

### **Nevada Legislature Meets for 24-Hour Special Session**

Leadership of the Nevada State Senate and Assembly obviously spent many hours negotiating in a bi-partisan manner before the Special Session convened on Friday June 27, 2008. There were a number of agreed-upon measures, which were introduced in one of the legislative houses. Business is being conducted with the Senate and the Assembly acting as committees of the whole.

Legislative leaders spoke to both houses and outlined the enormity of the financial crisis the state faces, with the budget shortfall now exceeding \$1 billion. It is a “sober undertaking” to have to reduce these budgets, and over the last 10 days, leaders from both houses and both parties have worked to develop a “roadmap” to present to the Legislature for its consideration.

They highlighted several issues that were not going to be considered during the session, even though a few were on the Governor’s priority list, which were included in the proclamation that called the Legislature into session. COLAs are off the table. School districts have already negotiated contracts with teachers that have to be honored. The Krolicki plan to securitize the tobacco payments would realize millions now, but Nevada would actually lose up to 50% of the value of its projected revenue from this source over the long term. If the money was used now to cover shortfalls, there would be no revenue source to continue to fund the senior prescription plan or the Millennium scholarships. Instead, the negotiating group considered targeted costs and giving some agencies flexibility in moving funds between budget categories.

Following the Special Session, the Governor commented that “In the end, the agreement lawmakers reached was very similar to my recommendations. With the discretion I gave them, though, they included some measures that I would have preferred been excluded, particularly reducing the funding for textbooks for our school children. I believe it would be more prudent to have targeted reductions to operating budgets of state agencies and protect these valuable resources. Still, I commend the Legislature for their willingness to make these difficult choices in these tough economic times.”

Special Session 24 concluded on Friday evening shortly after 10 PM. The following is a summary of bills discussed during the session:

#### **AB 1**

**Assembly – 42 Yea, 0 Nay**

**Senate – 21 Yea, 0 Nay**

Repeals an appropriation of \$36,000,000 to the Interim Finance Committee and reverts it to the State General Fund.

#### **AB 3**

**Assembly – 42 Yea, 0 Nay**

**Senate – 21 Yea, 0 Nay**

Transfers certain funds back to the State General Fund

\$4,000,000 to the State General Fund from the Disaster Relief Account

\$3,500,000 to the State General Fund from the Fund for Mortgage Lending

\$ 800,000 to the State General Fund from the amount held in reserve for the program to issue revenue bonds for industrial development  
\$4,000,000 to the State General Fund from the amount held in reserve for the Central Repository for Nevada Records of Criminal History  
\$4,000,000 to the State General Fund from the Fund for Care of Sites for Disposal of Radioactive Waste  
\$3,500,000 from the revolving account of the Division of Emergency Management of the Department of Public Safety.

#### **AB 5**

**Assembly – 42 Yea, 0 Nay**

**Senate – 21 Yea, 0 Nay**

Authorizes allocation of the proceeds of certain general obligation bonds (not to exceed \$20 million) to the Department of Transportation for the construction, reconstruction, improvement and maintenance of highways

#### **ACR 2**

Expresses the reductions in expenditures totaling \$275,426,471 approved by the Nevada Legislature during the 24th Special Session

1. Additional reductions of **\$106,000,000** in the budgets of state agencies;
2. Reversion of **\$27,300,000** from the Trust Fund for Public Health;
3. Redirection of **\$4,400,000** in receipts of the Trust Fund for Public Health for FY 08-09
4. Contingent reduction of **\$47,995,714** in the amount previously appropriated for textbooks, instructional supplies and instructional hardware
5. Estimated revenues of **\$4,000,000** from the establishment of the tax amnesty program;
6. Elimination of the requirement to transfer **\$7,600,000** for FY 08-09 from the Abandoned Property Trust Account to the Millennium Scholarship Trust Fund
7. Reversion of **\$4,000,000** from the Disaster Relief Account created in the Fund to Stabilize the Operation of the State Government
8. Reversion of **\$330,757** of the appropriation to IFC for FY 07-08 and FY 08-09 for allocation to the Division of Child and Family Services
9. Reversion of **\$600,000** previously allocated to Project ChalleNGe resulting from the placement of participants in out-of-state programs
10. Redirection of **\$4,200,000** of the portion of the tobacco settlement payments for FY 08-09 not allocated to the Senior Program and the Disability Rx Program that would have been deposited in the Fund for a Healthy Nevada
11. Transfer of **\$3,000,000** from the amount held in reserve for the Senior Rx Program;
12. Reversion of **\$3,500,000** from the revolving account within the State General Fund for the Division of Emergency Management of the Department of Public Safety for persons who own and occupy homes damaged by a disaster
13. Transfer of **\$4,000,000** from the Fund for the Care of Sites for the Disposal of Radioactive Waste
14. Transfer of **\$4,000,000** from the amount held in reserve for the Central Repository for Nevada Records of Criminal History
15. Transfer of **\$200,000** from the Legislative Committee on Health Care
16. Transfer of **\$800,000** from the amount held in reserve for the program to issue revenue bonds for industrial development
17. Transfer of **\$3,500,000** from the Fund for Mortgage Lending
18. Reversion of **\$50,000,000** which may be partially offset by authorization of the reallocation of not more than **\$20,000,000** in general obligation bond savings to the Department of Transportation for highway construction and maintenance projects

Also, the Department of Corrections shall develop and analyze all feasible alternatives to the closure of a prison facility to help accomplish the reductions.

### **Senate**

#### **SB 1**

**Senate – 21 Yea, 0 Nay**

**Assembly – 42 Yea, 0 Nay**

Moves \$195,000,000 and \$72,000,000 from the Fund to Stabilize the Operation of the State Government (“Rainy Day fund”) to the State General Fund

#### **SB 2**

**Senate – 19 Yea, 2 Nay**

**Assembly – 42 yea, 0 Nay**

Existing law provides a procedure for the revision of the work program of any department, institution or agency of the Executive Department of the State Government. This bill authorizes the transfer of certain sums appropriated to the Department of Health and Human Services among the various budget accounts of the Department. The authority to do so sunsets after June 30, 2009.

#### **SB 4**

**Senate – 13 Yea, 7 Nay, 1 Absent**

**Assembly – 28 Yea, 14 Nay**

Temporary provision to handle the “bubble” of 900 prisoners currently awaiting parole hearings: Existing law requires the State Board of Parole Commissioners to provide reasonable notice of a meeting of the Board and the opportunity for the prisoner to be present. Parole may not be denied unless the Board has complied with those requirements. Existing law further provides that a prisoner or his representative must be allowed to speak during a meeting to consider the prisoner for parole and requires the Board to provide written notice of its decision and any recommendations it may have to the prisoner not later than 10 working days after the meeting. This bill maintains all constitutional rights of prisoners, but repeals these additional statutory requirements until June 30, 2009.

#### **SB 5**

**Senate – 12 yea, 9 Nay**

**Assembly – 40 Yea, 1 Nay, 1 Not Voting**

Existing law provided \$95,991,427 to school districts for textbooks, instructional supplies and instructional hardware. This bill contingently reduces the dollar amount for those expenditures to \$47,995,714. If the IFC later reviews projections from the Economic Forum and determines that revenues are up, the funds can be replaced

### **Not Passed**

#### **AB 2 (companion to SB 3)**

**Assembly -- 42 yea, 0 Nay**

**Not processed by the Senate**

Existing law imposes sales and use taxes on tangible personal property. Existing law exempts food for human consumption, such as groceries sold in a retail store, from the sales and use taxes. However, existing law does not exempt prepared food intended for immediate consumption, such as meals served in restaurants, from the sales and use taxes.

The Nevada Supreme Court determined that under the food exemption, a business entity is exempt from paying use taxes on such prepared food and the Court has also determined that such

complimentary meals provided by a business entity may be subject to sales taxes when consideration is properly demonstrated.

This bill clarifies that under existing law, when a business entity provides complimentary meals, the business entity receives a valuable benefit in exchange for the provision of those complimentary meals and that under existing law, the provision of those complimentary meals results in sales that are subject to sales taxes.

Finally, because this bill is intended to clarify existing law, it applies both prospectively and retrospectively to the taxation of complimentary meals....and this bill also applies to any proceedings regarding the taxation of complimentary meals that are: (1) pending before the Department of Taxation or the Nevada Tax Commission on or after the effective date of this bill; (2) pending in a district court or the Nevada Supreme Court on or after the effective date of this bill; or (3) filed with the Department of Taxation or the Nevada Tax Commission on or after the effective date of this bill.

#### **AB 4**

**Assembly --- 42 yea, 0 Nay**

**Not processed by the Senate**

Under existing law, the Department of Health and Human Services is required to develop by regulation a list of preferred prescription drugs to be used for the Medicaid program. The Department is also required to establish a list of prescription drugs which must be excluded from any restrictions that are imposed on drugs that are on the list of preferred drugs. This bill eliminates the requirement that certain specified types of medications be included on the list of drugs excluded from the restrictions.

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#### **Term Limits Being Debated by State Supreme Court**

On July 1, 2008, the State Supreme Court heard arguments as it relates to whether or not certain elected officials throughout the state have exceeded the voter approved term limits of twelve years. Secretary of State Ross Miller has filed challenges against candidates he feels have violated those term limit provisions that were passed by the voters in 1994 and 1996. As the chief election officer of the state, he has the right to do so – but only through a challenge with each district attorney of each county where that particular candidate has filed. The question actually came up when Washoe County School Board member Jonnie Pullman sought the opinion of Miller as to whether or not she could run again.

On the advice of the current Attorney General Catherine Cortez Masto, Secretary of State Miller has challenged those elected officials still in office who took an oath of office in January of 1997. Miller's contention stems from a 1996 attorney general opinion that held the term limits clock began on November 27, 1996 when that year's election results were certified by the Nevada Supreme Court. Most elected officials have always believed that term limits did not affect current office holders and that it would not technically go into effect until the next time that they ran for office. For example, in southern Nevada, long serving Commissioner Bruce Woodbury was sworn into office in January of 1997 for the term he was elected to in 1996. Under the AG's opinion, his 12 years of service started in 1997, while Woodbury believes that his first term under the term limit law began only after he was elected in 2000.

County and state elected officials are treated differently than state legislators because of, again, when they actually begin serving in that elected office. That integral difference comes when each elected official is considered to have taken office and whether or not it came on or after that

November 27, 1996 date of certification. State Legislators are considered to take office immediately upon election, and so they were already in office and were serving on November 27, 1996. Eighteen legislators, including Senate Majority Leader Bill Raggio, R-Reno, and Assembly Speaker Barbara Buckley, D-Las Vegas, face final races this year due to those term limits. Seven other senators were re-elected for what could be the last time in 2006.

What many veteran political insiders were originally speculating was that another glitch to the term limit law might also be considered by the court if someone used it as an argument in their briefs. It has been argued by some that the entire term limits constitutional amendment is flawed and should be struck down. State law requires that voters must approve a constitutional amendment twice. The Nevada Supreme Court split the term limits proposal approved in 1994 into two questions for the 1996 election, and so the voters then considered a question relating to judges and elected officials separately – a different set of circumstances voted on in 1994. The argument is that the term limits should be voided altogether because the voters did not approve the same question both times. However the Supreme Court was clear that they would limit the arguments on July 1<sup>st</sup> to just the timing issue. They deferred ruling on the Legislature's motion to intervene which put off any argument on the constitutionality of the law.

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### **NAIOP Government Affairs Committee received Presentation regarding the Boulder Highway Corridor**

Gloria Elder, Senior Planner for the City of Henderson presented to the NAIOP Government Affairs Committee on Wednesday, July 2, 2008 about the Boulder Highway Corridor Investment Strategy. They are currently developing a strategy to redevelop the Boulder Highway Corridor from Horizon to 8<sup>th</sup> Street. The impetus for the strategy is that downtown is gaining momentum, the Regional Transportation Commission is actively pursuing a Bus Rapid Transit line along this corridor, Nevada State College is expanding and the Landwell project is currently underway. If you are interested in the Boulder Highway Corridor Strategy, we encourage you to go to this website:

[http://www.cityofhenderson.com/community\\_development/boulder\\_highway\\_corridor.php](http://www.cityofhenderson.com/community_development/boulder_highway_corridor.php)

Moreover, the Ms. Elder's Power Point presentation is attached.

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### **City of Las Vegas Joins Together Campaign**

The city of Las Vegas is joining with leading businesses, U.S. cities nationwide and respected nonprofit organizations in launching a new campaign to help protect the environment. Through the Together campaign, the city of Las Vegas will network with other participating cities, businesses and non-profits to develop programs and initiatives designed to help people save energy, save money and promote sustainability. To learn more about the Together campaign, log on to [www.together.com](http://www.together.com).

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