue of approximately $410 million, and an average rate of 2.0% for the unemployment tax. As a note, you'll see that there is an additional 0.5% tax for the Career Enhancement Program, or CEP which is a separate state training tax set by statute. This is being provided for informational purposes only, and is not included in the projected revenue amounts. As previously stated, on October 5, 2010, the Employment Security Council unanimously recommended an increase to the average unemployment tax rate from 1.33% to 2.0% for Experience Rated employers. For further consideration, and in compliance with N, to, with NRS 233b-0608, I am now going to provide a statement of the projected impact of this recommended increase on small businesses in Nevada. All Nevada employers subject to Nevada Unemployment Compensation Law that pay unemployment insurance tax rates subject to the Experience-Rating System are affected by the proposed regulation. Again, this constitutes approximately 35,000, or 62%, of total registered businesses. However, the rate for individual small businesses will either increase or decrease depending primarily upon each individual business experience record within the program. Employers with a high employee turnover rate will be more likely to shift into a higher tax rate, while those who retain their employees, and have a low employee turnover rate, may not have a change in their tax rate. The average unemployment tax rate for Nevada employers has remained relatively low and stable for the last ten years, ranging from 1.29% to 1.28% despite the severe economic downturn experienced after the events of September 11, 2001. At the end of Calendar Year 2007, Nevada had a strong Trust Fund, with a balance of approximately

$800 million. However, the historic depth of the recent recession depleted Nevada's Trust Fund reserves in October, 2009. At that point, Nevada began borrowing from federal unemployment account in order to pay benefits to Nevada unemployed workers. Since July of 2008, unemployment insurance benefit payments, including those paid by the Nevada Trust Fund as those provided by a federal payment of extended benefits, have infused approximately $3.8 billion into Nevada's economy providing a direct economic stabilizer for both workers and businesses. The proposed raise in the average tax rate from 1.33% to 2.0% is expected to increase the Unemployment Compensation Fund by over $136 million in Calendar Year 2011 reducing state borrowing from the federal account. An increase in the average unemployment compensation tax rate from 1.33% to 2.0 would apply to an estimated 34,015 classified as small businesses. For this analysis, a small business is defined as those with 149 employees or less by NRS 233b-0382. The net number of small employers potentially changing rate categories is projected to be 7,842, or 23% of small businesses eligible for Experience Rating. We have provided a chart of this on slide number thirteen, at which provides a comparison of the small employer distribution under the existing average tax rate of 1.33% compared to the proposed rate of 2.0%. You'll see those on the slide highlighted in yellow. The first two columns there are showing, um, the distribution of employers at 2.0%. The next two columns are showing the distribution of, of employers at 1.33%, and the net difference of those, or the 7,843 employers, I said 42, it says 43, um, are shown in the last column there of the comparison highlighted in yellow. The proposed raise in the average tax rate is expected to generate, as we've stated, an increase of over $136 million to the Unemployment Compensation Trust Fund. Since small business tax, since small business taxable wages account for 41% of all taxable wages in the state, approximately $56 million of the total increase will be attributed to small businesses. The direct impact, again, on each individual business will, however, vary based on each employer's experience record with the Unemployment Compensation Program. If you'll note on slide thirteen, you can see that, um, under the tax rate of 2.0%, 11,544 employers classified as small businesses, or 34%, will still remain at the lowest rate of 0.25%. The other 7,843 employers, in raising that average tax rate to 0, 2.0%, will move up in those categories as shown on that previous distribution chart. The average tax rate increase will allow the Unemployment Trust Fund to recover a portion of the current deficit spending, and to reduce the amount of interest accrual on outstanding loans. Pro-active actions by the state to improve Nevada's Trust Fund may also reduce mandatory federal tax increases under the federal Unemployment Tax Act. The tax methodology used for the Nevada Unemployment Compensation Program is based on an Experience Rating system approved by the U.S. Department of Labor. As previously stated, this system is designed to ensure that employers are equally rated based on their unique experience with unemployment regardless of size or industry type. By having a federally improved rate system, it allows employers an annual offset of 5.4% against the 6.2% federal unemployment tax. This is a savings of approximately $480 million per year to all Nevada employers. This regulation, Nevada Administrative Code 612-270, is adopted each year to set employer contribution rates. Therefore, there is no additional cost for enforcement of this regulation. Funds for the administration of the Unemployment Compensation Program are provided the U.S. Department of Labor. The anticipated revenue, as we've stated several times, is $136 million under the Tax Rate Schedule of 2., an average rate of 2.0%. Small businesses will account for approximately $56 million of the tax, or the increased revenues. This increase is necessary to reduce the amount of federal borrowing required to fund unemployment insurance benefit payments to Nevada workers. In conclusion, this regulation does not duplicate or provide a more stringent standard than any other regulation of federal, state or local governments. Thank you Deputy Administrator Karch. That completes my presentation.

KARCH: Thank you, Ms. Clark. I would like to open the workshop for public comment. If you, we'll go to Southern Nevada first. If you want to come up, please step forward and identify yourself clearly for the record.

MICATROTTO: Good morning. My name, for the record is Justin Micatrotto with the Micatrotto Restaurant Group, a franchisee for Raising Canes Chicken Fingers. We're a, ah, five unit fast-feeder chicken finger concept, and I will be speaking, wearing two hats, one as a local business owner, and then two, as Chairman of Government Affairs Committee for the Nevada Restaurant Association.

ECKER: Yes, my name is Jeff Ecker. I'm the Corporate General Manager for Paymon's Mediterranean Café and Lounge. We've been around for approximately twenty-two years serving the local community in Las Vegas, and I will be here to, ah, speak on behalf of Paymon's. Paymon Raufe, our owner, is, um, ill today and couldn't make it, so I'm here on his behalf, and also, ah, would like to speak from the point of view of our, um, Government Affairs Committee through the Nevada Restaurant Association.

MICATROTTO: Okay. The Nevada Restaurant Association appreciates the opportunity to respond to the Council. The Association is speaking on behalf of more than fifty-two hundred food service operators, ah, operations in our state. As you may know, in the recent past our industry has been hit with increased, um, modified business tax, an increase in business license fees, an increase in health permit fees, increase in minimum wage and an increase in the overall cost of goods, also, while enduring a decreased number of customers in our seats. Most restaurant ob, rob, most restaurants operations runs on a 4 to 9% margin, and many of our operators are on a razor's edge. We are concerned that any increase in taxes will result in the uninten, the following unintended consequences: slowed hiring of new employees; layoffs of existing employees; and, further restaurant closures. We asked the Council to consider a number of options that have been presented in the previous meetings to repay Nevada's debt so that no increase is required, or that the increase is minimal as possible - I'd, options such as bonding, limiting, um, the amount of time that these taxes can be increased in writing and also broadening the tax base. Um, that's again speaking on the Nevada Restaurant Association's side. Speaking as an owner/operator in Las Vegas, Nevada, just to give you a little bit of background, myself, my brother and one other partner have been in town for about six years. I've been in town longer than that, been operating for about six years. We do have five restaurants. If you took the, we, we have been able to open on average about one restaurant a year for the last four years, um, the first restaurant turns five years old now, so we've got a little bit on the experience mods and all of the stuff that was mentioned earlier. And we're doing well as it goes from the fast-food side as far enforcement, documentation, we know we're up against quite a bit with, ah, typical high turnover in fast-feeders. Um, but I will tell you from a, from a, every one of us is an operator and all of us wear several hats, but from our H/R guy's side, the amount of time that he spends and dedicates, ah, to the enforcement, to the documentation, long story short, we're doing everything we can on the enforcement side of stuff to make sure there aren't just a bunch of claims out there that are completely unfounded. And even with that, um, the cost of doing business as it relates to the taxes is, is pretty, pretty sky, pretty high up there. Um, if we look, for example, at the two per, going up to the two poi, excuse me, the 2% increase, ah, basically you're looking at an increase of about $168 per employee for us. That represents a total of 163 employees when, when we did same store sales 2009. We've now increased to a fifth location, so we're up over 250 employees now. So, that increase will probably go a little bit higher, but you're at about $168 per employee, which at that point with four restaurants, is $82,000 next year. Um, that's half of my equipment package. That's about four of my payroll cycles per restaurant. Um, what $82,000 can do, not only to solidify the operations I have, but our chance in expanding in Nevada, um, you're talking about somebody who lives here, has family here, wants to continue to expand in Nevada, but frankly, I've got opportunities in Phoenix. Um, we would, at this point all things being equal as far as expanding and probably employing fifty to sixty more people, all things being equal at this point, there's no reason to not go to Phoenix. And, I want to open up continued businesses here. We want to get up to Northern Nevada, but all of that stuff pretty much gets put on hold when we have these, when we're facing these kind of increases in light of the, the, the increases I already mentioned beforehand. I don't want to take up too much time. I appreciate the time we've been already been given, but $82,000, you know, in increase for an operator, we might 250 rest, employees, we might seem to be doing well, we actually are, but we would absolutely become part of a cautionary tale of a small segment of the industry in Nevada that is actually doing well, which is my five restaurants and growing. You know, there's a small segment of us out there, but you talk about wanting, to, to stop any kind of growth or to look elsewhere, which is really the worst case scenario at this point is looking elsewhere instead of developing other concepts in our own state. Um, it really doesn't make sense to do that, to expand when you're, when you're facing these kind of increases. So, so, we would ask as I mentioned before, bonding, getting some sunset stuff, time limits in writing so that these increases don't just say "Hey, we've got the reserve fund", you know, "we've built up for the future but hey, where does this tax stop?". No, we need some stuff in writing and then potentially broadening the tax base as we mentioned as well. Thank you so much for your time. I'll turn it over to Jeff.

ECKER: Um, Paymon's Mediterranean Café has been around since 1988. The, ah, one of the most highly awarded Mediterranean restaurants in Las Vegas, and it serves a lot of the, um, local, um, UNLV populace, politicians, professionals, doctors, attorneys, um, good, good people, successful people, people in the arts. Has a, a wide array of clientele, and we've been, I've been the general manager for ten years, and when I came to work with Paymon, we wanted to grow the company. We wanted to employ more people. We wanted to contribute to the community, um, and for the most part we've been able to up until this last couple of years with the economic climate changing as drastically as it has. Um, now when we look at growth, um, we're looking at increases across the board, and an increase in the unemployment rate now equates to many of the restaurants in Las Vegas having to reduce their payroll because this increase is tied to how many employees that a company has employed. And, to counteract the amount of money that it's going to cost an operator, is most definitely going to equate to laying more people off. And, that is a scary scenario for restaurant operators because we don't have enough customers out there in the first place. Um, so, that seems to be counter to what is, what is trying to be accomplished here. Um, and, to give an example, we have two locations and our West Sahara location, um, in the third quarter, ah, lost, lost a little money, and we run that operation with a, a skeleton crew, one restaurant manager and one kitchen manager. The typical restaurant would have four to five salaried management. So, we are there hanging on by a thread, and as most people believe that restaurants are, are just walking ATM machines, they fail to realize, as, as Justin said, statistics coming from the National Restaurant Association show that restaurants in the casual dining classification keep about four to five cents to the dollar at the end of the day. Ah, that's not very much. Um, one of the things that, that I'm concerned with is, being part of the Nevada Restaurant Association, is that we don't look at other restaurants as competition. We're, we're an industry, more like a family industry where we help each other out. We help other restaurants out, anything that we can do to help each other. We want to see everybody succeed, and small business is in a peculiar situation, um, versus some of the larger companies. For instance, a um, um, Claim Jumper can, can file Chapter 11 under the corporate, you know, corporate laws, and not close down for one day and, ah, basically relieve themselves of, um, creditors, keep their doors open and continue to go. If this happens to the owner of my restaurant, Paymon, if his credit goes in the tank in the economic climate that it's in, he will not get a loan by another bank because it's difficult as it is as a restaurant operator to get funding from banks. So, the small business community is, is at a large disadvantage when it comes to this type of thing. There aren't the escape mechanisms and the safety nets available that there are to major corporations, and that's something that we, we have to consider here, ah, because when we talk about absorbing costs, it, it really, I understand that, you know, we try to do things in a more equitable fashion, but unfortunately it doesn't really play out that way and the small business owner is really up against it. And, um, some of the chain restaurants are folding all around us, and I can't help but think that more expenses on the, ah, on the balance sheet is going to create more unemployment, and I hope that we can figure a very creative way to, to, to fix this process, but I'm not sure that this is, that business is ready for an increase, and that's, that's all I have to say. Thank, thank you for considering, um, anything that I have to say today.

KARCH: Thank you for your comments. Is there anyone else in Southern Nevada that would like to speak?

SPEAKER: One more.

VILARDO: For the record, Carol Vilardo, Nevada Taxpayers Association. I was not sure if I was going to speak until I heard a comment by, ah, Mrs. Clark. Um, what you have heard is indicative of the problems faced by a lot of my small members, and not only restaurants but within the construction industry. Because the way the law is, those industries which have been very hard hit by the economy are almost in double jeopardy. Not only has the rate increased, and I understand the reasons for going to 2.0%, but the experience rating because of the number of layoffs, ah, is going to put them in another category that they might not have had. I think the biggest concern that employers had is the fact that we have no idea what the legislature is going to do. And right now, if the legislature did not consider increasing the Modified Business Tax and holding it for the next couple of years and allowed it to sunset, we would be back to 0.63, which would be a help to a number of these businesses in offsetting, but nobody is quite sure that's going to happen. The additional concern I had, and I don't that you can address it, is when Mrs. Clark talked about legislation to take care of the interest payment, because while we might bond for the interest payment we're still going to have to wind up paying the money back on that, and I'm hard pressed to believe that the General Fund is going to pay those bond payments. So, I'm either thinking that it falls on the employer again, and to understand the full ramifications if you're able to speak to it, I would like to know what's being looked at for pay-back on the interest since we can't take it out of the increased rate and the increased money you'll get.

CLARK: For the record, Donna Clark, Chief of Contributions. Um, thank you Ms. Vilardo. We are, the bill draft request that we have put in front of the legislature is indeed for a special assessment on employers, ah, to pay back those interest costs on a, on an annual basis. They are due on September 30th of each year, um, and, as far as we know, there has been no further proposal for extending that waiver or pre-payment of that interest through the end of this calendar year, remains to be seen if that would be expanded or not. As Administrator Cindy Jones talked about during our Council meeting, we have been talking with both the Governor's Office and the Treasurer's Office on doing some sort of bonding to perhaps be able to delay, um, putting in any further assessments on employers for a little while, and that's about as far as we've gotten at this point.

VILARDO: If I may ask a question on that. Ah, assuming you bond, is it then believed, is that what the legislation is for, to allow the bonding with a special assessment to pay back and the hope being that the bonds would have a deferred interest payment of a year to two years?

CLARK: For the record, again, Donna Clark, the, um, current bill draft request did not cover bonding at that point. It basically was, um, ah, ah, placeholder if you will to give us statutory authority to do something in order to collect interest. We did not have any statutory authority since this is only the second time we've had to borrow, and the last time we borrowed back in the mid-70s, as I know you're aware, we did not have to pay interest at that point. So we had, the Department had no statutory authority whatsoever to do anything to raise money in order to pay these interest charges, and since we're not allowed to pay them with any SUTA or State Unemployment Taxes, we had to have a different funding mechanism. So, it's just basic language to put that kind of statutory authority in place.

VILARDO: Well, I thank you for allowing me to comment. As I say, I understand that there's probably very little that can be done, but I feel that putting this on the record when we go to the legislature, depending on what they're looking at doing relative to the payroll tax, may help the legislature understand how severe the impact is to business, particularly small business. So, thank you for the opportunity.

KARCH: Is there anyone else in Las Vegas?

MARTINEZ: For the record, Art Martinez. No more comments from the Southern region.

KARCH: Okay, thank you. I would like to thank everyone in Las Vegas for their valuable comments. Next, Carson City, is there anyone who would like to comment in Carson City? For the record, there's no one in Carson City who would like to comment on this issue. I'd like to adjourn this meeting. Thank you to everyone who participated in the regulatory process for the

Unemployment Insurance Tax Schedule for Calendar Quarter 2011. We will, we'll, excuse me, we will continue with a Public Hearing tentatively scheduled for December 7, 2010. Thank you. Meeting adjourned.

END OF RECORDING.