

Journal
OF THE
SENATE OF THE STATE
OF NEVADA

TWENTY-FOURTH SPECIAL SESSION

THE FIRST DAY

CARSON CITY (Monday), June 27, 2008

Senate called to order at 10:40 a.m.

President Krolicki presiding.

Prayer by Senator Washington.

Dear God, we thank You for this glorious day that You have given us. We thank You for the opportunity just to be in Your presence. We thank You, O God, for the situation that lies before us. I know some would say this would be an opportunity for bereavement. But, God, we look on it as an opportunity to do the will of the people of this great State to enhance and ensure that the quality of life that we have become accustomed to in this State is maintained.

I realize that there are going to be some tough decisions. There are going to be some things that are said and done that may not be appreciated or accepted by everybody. But at the end of the day, when everything is said and done, we pray that our comradery will still be close, our friendships will still be intact, and we will have a great appreciation for everyone that has sacrificed their time and hard work and energy to ensure that this State operates according to the dictates of this Constitution.

This we ask that You would also bless Senator Beers and Senator Rhoads even in their illnesses, that You, would give them the patience and endurance to help them overcome.

In Christ Jesus name,

AMEN.

Pledge of Allegiance to the Flag.

MOTIONS, RESOLUTIONS AND NOTICES

Mr. President requested Mrs. Claire J. Clift to serve as temporary Secretary of the Senate and Mr. Sam A. Palazzolo to serve as temporary Sergeant at Arms.

Mr. President instructed the temporary Secretary to call the roll of the Senators.

Roll called.

All Senators present.

Senator Raggio moved that the organization of the Senate of the Seventy-fourth Session of the Nevada Legislature be designated as the

organization of the Twenty-fourth Special Session of the Nevada Legislature with the exception of adding Senator Steven A. Horsford as Minority Floor Leader.

Motion carried.

Senator Raggio moved that the Secretary of the Senate be instructed to insert the Twenty-fourth Special Session organization in the Journal of the Senate as outlined in the handout located on each Senator's desk.

Motion carried.

PRESIDENT PRO TEMPORE OF THE SENATE—

SENATOR MARK E. AMODEI

MAJORITY FLOOR LEADER—

SENATOR WILLIAM J. RAGGIO

ASSISTANT MAJORITY FLOOR LEADER—

SENATOR DENNIS NOLAN

MAJORITY WHIP—

SENATOR DEAN A. RHOADS

ASSISTANT MAJORITY LEADER—

SENATOR JOSEPH J. HECK

MINORITY FLOOR LEADER—

SENATOR STEVEN A. HORSFORD

ASSISTANT MINORITY FLOOR LEADER—

BERNICE MATHEWS

MINORITY WHIP—

SENATOR VALERIE WIENER

SECRETARY OF THE SENATE—

CLAIRE J. CLIFT

Mr. President appointed Senators McGinness, Washington and Mathews as a committee of three to inform the Assembly that the Senate is organized and ready for business.

Mr. President appointed Senators Amodei, Heck and Wiener as a committee of three to inform the Governor that the Senate is organized and ready for business.

Senator Raggio moved that the following persons be accepted as accredited press representatives, and that they be assigned space at the press table and allowed the use of appropriate media facilities: 18: NEWS CARSON CITY: David D. Morgan; ASSOCIATED PRESS: Amanda Fehd, Joe Mullin, Brendan Riley, Kathleen Hennessey; CARSON TIMES: Sue Morrow; CBS NEWS: Blake Hottle, Douglas Longhini, Scott Osterman; CITY LIFE: Steve Sebelius; COVEREDGE TELEVISION NEWS SERVICES: Richard Travis; COX COMMUNICATIONS: Steve Schorr, Richard Travis; DAILY SPARKS TRIBUNE/NEVADALABOR.COM: Andres L. Barbano; HENDERSON HOME NEWS: Derek Olson; HUMBOLDT SUN: Forrest Newton; INDEPENDENT: Gary M.G. Deacon; KJFK-AM: William Puchert; KLAS-TV: Matthew Adams, Matthew Bell, Alex Brauer, Richard Czarny, Jonathan Humbert, George Knapp, Richard Travis; KLVX-TV/IBEX FILMS: Michael Jaymen; KNPB CHANNEL 5:

Andrew Cristancho, Dave Santina; KOLO-TV: Edward W. Barnett, Justin Kanno, Ray Kinney, Ed Pearce, Terri Russell; KREN & KAZR Alexandra Limon; KREN 27: Greg Knight; KRNV-TV: Emily Bails, Kausik Bhakta, Victoria Campbell, Hetty Chang, Billy Churchwell, Jeff Deitch, Sarah Johns, Chuck King, Rebecca Little, Matt Scholz, Michael Thompson, Elizabeth Wagner; KTVN-TV: Kent Albrecht, Jack Antonio, Bill Brown, Eric Brown, John E. Cruz, Bryan Evans, Jeffrey Foss, David Ratto, Charles Brent Richard, Brandon Rittiman, Louis Sierra, Steve Sonnenburg, Scott Hargrove, Ozkar Palomo, Casey Smith, Vanessa Vancour; IMPACT: Bill Fine; LAS VEGAS REVIEW-JOURNAL: Lisa Kim Bach, Molly Ball, Henry Brean, K.M. Cannon, Lynette Curtis, John Edwards, Frank Geary, John Gurzinski, Paul Harasim, Brian Haynes, A.D. Hopkins, Mary Hynes, K.C. Howard, Mike Kalil, Clint Karlsen, David Kihara, John Locher, Alan Maimon, Francis McCabe, Margaret Miille, Thomas Mitchell, Craig Moran, Jane Ann Morrison, Lawrence Mower, Erin Neff, Adrienne Packer, Antonio Planas, Glenn Puit, Keith Rogers, Jeff Scheid, David McGrath Schwartz, John L. Smith, Omar Sofradzija, Carri Geer Thevenot, Gary Thompson, Ed Vogel, Annette Wells, Sean Whaley, Joan Whitely, Charles Zobell; LAS VEGAS SUN: Tiffany Brown, J. Patrick Coolican, Christina Littlefield, Cy Ryan, Joe Schoenmann; MINEWEB: Dorothy Y. Kosich; NEVADA APPEAL: Becky Bosshart, Rhonda Costa-Landers, Geoff Dornan, Terri Harber, Brad Horn, Chad Lundquist, Jarid Shipley; NEVADA NEWSMAKERS: Lisa Jansen, Randi Thompson; NEVADA OBSERVER, THE: Johnny Gunn, Dennis Locke; NEVADA PUBLIC RADIO: Brian Bahouth; NEVADA SAGEBRUSH, THE: Brian Duggan, Annie Flanzraich; NEWSTALK 780 KOH: Samantha Stone; PBS LAS VEGAS: Samantha Stone; RENO GAZETTE-JOURNAL: Martha Bellisle, Anjeanette Damon, Guy Clifton, Bill O'Driscoll, Jaelyn O'Malley, Lisa Tolda, POLYGRAVITY MEDIA LLC (PolitickerNV.com): Joseph Cooper; RENO SPARKS VIDEO PRODUCTIONS: William G. Pearce Jr.; SEERENO.TV: Todd Bailey; SENIOR SPECTRUM NEWSPAPER: Chris C. McMullen, Connie McMullen, Tara McMullen; SIERRA NEVADA COMMUNITY ACCESS: Don Alexander, Brett Corbin, Tyler Elliott, Steve Goodin, Charlie Moses, Nadzir Nicaupour, Joel Robertson, Les Smith, Earl Spriggs; SUMMERLIN NEWS: Jamie Helmick; SUN PRODUCTIONS: Sunny Minedew; SUNBELT COMMUNICATIONS: NEWS 4 RENO/ SUNBELT DIGITAL MEDIA: Melissa Sullivan; Chase McMullen; TAHOE DAILY TRIBUNE: Dan Thrift, William Ferchland; THE VOICEBOX/WOLFPACK RADIO: Donnell Pike Anuken and WE THE PEOPLE: Shayne Del Cohen.

Motion carried.

A committee from the Assembly composed of Assemblymen Anderson, Leslie and Marvel appeared before the bar of the Senate and announced that the Assembly was organized and ready for business.

Senator Amodei reported that his committee had informed the Governor that the Senate is organized and ready for business.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 10:47 a.m.

SENATE IN SESSION

At 11:04 a.m.

President Krolicki presiding.

Quorum present.

Senator McGinness reported that his committee had informed the Assembly that the Senate is organized and ready for business.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA 89701

June 26, 2008

THE HONORABLE WILLIAM J. RAGGIO, *Senate Majority Leader*, Nevada State Senate
401 South Carson Street, Carson City, Nevada 89701

To the Honorable Members of the Nevada State Senate:

The Nevada State Constitution, in article 5, Section 9, provides that the Governor may on extraordinary occasions convene a special session of the Legislature by proclamation.

As we all know, general fund revenues for the current biennium have been significantly less than the general funds appropriated by the Legislature. The general fund revenue shortfall for the current biennium has been projected to be well over one billion dollars. This is a budget crisis of unprecedented magnitude in Nevada.

Working together, we have already identified and implemented almost \$914 million in spending reductions to address our fiscal crisis. However, as the amount of the budget deficit continues to grow, it has become necessary to convene a special session of the Legislature to help find appropriate and responsible solutions.

I have therefore issued a proclamation calling the Legislature into a Special Session. In that proclamation, I identify several options that will not only solve the current revenue shortfall, but will show our citizens that their elected officials are willing to make the tough decisions necessary to maintain a balanced budget in difficult economic times.

Among those options are areas I believe the Legislature should consider, including reductions to state operating budgets, a fixed cap on spending for the next biennium, budget flexibility for state agencies, the full use of the Fund to Stabilize the Operation of State Government, the reversion of certain endowments, and many other areas where savings can be found. I believe the recommendations will resolve the current revenue shortfall, will help curb state spending that, in hindsight, turned out to be excessive, and will help the State prepare for and enact a responsible and balanced budget for the next biennium. Even more importantly, the recommendations provide a solution that does not involve raising taxes on our citizens.

I have not limited the special session to my recommendations, although the scope of the special session has been otherwise defined and limited in the proclamation. Consider only the matters set forth in the proclamation.

All of our citizens are hopeful that your efforts will meet with success.

Sincerely,
JIM GIBBONS
Governor

OFFICE OF THE GOVERNOR
EXECUTIVE ORDER

A PROCLAMATION BY THE GOVERNOR

WHEREAS, Section 9 of Article 5 of the Constitution of the State of Nevada provides that "The Governor may on extraordinary occasions, convene the Legislature by Proclamation and shall state to both houses when organized, the purpose for which they have been convened, and the Legislature shall transact no legislative business, except that for which they were specially convened, or such other legislative business as the Governor may call to the attention of the Legislature while in Session;" and

WHEREAS, general fund revenues for the current biennium have consistently come in at amounts less than the amounts appropriated by the Legislature at its Seventy-Fourth Session and its Twenty-Third Special Session; and

WHEREAS, upon my direction and recommendation and with the approval of the Legislature's Interim Finance Committee, general fund spending for the current biennium has already been reduced by almost \$914 million; and

WHEREAS, despite such dramatic spending reductions, the State continues to face declines in general fund revenues; and

WHEREAS, the Economic Forum was convened into an emergency meeting on June 20, 2008, and the economic projections from that body establish that the total general fund revenues for the current biennium will continue to decrease, and will be at least another \$275 million less than the total general funds appropriated by the Legislature at its Seventy-Fourth Session and its Twenty-Third Special Session; and

WHEREAS, the general fund revenue shortfall for the current biennium represents the most serious budget crisis in the history of the State; and

WHEREAS, believing that an extraordinary occasion now exists which requires immediate action by the Legislature;

NOW, THEREFORE, I, JIM GIBBONS, GOVERNOR OF THE STATE OF NEVADA, by virtue of the authority vested in me by the Constitution of the State of Nevada, do hereby convene the Legislature into a Special Session to consider the following solutions to the general fund shortfall for the current biennium:

1. An amendment to Nevada Revised Statutes § 353.213 that will ensure at most zero growth in state spending for the biennium beginning on July 1, 2009.
2. Reductions to general fund appropriations made to fund operating budgets from the Seventy-Fourth Session of the Legislature.
3. Reversion to the general fund of any amounts in the Trust Fund for Public Health established in Nevada Revised Statutes § 439.605 et. seq.
4. Reversion to the general fund of appropriations made to the Nevada Department of Transportation pursuant to Assembly Bill 544 from the Seventy-Fourth Session of the Legislature.
5. Budget flexibility for state agencies and departments with multiple budget accounts similar to the flexibility provided to the Department of Corrections in Assembly Bill 628, Section 48 from the Seventy-Fourth Session of the Legislature.
6. Transfer to the general fund of the appropriation made in Assembly Bill 617 from the Seventy-Fourth Session of the Legislature.
7. Transfer to the general fund of the amounts in the Fund to Stabilize the Operation of State Government. The Governor hereby declares that a fiscal emergency exists to justify such a transfer pursuant to Nevada Revised Statutes § 353.288(4).
8. Reversion to the general fund of a portion of the appropriations made to the Account for Programs for Innovation and the Prevention of Remediation established in Nevada Revised Statutes § 385.379.
9. An amendment to Nevada Revised Statutes § 422.4025 et. seq. in order to remove the requirement that the Department of Health and Human Services exclude certain prescription drugs from the preferred prescription drug list.
10. An amendment to Nevada Revised Statutes § 281.121 in order to defer uniform allowances.

11. Revisions to the authority of the Treasurer similar to the matters considered in Senate Bill 488 from the Seventy-First Session of the Legislature.

12. Reversion to the general fund of a portion of the funds in the Disaster Relief Account.

13. Amendments to Nevada Revised Statutes § 213.010 to allow meetings of the State Board of Pardons Commissioners ("Pardons Board") to be held at the discretion of the Pardons Board, and to allow expedited grants of clemency without a meeting of the Pardons Board for persons who have completed their sentence, when victims have not requested a hearing and when the District Attorney and Judge noticed of the application for clemency do not object.

14. Amendments to procedures pertaining to the State Board of Parole Commissioners ("Parole Board") established in Assembly Bill 510 and Senate Bill 471 from the Seventy-Fourth Session of the Legislature. Specifically, the Legislature shall consider amendments that would provide for the following: automatic parole for inmates eligible for mandatory parole who have not failed a psychiatric panel; a removal of the requirement that the Parole Board maintain minutes, transcriptions or audio recordings of parole hearings; a removal of the requirement that inmates have the opportunity to be physically present at parole hearings and instead allow appearances by telephone or video conference; a removal of the requirement that inmates have the opportunity to have a representative physically present at parole hearings and instead allow a representative to appear by telephone or video conference; a removal of the requirement that the Parole Board provide notice of a parole hearing directly to an inmate and instead allow notice to be provided to the Nevada Department of Corrections and to be posted on the internet; to allow a Parole Board hearing representative or a single member of the Parole Board to recommend parole without a parole hearing for low-risk offenders where there is no victim notification requirement; and to consider amendments to Chapter 213 of the Nevada Revised Statutes to delay the effective date of provisions governing meetings of the Parole Board and to allow the Board to automatically grant parole to an inmate eligible for parole from a current sentence but who will not be released from incarceration because he has been sentenced to consecutive terms of imprisonment which he has not yet served.

15. Transfer to the general fund of the unspent appropriations made in Assembly Bill 628, sections 37, 40, 42 and 70 and Assembly Bill 629, section 2 from the Seventy-Fourth Session of the Legislature.

16. Transfer to the general fund of amounts in the Fund for a Healthy Nevada established by Nevada Revised Statutes § 439.630.

17. Suspension of the revenue transfer from Unclaimed Property Trust Fund to the Millennium Scholarship Trust Fund for fiscal year 2009 as set forth in Nevada Revised Statute § 120A.620.

18. An amendment to the sales and use tax act in order to clarify the Legislature's intent with respect to the taxability of free or discounted employee and patron meals.

19. Any other actions directly related to a solution for the projected general fund revenue shortfall for the current biennium.

The Legislature shall consider no matters other than those matters directly related to addressing the general fund revenue shortfall for the current biennium. During the Special Session, the Legislature may also consider any other matters brought to the attention of the Legislature by the Governor. The Special Session shall begin at 10:00 a.m. on Friday, June 27, 2008 and shall end not later than midnight on Sunday, June 29, 2008.

The Legislature may also consider an appropriation to pay for the cost of the Special Session and to pay for any other matters brought to the attention of the Legislature by the Governor during the Special Session.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson

City this 26th day of June, in the year two thousand eight.

JIM GIBBONS

Governor

ROSS MILLER

Secretary of State

REMARKS FROM THE FLOOR

Senator Raggio requested that his remarks be entered in the Journal.

I wish to disclose, as we do every session, that under the Ethics Law, I am a member of the law firm of Jones Vargas which has registered lobbyists. Also, I am director of a company called Archon Corporation. None of these, I think, will be involved in any way or any process here in the Special Session.

Senator Carlton requested that her remarks and disclosure letter to the Director of the Legislative Counsel Bureau be entered in the Journal.

Thank you Mr. President. I am not a lawyer, but I did change jobs at the beginning of this year. I retired from waitressing after 30 years and am now employed as the Community Development Director at Great Basin Primary Care Association which is a nonprofit corporation located in Nevada. My position is federally funded, and I promise I will be watchful for bills or resolutions and amendments which relate to health care which may raise a potential conflict of interest.

My husband's position has not changed. He is still with the Department of Public Safety, but his position is important because I am now covered under the health-care benefits for state employees. I switched from the old health care to the new so I will also be watchful for that. This disclosure will stay on record in the Director's Office, and I will try to disclose at every opportunity when bills come before us.

June 27, 2008

LORNE MALKIEWICH, *Director*
Legislative Counsel Bureau

DEAR LORNE:

In accordance with subsection 6 of NRS 281A.420, I hereby submit to you the following written statement of my disclosure regarding my employment with Great Basin Primary Care Association and my husband's employment with the Department of Public Safety:

I am employed as the Community Development Director at Great Basin Primary Care Association, which is a nonprofit corporation. GBPCA promotes access to health care for uninsured and other underserved populations. GBPCA is federally funded.

Therefore, I will be watchful for bills, resolutions and amendments that relate to health care, which may raise a potential conflict of interest.

My husband is employed with the Department of Public Safety.

Therefore, I will be watchful for bills, resolutions and amendments that relate to the state employees, the Public Employees' Benefits Program, the Public Employees' Retirement System and other benefit programs available to public employees, which may raise a potential conflict of interest.

I have made the prerequisite oral disclosure of this statement on the Senate floor on June 27, 2008. Therefore, I ask that you retain a copy of this disclosure as a public record and make it available for public inspection in accordance with the provisions of subsection 6 of NRS 281A.420. I understand that once I have filed this written statement with you, I am not required to disclose orally my interest when the matter is further considered by the Legislature or a committee thereof.

While I will not repeat this disclosure, I will consider each such matter individually to determine whether I am statutorily required to abstain from acting on the matter and will act accordingly.

Sincerely,
MAGGIE CARLTON
Clark County Senatorial District No. 2

Senator Amodei requested that his disclosure letter to the Director of the Legislative Counsel Bureau be entered in the Journal.

June 27, 2008

LORNE MALKIEWICH, *Director*
Legislative Counsel Bureau

DEAR LORNE:

In accordance with subsection 6 of NRS 281A.420, I hereby submit to you the following written statement of my disclosure regarding my employment with the Nevada Mining Association:

I am the President of the Nevada Mining Association, which is a trade association that represents the mining industry in Nevada.

Therefore, I will be watchful for bills, resolutions and amendments that relate to the mining industry, which may raise a potential conflict of interest.

I have made the prerequisite oral disclosure of this statement during the Committee of the Whole on June 27, 2008. Therefore, I ask that you retain a copy of this disclosure as a public record and make it available for public inspection in accordance with the provisions of subsection 6 of NRS 281A.420. I understand that once I have filed this written statement with you, I am not required to disclose orally my interest when the matter is further considered by the Legislature or a committee thereof. While I will not repeat this disclosure, I will consider each such matter individually to determine whether I am statutorily required to abstain from acting on the matter and will act accordingly.

Sincerely,
MARK E. AMODEI
Capital Senatorial District

Senator Care requested that his remarks be entered in the Journal.

Thank you, Mr. President. I think that I can quote the President pro Tempore on February 4, 2007, when he immediately followed me. I am going to incorporate my reference to a disclosure statement that I read at that time. If representatives from my law firm or members of my firm make presentations during this Special Session, I will disclose as I think that I need to do so. I have done this in prior special sessions.

I would also like to point out, in reference to the Governor's message, that it is the Legislative Branch that determines the length of the Special Session and not the Executive Branch.

Senator Hardy requested that his remarks and his 2007 disclosure letter to the Director of the Legislative Counsel Bureau be entered in the Journal.

I would disclose that I am the President of the Associated Builders and Contractors of Las Vegas which is a construction trade association dealing in construction matters. I will reference the letter I filed last session regarding that. However, I will review each of the bills that we consider this Special Session. If any of them require an additional disclosure, I will make that disclosure at that time.

February 14, 2007

LORNE MALKIEWICH, *Director*
Legislative Counsel Bureau

DEAR LORNE:

In accordance with subsection 6 of NRS 281.501, I hereby submit to you the following written statement of my disclosure regarding my employment.

I am the President of Associated Builders and Contractors of Las Vegas, a construction trade association. Associated Builders and Contractors of Las Vegas contracted for lobbying services

with Randy Robison, Bill Gregory and Steve Hill for this Legislative Session. I am making this disclosure for matters on which Mr. Robison, Mr. Gregory or Mr. Hill lobby. I will be watchful for bills, resolutions and amendments affecting the construction industry. Having made this disclosure, pursuant to NRS 281.501, I will vote on such matters where the resulting benefit or detriment on our membership is not greater than that accruing to the members of any other such association.

I have made an oral disclosure of this information during the Senate Committee on Government Affairs hearing on February 14, 2007, when Senate Bill No. 13 was considered.

I ask that you retain a copy of this disclosure as a public record and make it available for public inspection in accordance with the provisions of subsection 6 of NRS 281.501. I understand that once I have filed this written statement with you, I am not required to disclose orally my interest when the matter is further considered by the Legislature or a committee thereof.

Sincerely,
WARREN B. HARDY II
Clark County Senatorial District No. 12

Senator Coffin requested that his remarks be entered in the Journal.

I disclose that I am a semi-retired group-insurance broker/consultant and a former bookseller. I am doubtful I will be abstaining on anything this Session. I may have a couple of clients who, probably, do not have some business in front of us. I will let you know if they do. I also want to disclose that my wife is an employee of the University of Nevada, Las Vegas, as an associate professor. She receives a salary paid for by the State. She is on a one-year contract. I do not know if she is going to receive one of those termination notices.

Senator Titus requested that her remarks and disclosure letter to the Director of the Legislative Counsel Bureau be entered in the Journal.

I am a professor of political science at UNLV, and my husband is still a professor of history at UNLV.

June 27, 2008

LORNE MALKIEWICH, *Director*
Legislative Counsel Bureau
401 South Carson Street
Carson City, Nevada 89701

DEAR LORNE:

In accordance with subsection 6 of NRS 281A.420, I hereby submit the following disclosure:

I am a professor of political science at the University of Las Vegas and my husband is a professor of history at the University of Las Vegas. We have held these positions for the 20 years I have been in the Legislature.

While serving in the Legislature, I always take leave without pay and continue to be ever mindful of potential conflicts of interest. I have repeatedly made the prerequisite oral declaration over the years and did so again during the opening day of the 24th Special Session on June 27, 2008.

Sincerely,
DINA TITUS
Clark County Senatorial District No. 7

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee of the Whole:

Senate Resolution No. 1—Adopting the Rules of the Senate for the 24th Special Session of the Legislature.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the following Rules of the Senate for the 24th Special Session of the Legislature are hereby adopted:

1. *APPLICABILITY*

Rule No. 1. Generally.

The Rules of the Senate for the 24th Special Session of the Legislature are applicable only during the 24th Special Session of the Legislature.

II. OFFICERS AND EMPLOYEES
DUTIES OF OFFICERS

Rule No. 2. President.

The President shall take the chair and call the Senate to order precisely at the hour appointed for meeting. He shall preserve order and decorum, and in case of any disturbance or disorderly conduct within the Senate Chamber, shall order the Sergeant at Arms to suppress it, and may order the arrest of any person creating any disturbance within the Senate Chamber. He may speak to points of order in preference to members, rising from his seat for that purpose, and shall decide questions of order without debate, subject to an appeal to the Senate by two members, on which appeal no member may speak more than once without leave of the Senate. He shall sign all acts, addresses and joint resolutions, and all writs, warrants and subpoenas issued by order of the Senate; all of which must be attested by the Secretary. He has general direction of the Senate Chamber.

Rule No. 3. President Pro Tem.

The President Pro Tem has all the power and shall discharge all the duties of the President during his absence or inability to discharge the duties of his office. In the absence or inability of the President Pro Tem to discharge the duties of the President's office, the Senate shall elect one of its members as the presiding officer for that occasion. A member who is serving as the presiding officer has all the power and shall discharge all the duties of the President until the absence or inability which resulted in the member serving as the presiding officer has ended.

Rule No. 4. Secretary.

1. *The Secretary of the Senate is elected by the Senate, and shall:*

(a) *Interview and recommend persons to be considered for employment to assist the Secretary.*

(b) *See that these employees perform their respective duties.*

(c) *Administer the daily business of the Senate, including the provision of secretaries as needed.*

(d) *Unless otherwise ordered by the Senate, transmit as soon as practicable those bills and resolutions upon which the next action is to be taken by the Assembly.*

2. *The Secretary is responsible to the Majority Leader.*

Rule No. 5. Sergeant at Arms.

1. *The Sergeant at Arms shall attend the Senate during its sittings, and execute its commands and all process issued by its authority. He must be sworn to keep the secrets of the Senate.*

2. *The Sergeant at Arms shall:*

(a) *Superintend the upkeep of the Senate's Chamber, private lounge, and meeting rooms.*

(b) *Interview and recommend persons to be considered for employment to assist the Sergeant at Arms.*

3. *The Sergeant at Arms is responsible to the Majority Leader.*

Rule No. 6. Assistant Sergeant at Arms.

The Assistant Sergeant at Arms shall be doorkeeper and shall preserve order in the Senate Chamber and shall assist the Sergeant at Arms. He shall be sworn to keep the secrets of the Senate.

III. SESSIONS AND MEETINGS

Rule No. 7. Call of Senate—Moved by Three Members.

A Call of the Senate may be moved by three Senators, and if carried by a majority of all present, the Secretary shall call the roll and note the absentees, after which the names of the absentees shall again be called over. The doors shall then be closed and the Sergeant at Arms directed to take into custody all who may be absent without leave, and all Senators so taken into custody shall be presented at the bar of the Senate for such action as to the Senate may seem proper.

Rule No. 8. Absence—Leave Required.

No Senator shall absent himself from the service of the Senate without leave, except in case of accident or sickness, and if any Senator or officer shall so absent himself, his per diem shall not be allowed him.

Rule No. 9. Open Meetings.

1. Except as otherwise provided in the Constitution of the State of Nevada and in subsection 2 of this rule, all meetings of the Senate and the Committee of the Whole or a standing committee must be open to the public.

2. A meeting may be closed to consider the character, alleged misconduct, professional competence, or physical or mental health of a person.

IV. DECORUM AND DEBATE

Rule No. 10. Points of Order.

1. If any Senator, in speaking or otherwise, transgresses the rules of the Senate, the President shall, or any Senator may, call him to order. If a Senator is so called to order, he shall not proceed without leave of the Senate. If such leave is granted, it must be upon the motion, "That he be allowed to proceed in order," and the Senator shall confine himself to the question under consideration and avoid personality.

2. Every decision of points of order made by the President is subject to appeal, and a discussion of a question of order may be allowed only upon the appeal of two Senators. In all cases of appeal, the question must be, "Shall the decision of the Chair stand as the judgment of the Senate?"

Rule No. 11. Breaches of Decorum.

1. In cases of breaches of decorum or propriety, any Senator, officer or other person is liable to such censure or punishment as the Senate may deem proper.

2. If any Senator is called to order for offensive or indecorous language or conduct, the person calling him to order shall report the offensive or indecorous language or conduct to the presiding officer. No member may be held to answer for any language used on the floor of the Senate if business has intervened before exception to the language was taken.

3. Indecorous conduct or boisterous or unbecoming language is not permitted in the Senate Chamber.

V. QUORUM, VOTING, ELECTIONS

Rule No. 12. Action Required to Be Taken in Senate Chamber.

Any action taken by the Senate must be taken in the Senate Chamber.

Rule No. 13. Recorded Vote—Three Required to Call For.

1. A recorded vote must be taken upon final passage of a bill or joint resolution, and in any other case when called for by three members. Every Senator within the bar of the Senate shall vote "yea" or "nay" or record himself as "not voting," unless excused by unanimous vote of the Senate.

2. The votes and names of those absent or recorded as "not voting" and the names of Senators demanding the recorded vote must be entered in the Journal.

Rule No. 14. President to Decide—Tie Vote.

A question is lost by a tie vote, but when the Senate is equally divided on any question except the passage of a bill or joint resolution, the President may give the deciding vote.

Rule No. 15. Manner of Election—Voting.

1. In all cases of election by the Senate, the vote must be taken viva voce. In other cases, if a vote is to be recorded, it may be taken by oral roll-call or by electronic recording.

2. When a recorded vote is taken, no Senator may:

- (a) Vote except when at his seat;*
- (b) Vote upon any question in which he is in any way personally or directly interested;*
- (c) Explain his vote or discuss the question while the voting is in progress; or*
- (d) Change his vote after the result is announced.*

3. The announcement of the result of any vote must not be postponed.

VI. LEGISLATIVE BODIES

Rule No. 16. Committee of the Whole.

1. All bills and resolutions may be referred only to the Committee of the Whole or to such standing committee as may be appointed pursuant to Rule No. 16.5.

2. *The Majority Leader shall preside as Chair of the Committee of the Whole or name a Chair to preside.*

3. *Any meeting of the Committee of the Whole may be conducted outside the Senate Chamber, as designated by the Chair of the Committee.*

4. *A member of the Committee of the Whole may speak only once on an item listed on the Committee's agenda, for a period of not more than 10 minutes, unless he is granted leave of the Chair to speak for a longer period or more than once. If a member is granted leave to speak for a longer period or more than once, the Chair may limit the length of additional time that the member may speak.*

5. *Any motion made by a member of the Committee of the Whole must be seconded by another member of the Committee of the Whole.*

6. *The Chair may require any vote of the Committee of the Whole to be recorded in the manner designated by the Chair.*

7. *All amendments proposed by the Committee of the Whole:*

(a) *Must first be approved by the Committee.*

(b) *Must be reported by the Chair to the Senate.*

8. *The minutes of the Committee's meetings must be entered in the final Journal.*

Rule No. 16.5. *Standing Committees.*

In addition to the Committee of the Whole, such standing committees may be appointed as may be deemed necessary.

Rule No. 17. *Rules Applicable to Standing Committees and Committee of the Whole.*

The Rules of the Senate shall apply to proceedings in Committee of the Whole and such standing committees as may be appointed, except that the previous question shall not be ordered. The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern such committees in all cases in which they are applicable and in which they are not inconsistent with the rules and orders of the Senate.

Rule No. 18. *Motion to Rise Committee of the Whole.*

A motion that the Committee of the Whole rise shall always be in order, and shall be decided without debate.

VII. RULES GOVERNING MOTIONS

A. MOTIONS GENERALLY

Rule No. 19. *Entertaining.*

1. *No motion may be debated until it is announced by the President.*

2. *By consent of the Senate, a motion may be withdrawn before amendment or decision.*

Rule No. 20. *Precedence of Motions.*

When a question is under debate, no motion shall be received but the following, which shall have precedence in the order named:

1. *To adjourn.*

2. *For a call of the Senate.*

3. *To lay on the table.*

4. *For the previous question.*

5. *To postpone to a day certain.*

6. *To commit.*

7. *To amend.*

8. *To postpone indefinitely.*

↳ *The first four shall be decided without debate.*

Rule No. 21. *When Not Entertained.*

1. *When a motion to commit, to postpone to a day certain, or to postpone indefinitely has been decided, it must not be again entertained on the same day.*

2. *When a question has been postponed indefinitely, it must not again be introduced during the Special Session.*

3. *There must be no reconsideration of a vote on a motion to postpone indefinitely.*

B. PARTICULAR MOTIONS

Rule No. 22. *To Adjourn.*

A motion to adjourn shall always be in order. The name of the Senator moving to adjourn, and the time when the motion was made, shall be entered in the Journal.

Rule No. 23. Lay on the Table.

A motion to lay on or take from the table shall be carried by a majority vote.

Rule No. 24. To Strike Enacting Clause.

A motion to strike out the enacting clause of a bill or resolution has precedence over a motion to commit or amend. If a motion to strike out the enacting clause of a bill or resolution is carried, the bill or resolution is rejected.

Rule No. 25. Division of Question.

- 1. Any Senator may call for a division of a question.*
- 2. A question must be divided if it embraces subjects so distinct that if one subject is taken away, a substantive proposition remains for the decision of the Senate.*
- 3. A motion to strike out and insert must not be divided.*

Rule No. 26. Explanation of Motion.

Whenever a Senator moves to change the usual disposition of a bill or resolution, he shall describe the subject of the bill or resolution and state the reasons for his requesting the change in the processing of the bill or resolution.

VIII. DEBATE

Rule No. 27. Speaking on Question.

- 1. Every Senator who speaks shall, standing in his place, address "Mr. or Madam President," in a courteous manner, and shall confine himself to the question before the Senate. When he has finished, he shall sit down.*
- 2. Except as otherwise provided in Senate Rules Nos. 10 and 45 of the 24th Special Session, a Senator may speak only once on a question before the Senate, for a period of not more than 10 minutes, unless he is granted leave of the President to speak for a longer period or more than once. If a Senator is granted leave to speak for a longer period or more than once, the President may limit the length of additional time that the member may speak.*
- 3. Incidental and subsidiary questions arising during debate shall not be considered the same question.*

Rule No. 28. Previous Question.

The previous question shall not be put unless demanded by three Senators, and it shall be in this form: "Shall the main question be now put?" When sustained by a majority of Senators present, it shall put an end to all debate and bring the Senate to a vote on the question or questions before it, and all incidental questions arising after the motion was made shall be decided without debate. A person who is speaking on a question shall not while he has the floor move to put that question.

IX. CONDUCT OF BUSINESS

A. GENERALLY

Rule No. 29. Mason's Manual.

The rules of parliamentary practice contained in Mason's Manual of Legislative Procedure shall govern the Senate in all cases in which they are applicable and in which they are not inconsistent with the rules and orders of the Senate for the 24th Special Session of the Legislature, and the Joint Rules of the Senate and Assembly for the 24th Special Session of the Legislature.

Rule No. 30. Suspension of Rule.

No rule or order of the Senate for the 24th Special Session of the Legislature shall be rescinded or changed without a majority vote of the Senate; but, except as otherwise provided in Senate Rule No. 39 of the 24th Special Session of the Legislature, a rule or order may be temporarily suspended for a special purpose by a majority vote of the members present. When the suspension of a rule is called for, and after due notice from the President no objection is offered, he can announce the rule suspended and the Senate may proceed accordingly; but this shall not apply to that portion of Senate Rule No. 39 of the 24th Special Session of the Legislature relating to the third reading of bills, which cannot be suspended.

Rule No. 31. Protest.

Any Senator, or Senators, may protest against the action of the Senate upon any question, and have such protest entered in the Journal.

Rule No. 32. Privilege of the Floor.

1. To preserve decorum and facilitate the business of the Senate, only the following persons may be present on the floor of the Senate during formal sessions:

- (a) State officers;
 - (b) Officers and members of the Senate;
 - (c) Employees of the Legislative Counsel Bureau;
 - (d) Attaches and employees of the Senate; and
 - (e) Members of the Assembly whose presence is required for the transaction of business.
2. Guests of Senators must be seated in a section of the upper or lower gallery of the Senate Chamber to be specially designated by the Sergeant at Arms. The Majority Leader may specify special occasions when guests may be seated on the floor of the Senate with a Senator.

3. A majority of Senators may authorize the President to have the Senate Chamber cleared of all persons except Senators and officers of the Senate.

4. The Senate Chamber may not be used for any business other than legislative business during a legislative session.

Rule No. 33. *Material Placed on Legislators' Desks.*

1. Only the Sergeant at Arms and officers and employees of the Senate may place papers, letters, notes, pamphlets and other written material upon a Senator's desk. Such material must contain the name of the Legislator requesting the placement of the material on the desk or a designation of the origin of the material.

2. This rule does not apply to books containing the legislative bills and resolutions, the daily histories and daily journals of the Senate or Assembly, or Legislative Counsel Bureau material.

Rule No. 34. *Petitions and Memorials.*

The contents of any petition or memorial shall be briefly stated by the President or any Senator presenting it. It shall then lie on the table or be referred, as the President or Senate may direct.

Rule No. 35. *Objection to Reading of Paper.*

Where the reading of any paper is called for, and is objected to by any Senator, it shall be determined by a vote of the Senate, and without debate.

Rule No. 36. *Questions Relating to Priority of Business.*

All questions relating to the priority of business shall be decided without debate.

B. BILLS

Rule No. 37. *Requests for the Drafting of Bills, Resolutions and Amendments.*

The Legislative Counsel shall not honor a request for the drafting of a bill, resolution or amendment to be introduced in the Senate unless it is submitted by the Committee of the Whole, a standing committee, a Conference Committee or the Governor.

Rule No. 38. *Introduction of Bills.*

1. Except as otherwise provided in this rule, no bill or resolution may be introduced in the Senate unless it is first approved by the Committee of the Whole or a standing committee.

2. The provisions of subsection 1 do not apply to a bill or resolution that is:

- (a) Required to carry out the business of the Senate or the Legislature; or
- (b) Requested by the Governor.

3. Skeleton bills may not be introduced.

Rule No. 39. *Reading of Bills.*

1. Every bill must receive three readings before its passage, unless, in case of emergency, this rule is suspended by a two-thirds vote of the members elected to the Senate.

2. The first reading of a bill is for information, and if there is opposition to the bill, the question must be, "Shall this bill receive no further consideration?" If there is no opposition to the bill, or if the question to reject is defeated, the bill must then take the usual course.

3. No bill may be committed until once read, nor amended until twice read.

4. The third reading of every bill must be by sections.

Rule No. 40. *Second Reading File—Consent Calendar.*

1. All bills or joint resolutions reported by the Committee of the Whole or a standing committee must be placed on a Second Reading File unless recommended for placement on the Consent Calendar.

2. *The Committee of the Whole or a standing committee shall not recommend a bill or joint resolution for placement on the Consent Calendar if:*

- (a) *An amendment of the bill or joint resolution is recommended;*
- (b) *It contains an appropriation;*
- (c) *It requires a two-thirds vote of the Senate; or*
- (d) *It is controversial in nature.*

3. *A bill or joint resolution must be removed from the Consent Calendar at the request of any Senator. A bill or joint resolution so removed must be immediately placed on the Second Reading File for consideration in the usual order of business.*

4. *When the Consent Calendar is called, the bills remaining on the Consent Calendar must be read by number and summary, and the vote must be taken on their final passage as a group.*

Rule No. 41. Reading of Bills—General File.

1. *Upon reading of bills on the Second Reading File, Senate and Assembly bills reported without amendments must be placed on the General File.*

2. *Only amendments proposed by the Committee of the Whole, a standing committee or a Conference Committee may be considered.*

3. *Amendments proposed by the Committee of the Whole or a standing committee and reported with bills may be adopted by a majority vote of the members present. Bills so amended must be reprinted, engrossed or reengrossed, and placed on the General File. The File must be made available to members of the public each day by the Secretary.*

Rule No. 42. Reconsideration of Vote on Bill.

No motion to reconsider a vote is in order.

C. RESOLUTIONS

Rule No. 43. Treated as Bills.

Resolutions addressed to Congress, or to either House thereof, or to the President of the United States, or the heads of any of the national departments, or proposing amendments to the State Constitution are subject, in all respects, to the foregoing rules governing the course of bills. A joint resolution proposing an amendment to the Constitution shall be entered in the Journal in its entirety.

Rule No. 44. Treated as Motions.

Resolutions, other than those referred to in Senate Rule No. 43 of the 24th Special Session of the Legislature, shall be treated as motions in all proceedings of the Senate.

Rule No. 45. Order of Business.

1. *Roll Call.*
2. *Prayer and Pledge of Allegiance to the Flag.*
3. *Reading and Approval of the Journal.*
4. *Reports of Committees.*
5. *Messages from the Governor.*
6. *Messages from the Assembly.*
7. *Communications.*
8. *[Reserved.]*
9. *Motions, Resolutions and Notices.*
10. *Introduction, First Reading and Reference.*
11. *Consent Calendar.*
12. *Second Reading and Amendment.*
13. *General File and Third Reading.*
14. *Unfinished Business.*
15. *Special Orders of the Day.*
16. *Remarks from the Floor; Introduction of Guests. A member may speak under this order of business for a period of not more than 5 minutes each day.*

Rule No. 46. Privilege.

Any Senator may rise and explain a matter personal to himself by leave of the President, but he shall not discuss any pending question in such explanation.

Rule No. 47. Preference to Speak.

When two or more Senators rise at the same time, the President shall name the one who may first speak—giving preference, when practicable, to the mover or introducer of the subject under consideration.

Rule No. 48. Special Order.

The President shall call the Senate to order on the arrival of the time fixed for the consideration of a special order, and announce that the special order is before the Senate, which shall be considered, unless it be postponed by a two-thirds vote, and any business before the Senate at the time of the announcement of the special order shall go to Unfinished Business.

Senator Raggio moved the adoption of the resolution.

Remarks by Senators Raggio, Coffin and Care.

Senator Raggio requested that his and Senator Coffin's remarks be entered in the Journal.

SENATOR RAGGIO:

Senate Resolution No. 1 provides for the adoption of the Senate Rules of this Twenty-fourth Special Session. These rules have been drafted based upon the Senate Rules which were adopted for the previous Special Session, the Twenty-third Special Session, which was held in 2007. The Senate Rules again provide for the creation of the Committee of the Whole or for such standing committees as may be appointed if necessary. The Senators will recall in previous special sessions we have operated, in order to expedite our business, as a Committee of the Whole, and when we get to that business order, we will be appointing a chair of the Committee of the Whole. I intend to appoint myself for that purpose. This resolution makes one change to the Senate Rules. That change is set forth in subsection 5 of Rule No. 16 and requires any motion made during a meeting of the Committee of the Whole to be seconded by another member. Otherwise, the Senate Rules are the same as the Senate Rules of the Special Session in 2007.

If any members need further explanation our Legal Counsel, Brenda Erdoes, is also available in the event there is further information requested.

SENATOR COFFIN:

Thank you, Mr. President. I have informed Senator Raggio of my objection. This objection is to the general concept of simply adopting the special session rules from a prior special session. The idea, here, is that we are on a unique mission in this meeting. Rules that have been adopted for a special session prior to this were done to expedite a process that was familiar to all the members. The last rules adopted, and referenced by the Majority Leader at the Twenty-third Special Session had to do with subject matter which had been thoroughly discussed, debated and understood by all the members of the body for nearly 120 days. In that circumstance, it makes sense to adopt some sort of limiting measures. I think, when you are talking about the current situation which is novel in many ways, the subject matter actually is new to many of our members.

There is a possibility that we might have or want extended debate. I think the idea of cutting off debate is a mistake. We do have a mechanism for doing that under our normal Senate rules if somebody has blathered too long, we have reliable members to stand up and ask for majority vote to suspend debate. In this particular case, I think we ought to not, now, cut ourselves off before the debate begins because a lot of this is unique. It is easy for us to just follow orders from our leaders and go ahead and do what we are told. I think many of us have opinions about this. Rule 27, at least paragraph two, is objectionable. I believe it inhibits the rights of Senators to represent their constituents, and it also is something that runs against normal Senate procedure. That objection I want to note, and I will register my no vote on this resolution. There are other things I find objectionable such as the same limit on the Committee of the Whole, but I think that is less of a problem. I hope that the Majority Leader will change his mind on that rule.

SENATOR RAGGIO:

If I may through you, Mr. President, to the Senator from Clark County, I understand his concern. One of the reasons we are meeting here, obviously, since the Governor has called a

Special Session of the Legislature, is that it gives all of the members an opportunity to make these decisions. Up until this point in time, where we have had to deal with in excess of \$900 million in budget shortfall cuts, we have relied upon leadership meetings and agreements. Some of the members of the Legislature have not been involved in that process. Whether or not we agree with the necessity of this Special Session, it does provide the opportunity for input from all 63 members of the Legislature. The Committee of the Whole procedure does that further to ensure that everybody will participate rather than just having a meeting of the Senate Finance Committee or the Assembly Ways and Means Committee. I think I have indicated that, having said that, we are here at a Special Session. There is cost involved. I think it is important, prudent and responsible that the legislative body, both the Senate and Assembly, operate as efficiently as possible. The ability for input needs to be there. The rules that we are adopting today for this Special Session are similar to what the rules will be in the Assembly, and there has been an expectation, both by those involved in the process, by the general public, that we complete this Session as efficiently as possible. If the joint plan that has been negotiated is acceptable, the mechanics are in place for us to complete this Session today. If we allow for unlimited debated, that could impact that capability. Rule 27, subsection 2, that the good Senator referenced, does provide that a Senator may speak in the Senate on a question only once for a period of not more than ten minutes unless granted leave to speak for a longer period. That can be done by the President or by the body as a whole if it is important and necessary. We would not be able to finish if we got into someone speaking and not willing to yield the floor, for example. We are here for a very limited purpose. It helps us if we can comport with this rule to expedite our business and still allow input and debate. I would suggest we should adopt the rule as stated, and we will deal with it if some circumstance develops where it may be necessary to revisit it. I would urge that in unity with the Assembly we operate under with these rules.

We will operate as we have in the Twenty-third Special Session as a Committee of the Whole. For those purposes, we will meet in the other large meeting area which does provide for better opportunity for witnesses. We do anticipate that there will be witnesses—the department heads and agencies who are affected by the proposed reduction plan will be available. It is my anticipation that first we will have a full explanation by our Fiscal staff of the components of the proposed plan. Then, everybody on the Committee of the Whole has an opportunity to be fully informed. The agency heads and department heads, also the Governor's Office, will be available for anything that could be required from them. Serving as Chair of Committee of the Whole, I will certainly make the opportunity available for other witnesses' public testimony. Obviously, we are going to have to also respect our time limitations. It would be my intent that everybody who has something pertinent to say will be given that opportunity. I would certainly exceed whatever authority I might have to any request from the committee members for anything additional that should be presented.

I think it is the sense of this body that we should be as expeditious and efficient in this procedure as possible. If I have failed to answer directly any of your concerns, I will be happy to further respond.

The rules are the same that we have previously utilized. When we go into the Committee of the Whole, some bills are already prepared. There are some bills that require formal action by the Legislature as bills. They have been distributed equally between the Senate and the Assembly. The Committee of the Whole will have to request a bill draft to go through the formal process. If the Committee of the Whole does request those bill drafts, those bills are ready. We will go to the floor here to do that and then introduce the bills which will also come from the Committee of the Whole by motion and second. The formal bill draft for a bill will be introduced here and given a number. It is just the mechanics of going back and forth. The Committee of the Whole then considers these matters. We will have the actual bills before us. They are printed. If any amendments are proposed, that will require a motion and a second and Committee of the Whole approval.

Resolution adopted.

By the Committee of the Whole:

Senate Resolution No. 2—Providing that no allowances will be paid for the 24th Special Session of the Nevada Legislature for periodicals, stamps, stationery or communications.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That for the 24th Special Session of the Nevada Legislature, no allowances will be paid for members of the Senate for periodicals, stamps, stationery or the use of telephones and no allowances will be paid for the President Pro Tempore, Majority Leader, Minority Leader or chairman of a committee of the Senate for postage, telephone tolls or other charges for communications.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

Resolution adopted.

By the Committee of the Whole:

Senate Resolution No. 3—Providing for the appointment of attaches.

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, That the following persons are elected as attaches of the Senate for the 24th Special Session of the Legislature of the State of Nevada: Molly Dondero, Jane A. Gill, Delia John, Susan M. Leeder, Evelyn Matheus, Ann-Berit Moyle, Sam A. Palazzolo, Mary R. Phillips, Jerry Pieretti, Sherry Rodriguez, Joan Thran, Susan S. Whitford and Jeanine M. Wittenberg.

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

Resolution adopted.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 27, 2008

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 1.

JASMINE N. SHACKLEY

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 1—Adopting the Joint Rules of the Senate and Assembly for the 24th Special Session of the Legislature.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the following Joint Rules of the Senate and Assembly for the 24th Special Session of the Legislature are hereby adopted:

APPLICABILITY OF JOINT RULES

Rule No. 1. Generally.

The Joint Rules for the 24th Special Session of the Legislature are applicable only during the 24th Special Session of the Legislature.

CONFERENCE COMMITTEES

Rule No. 2. Procedure Concerning.

1. In every case of an amendment of a bill, or joint or concurrent resolution, agreed to in one House, dissented from in the other, and not receded from by the one making the amendment, each House shall appoint a committee to confer with a like committee to be appointed by the other; and the committee so appointed shall meet publicly at a convenient hour to be agreed upon by their respective chairmen and announced publicly, and shall confer upon the differences between the two Houses as indicated by the amendments made in one and rejected in the other

and report as early as convenient the result of their conference to their respective Houses. The report shall be made available to all members of both Houses. The whole subject matter embraced in the bill or resolution shall be considered by the committee, and it may recommend recession by either House, new amendments, new bills or resolutions, or other changes as it sees fit. New bills or resolutions so reported shall be treated as amendments unless the bills or resolutions are composed entirely of original matter, in which case they shall receive the treatment required in the respective Houses for original bills, or resolutions, as the case may be.

2. The report of a conference committee may be adopted by acclamation, and such action may be considered equivalent to the adoption of amendments embodied therein. The report is not subject to amendment. If either House refuses to adopt the report, or if the first conference committee has so recommended, a second conference committee may be appointed. No member who served on the first committee may be appointed to the second.

3. There shall be but two conference committees on any bill or resolution. A majority of the members of a conference committee from each House must be members who voted for the passage of the bill or resolution.

MESSAGES

Rule No. 3. Procedure Concerning.

1. Proclamations by the Governor convening the Legislature in extra session shall, by direction of the presiding officer of each House, be read immediately after the convening thereof, filed and entered in full in the Journal of proceedings.

2. Whenever a message from the Governor is received, it shall be read and entered in full in the Journal of proceedings.

3. Messages from the Senate to the Assembly shall be delivered by the Secretary or Assistant Secretary, and messages from the Assembly to the Senate shall be delivered by the Chief Clerk or Assistant Chief Clerk.

NOTICE OF FINAL ACTION

Rule No. 4. Communications.

Each House shall communicate its final action on any bill or resolution, or matter in which the other may be interested, by written notice. Each such notice sent by the Senate must be signed by the Secretary of the Senate, or a person designated by the Secretary. Each such notice sent by the Assembly must be signed by the Chief Clerk of the Assembly, or a person designated by the Chief Clerk.

BILLS AND JOINT RESOLUTIONS

Rule No. 5. Signature.

Each enrolled bill or joint resolution shall be presented to the presiding officers of both Houses for signature. They shall, after an announcement of their intention to do so is made in open session, sign the bill or joint resolution and their signatures shall be followed by those of the Secretary of the Senate and Chief Clerk of the Assembly.

Rule No. 6. Joint Sponsorship.

1. A bill or resolution introduced by a committee of the Senate or Assembly may, at the direction of the chairman of the committee, set forth the name of a committee of the other House as a joint sponsor, if a majority of all members appointed to the committee of the other House votes in favor of becoming a joint sponsor of the bill or resolution. The name of the committee joint sponsor must be set forth on the face of the bill or resolution immediately below the date on which the bill or resolution is introduced.

2. The Legislative Counsel shall not cause to be printed the name of a committee as a joint sponsor on the face of a bill or resolution unless the chairman of the committee has signed his name next to the name of the committee on the colored back of the introductory copy of the bill or resolution that was submitted to the front desk of the House of origin or the statement required by subsection 4.

3. Upon introduction, any bill or resolution that sets forth the names of primary joint sponsors must be numbered in the same numerical sequence as other bills and resolutions of the same House of origin are numbered.

4. Once a bill or resolution has been introduced, a primary joint sponsor or nonprimary joint sponsor may only be added or removed by amendment of the bill or resolution. An amendment which proposes to add or remove a primary joint sponsor must not be considered by

the House of origin of the amendment unless a statement requesting the addition or removal is attached to the copy of the amendment submitted to the front desk of the House of origin of the amendment. If the amendment proposes to add or remove a committee as a primary joint sponsor, the statement must be signed by the chairman of the committee. A copy of the statement must be transmitted to the Legislative Counsel if the amendment is adopted.

5. An amendment that proposes to add or remove a primary joint sponsor may include additional proposals to change the substantive provisions of the bill or resolution or may be limited only to the proposal to add or remove a primary joint sponsor.

PRINTING

Rule No. 7. *Ordering and Distribution.*

Each House may order the printing of bills introduced, reports of its own committees, and other matter pertaining to that House only; but no other printing may be ordered except by a concurrent resolution passed by both Houses. Each Senator is entitled to the free distribution of four copies of each bill introduced in each House, and each Assemblyman to such a distribution of two copies. Additional copies of such bills may be distributed at a charge to the person to whom they are addressed. The amount charged for distribution of the additional copies must be determined by the Director of the Legislative Counsel Bureau to approximate the cost of handling and postage for the entire session.

RESOLUTIONS

Rule No. 8. *Types, Usage and Approval.*

1. A joint resolution must be used to:

(a) Propose an amendment to the Nevada Constitution.

(b) Ratify a proposed amendment to the United States Constitution.

(c) Address the President of the United States, Congress, either House or any committee or member of Congress, any department or agency of the Federal Government, or any other state of the Union.

2. A concurrent resolution must be used to:

(a) Amend these joint rules.

(b) Request the return from the Governor of an enrolled bill for further consideration.

(c) Resolve that the return of a bill from one House to the other House is necessary and appropriate.

(d) Express facts, principles, opinion and purposes of the Senate and Assembly.

(e) Establish a joint committee of the two Houses.

(f) Direct the Legislative Commission to conduct an interim study.

3. A concurrent resolution or a resolution of one House may be used to:

(a) Memorialize a former member of the Legislature or other notable or distinguished person upon his death.

(b) Congratulate or commend any person or organization for a significant and meritorious accomplishment.

VETOES

Rule No. 9. *Special Order.*

Bills which have passed a previous Legislature, and which are transmitted to the Legislature next sitting, accompanied by a message or statement of the Governor's disapproval, or veto of the same, shall become the subject of a special order; and when the special order for their consideration is reached and called, the said message or statement shall be read, together with the bill or bills so disposed or vetoed; and the message and bill shall be read in the Senate by the Secretary of the Senate and in the Assembly by the Chief Clerk of the Assembly, without interruption, consecutively, one following the other, and not upon separate occasions; and no such bill or message shall be referred to any committee, or otherwise acted upon, save as provided by law and custom; that is to say, that immediately following such reading the only question (except as hereinafter stated) which shall be put by the Chair is, "Shall the bill pass, notwithstanding the objections of the Governor?" It shall not be in order, at any time, to vote upon such vetoed bill without the same shall have first been read; and no motion shall be entertained after the Chair has stated the question save a motion for "The previous question," but the merits of the bill itself may be debated.

ADJOURNMENT

Rule No. 10. Limitations and Calculation of Duration.

1. *In calculating the permissible duration of an adjournment for 3 days or less, the day of adjournment must not be counted but the day of the next meeting must be counted, and Sunday must not be counted.*

2. *The Legislature may adjourn for more than 3 days by motion based on mutual consent of the Houses or by concurrent resolution. One or more such adjournments may be taken to permit a committee or the Legislative Counsel Bureau to prepare the matters respectively entrusted to them for the consideration of the Legislature as a whole.*

EXPENDITURES FROM THE LEGISLATIVE FUND

Rule No. 11. Manner of authorization.

Except for routine salary, travel, equipment and operating expenses, no expenditures shall be made from the Legislative Fund without the authority of a concurrent resolution regularly adopted by the Senate and Assembly.

RECORDS OF COMMITTEE PROCEEDINGS

Rule No. 12. Duties of Secretary of Committees and Director.

1. *Each committee shall cause a record to be made of the proceedings of its meetings.*

2. *The secretary of a committee shall:*

(a) *Label each record with the date, time and place of the meeting and also indicate on the label the numerical sequence in which the record was made;*

(b) *Keep the records in chronological order; and*

(c) *Deposit the records immediately following the final adjournment of the special session of the Legislature with the Director of the Legislative Counsel Bureau.*

3. *The Director of the Legislative Counsel Bureau shall:*

(a) *Index the records;*

(b) *Make the records available for accessing by any person during office hours under such reasonable conditions as he may deem necessary;*

(c) *Maintain a log as a public record containing the date, time, name and address of any person accessing any of the records and identifying the records accessed; and*

(d) *Retain the records for two bienniums and at the end of that period keep some form or copy of the record in any manner he deems reasonable to ensure access to the record in the foreseeable future.*

LIMITATIONS ON REQUESTS FOR
DRAFTING OF LEGISLATIVE MEASURES

Rule No. 13. Germaneness Required for Amendments.

1. *The Legislative Counsel shall not honor a request for the drafting of an amendment to a bill or resolution if the subject matter of the amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of the bill or resolution.*

2. *For the purposes of this Rule, an amendment is independent of, and not specifically related and properly connected to, the subject that is expressed in the title of a bill or resolution if the amendment relates only to the general, single subject that is expressed in that title and not to the specific whole subject matter embraced in the bill or resolution.*

CONTINUATION OF LEADERSHIP OF THE SENATE AND ASSEMBLY DURING THE
INTERIM BETWEEN SESSIONS

Rule No. 14. Tenure and Performance of Statutory Duties.

1. *Except as otherwise provided in subsections 2 and 3, the tenure of the President Pro Tem, Majority Leader and Minority Leader of the Senate and the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader of the Assembly extends during the interim between regular sessions of the Legislature.*

2. *The Senators designated to be the President Pro Tem, Majority Leader and Minority Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session of the Legislature if the Senator formerly holding the respective position is no longer a Legislator.*

3. *The Assemblymen designated to be the Speaker, Speaker Pro Tem, Majority Floor Leader and Minority Floor Leader for the next succeeding regular session shall perform any statutory duty required in the period between the time of their designation after the general election and the organization of the next succeeding regular session.*

*POLICY AND PROCEDURES REGARDING
SEXUAL HARASSMENT*

Rule No. 15. Maintenance of Working Environment; Procedure for Filing, Investigating and Taking Remedial Action on Complaints.

1. *The Legislature hereby declares its intention to maintain a working environment which is free from sexual harassment. This policy applies to all Legislators and lobbyists. Each member and lobbyist is responsible to conduct himself or herself in a manner which will ensure that others are able to work in such an environment.*

2. *In accordance with Title VII of the Civil Rights Act, for the purposes of this Rule, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:*

(a) *Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment;*

(b) *Submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person; or*

(c) *Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.*

3. *Each person subject to these Rules must exercise his own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment. The following noninclusive list provides illustrations of conduct that the Legislature deems to be inappropriate:*

(a) *Verbal conduct such as epithets, derogatory comments, slurs or unwanted sexual advances, invitations or comments;*

(b) *Visual conduct such as derogatory posters, photography, cartoons, drawings or gestures;*

(c) *Physical conduct such as unwanted touching, blocking normal movement or interfering with the work directed at a person because of his sex;*

(d) *Threats and demands to submit to sexual requests to keep a person's job or avoid some other loss, and offers of employment benefits in return for sexual favors; and*

(e) *Retaliation for opposing, reporting or threatening to report sexual harassment, or for participating in an investigation, proceeding or hearing conducted by the Legislature or the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission, when submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or submission to or rejection of such conduct by a person is used as the basis for employment decisions affecting the person or such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.*

4. *A person may have a claim of sexual harassment even if he has not lost a job or some other economic benefit. Conduct that impairs a person's ability to work or his emotional well-being at work constitutes sexual harassment.*

5. *If a Legislator believes he is being sexually harassed on the job, he may file a written complaint with:*

(a) *The Speaker of the Assembly;*

(b) *The Majority Leader of the Senate; or*

(c) *The Director of the Legislative Counsel Bureau, if the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate.*

The complaint must include the details of the incident or incidents, the names of the persons involved and the names of any witnesses.

6. *Except as otherwise provided in subsection 7, the Speaker of the Assembly or the Majority Leader of the Senate, as appropriate, shall refer a complaint received pursuant to subsection 5 to a committee consisting of Legislators of the same House. A complaint against a lobbyist may be referred to a committee in either House.*

7. *If the complaint involves the conduct of the Speaker of the Assembly or the Majority Leader of the Senate, the Director of the Legislative Counsel Bureau shall refer the complaint to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments of the Assembly or the Committee on Legislative Operations and Elections of the Senate, as appropriate. If the Speaker of the Assembly or the Majority Leader of the Senate is a member of one of these committees, the Speaker or the Majority Leader, as the case may be, shall not participate in the investigation and resolution of the complaint.*

8. *The committee to which the complaint is referred shall immediately conduct a confidential and discreet investigation of the complaint. As a part of the investigation, the committee shall notify the accused of the allegations. The committee shall facilitate a meeting between the complainant and the accused to allow a discussion of the matter, if both agree. If the parties do not agree to such a meeting, the committee shall request statements regarding the complaint from each of the parties. Either party may request a hearing before the committee. The committee shall make its determination and inform the complainant and the accused of its determination as soon as practicable after it has completed its investigation.*

9. *If the investigation reveals that sexual harassment has occurred, the Legislature will take appropriate disciplinary or remedial action, or both. The committee shall inform the complainant of any action taken. The Legislature will also take any action necessary to deter any future harassment.*

10. *The Legislature will not retaliate against a person who files a complaint and will not knowingly permit any retaliation by the person's supervisors or coworkers.*

11. *The Legislature encourages a person to report any incident of sexual harassment immediately so that the complaint can be quickly and fairly resolved.*

12. *Action taken by a complainant pursuant to this Rule does not prohibit the complainant from also filing a complaint of sexual harassment with the Nevada Equal Rights Commission or the federal Equal Employment Opportunity Commission.*

13. *All Legislators and lobbyists are responsible for adhering to the provisions of this policy. The prohibitions against engaging in sexual harassment and the protections against becoming a victim of sexual harassment set forth in this policy apply to employees, Legislators, lobbyists, vendors, contractors, customers and visitors to the Legislature.*

14. *This policy does not create any enforceable legal rights in any person.*

Senator Raggio moved the adoption of the resolution.

Remarks by Senator Raggio.

Senator Raggio requested that his remarks be entered in the Journal.

Assembly Concurrent Resolution No. 1 provides for the adoption of the Joint Rules of this Twenty-fourth Special Session. This resolution makes one change to the Joint Rules. That change occurs in Rule No. 3 and eliminates the requirement for the Sergeant at Arms to announce the arrival of a message from the Governor. Otherwise, the Joint Rules are the same as the Joint Rules of the Twenty-third Special Session in 2007.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Senator Raggio moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering bill draft requests, with Senator Raggio as Chair of the Committee of the Whole.

Motion carried.

Senate in recess at 11:43 a.m.

IN COMMITTEE OF THE WHOLE

At 11:45 a.m.

Senator Raggio presiding.

Bill draft requests considered.

The Committee of the Whole was addressed by Senators Raggio and Carlton.

SENATOR RAGGIO:

The Chair would like to indicate that Senate Bill No. 1 is proposed for bill draft request. This would be the appropriation of the money in what we call the Rainy Day Fund, formerly the Fund to Stabilize the Operation of State Government. The total amount in that fund is \$276 million. That is essentially all but \$600,000 of the existing Rainy Day Fund. This action has already been authorized in the previous budget-reduction cut of over \$900 million. This bill is to formalize the utilization of that fund which requires formal legislative action. The reason for this is that we want to make certain it is available at this point in time so we do not run into a cash-flow problem between now and when the Legislature formally meets next February.

Senator Beers moved to authorize the bill draft request.

Senator Heck seconded the motion.

Motion carried unanimously.

SENATOR RAGGIO:

Senate Bill No. 2 to be considered by us considers an amount of \$106 million in cuts. This is the across-the-board target for state agency budget cuts. Recognizing the sensitivity that is essential in dealing with that proposed cut in state agency budgets, the negotiation and agreement in dealing with this issue would allow the transfer of certain sums between the departments and budget accounts, particularly, in the Department of Health and Human Services. That is what this bill is limited to. This is the same flexibility that already exists under the Appropriations Bill for the Department of Corrections. In negotiating this plan and discussing it, everyone felt this flexibility would be advisable and appropriate for the Department of Health and Human Services, to allow less financial impact in some of those budgets. It has been discussed with Michael Willden, Director, Department of Health and Human Services and he understands that he would get that authority and report to the Legislative Interim Finance Committee when any money transfers or changes occur. That is the purpose of this bill and it is necessary for the Legislature to act formally on this to authorize that type of flexibility.

Senator Heck moved to authorize the bill draft request.

Senator Lee seconded the motion.

Motion carried unanimously.

SENATOR RAGGIO:

You also have before you proposed Senate Bill No. 3. We will need a motion for a bill draft request on this bill. This will not actually result in dollar savings that will be considered on the plan we will be looking at. This bill addresses some of the problems and concerns that have existed as a result of previously enacted legislation that deals with parole procedures and hearings. A Supreme Court of Nevada Opinion caused extensive delays in the processes. As you know, we were of a mindset that we could realize some savings in the Department of Corrections if parole hearings could be expedited so low-risk inmates could be released earlier. I want to stress that these are inmates who do not pose any type of security risk. They are not high-risk or sex offenders. The purpose of this bill draft, and ultimately the bill to be considered, does not result at this point in actual budget reduction but it may. It does two things. It allows for the State Board of Parole Commissioners to hold hearings in panels rather than a full board. That will obviously facilitate their procedures and have multiple hearings where, otherwise, they would be restricted to having a formal hearing with the full Commission. This bill, if enacted, would allow a waiver so an inmate can waive the requirement of being present and would expedite the hearing process. It is highly recommended by those on the State Board of Parole Commission.

SENATOR CARLTON:

I want to thank the Legal Division for helping me get through the maze of figuring out what bills this refers to. To your knowledge, is this the only bill that we will be dealing with of the Division of Parole and Probation or will there be other bills dealing with the problems that occurred during the interim of the Legislature with S.B. 471 and A.B. 510 of the 74th Legislative Session?

SENATOR RAGGIO:

Thank you Senator. My understanding at the moment is there are no other bills proposed on this subject. This bill is the only bill being introduced in the Senate on this subject and is one of the agreed-upon components of the legislative business for this Special Session. Are there any other questions?

SENATOR CARLTON:

No. Thank you Mr. Chair, all my other comments will go to the actual hearing of the bill.

Senator Care moved to authorize a bill draft request.

Senator Wiener seconded the motion.

Motion carried unanimously.

SENATOR RAGGIO:

You now have before you Senate Bill No. 1, Senate Bill No. 2 and Senate Bill No. 3 as requested.

Senator McGinness moved to introduce the bill draft requests of Senate Bills Nos. 1, 2 and 3.

Senator Rhoads seconded the motion.

Motion carried unanimously.

On the motion of Senator Townsend and seconded by Senator Mathews, the Committee did rise and return to the Senate.

Motion carried unanimously.

SENATE IN SESSION

At 12:09 p.m..

President Krolicki presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Senate Bill No. 1—AN ACT making appropriations to the State General Fund from the Fund to Stabilize the Operation of the State Government; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee of the Whole.

Motion carried.

By the Committee of the Whole:

Senate Bill No. 2—AN ACT relating to state financial administration; authorizing certain sums appropriated to the Department of Health and Human Services to be transferred among the various budget accounts of the

Department under certain circumstances; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee of the Whole.

Motion carried.

By the Committee of the Whole:

Senate Bill No. 3—AN ACT relating to parole; revising provisions concerning the procedures for meetings to consider prisoners for parole; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee of the Whole.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that all necessary rules be suspended, that for the remainder of the Twenty-fourth Special Session, reading so far had considered second reading, rules further suspended, and that all bills reported out of the Committee of the Whole for floor consideration be declared emergency measures under the Constitution and be placed on third reading and final passage.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that all necessary rules be suspended, that for the remainder of the Twenty-fourth Special Session, all bills and resolutions be immediately transmitted to the Assembly.

Remarks by Senator Raggio.

Motion carried.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 27, 2008

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 1, 2.

JASMINE N. SHACKLEY

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 1.

Senator Townsend moved that the bill be referred to the Committee of the Whole.

Motion carried.

Assembly Bill No. 2.

Senator Townsend moved that the bill be referred to the Committee of the Whole.

Motion carried.

REMARKS FROM THE FLOOR

Senator Horsford requested that his remarks and disclosure letter to the Director of the Legislative Counsel Bureau be entered in the Journal.

My wife is employed, under contract, as an assistant professor with the College of Education and the Department of Education at UNLV. That record will be submitted to the Legislative Counsel Bureau.

June 27, 2008

LORNE MALKIEWICH, *Director*
Legislative Counsel Bureau

DEAR LORNE:

In accordance with subsection 6 of NRS 281A.420, I hereby submit to you the following written statement of my disclosure regarding my wife's employment with the Nevada System of Higher Education:

My wife is employed under contract as an Assistant Professor with the College of Education in the Department of Educational Leadership at the University of Nevada, Las Vegas. Her contract expires June 30, 2008, but is likely to be extended.

I have made the prerequisite oral disclosure of this statement on the Senate floor on June 27, 2008. Therefore, I ask that you retain a copy of this disclosure as a public record and make it available for public inspection in accordance with the provisions of subsection 6 of NRS 281A.420. I understand that once I have filed this written statement with you, I am not required to disclose orally my interest when the matter is further considered by the Legislature or a committee thereof.

While I will not repeat this disclosure, I will consider each such matter individually to determine whether I am statutorily required to abstain from acting on the matter and will act accordingly.

Sincerely,
STEVEN A. HORSFORD
Clark County Senatorial District No. 4

Senator Beers requested that his remarks and disclosure letter to the Directory of the Legislative Counsel Bureau be entered in the Journal.

Thank you, Mr. President. I would like to disclose that my wife is employed with Clark County. I will get a copy of the letter that I filed last session with the Legislative Counsel Bureau.

February 9, 2007

LORNE MALKIEWICH, *Director*
Legislative Counsel Bureau

DEAR LORNE:

In accordance with subsection 6 of NRS 281.501, I hereby submit to you the following written statement of my disclosure regarding the employment of my wife with Clark County:

My wife is a full-time, paid employee of Clark County. She manages a Parenting Project for the Clark County Department of Family Services that receives three pass-through grants. The grants pass through the Nevada Department of Health and Human Services. Two grants pass through the Bureau of Alcohol and Drug Abuse (now a part of the Division of Mental Health and Developmental Services of the Department of Health and Human Services) and one passes through the Children's Trust Fund. Because my wife's salary is not paid from these grants, our household does not have a pecuniary interest in issues regarding these grants or the agencies that administer the grants.

I have made the prerequisite oral disclosure of this statement during the Senate Committee on Government Affairs hearing on February 28, 2007, when S.B. 83 was considered. Therefore, I ask that you retain a copy of this disclosure as a public record and make it available for public inspection in accordance with the provisions of subsection 6 of NRS 281.501. I understand that once I have filed this written statement with you, I am not required to disclose orally my interest when the matter is further considered by the Legislature or a committee thereof.

While I will not repeat this disclosure, I will be watchful for bills, resolutions and amendments regarding budgetary choices that might reduce or eliminate the source of any of these grants thereby affecting the financial viability of the Project. I will be similarly watchful for issues relating to county employees and their benefits. I will consider each such matter individually to determine whether I am statutorily required to abstain from acting on the matter and will act accordingly.

Sincerely,
Bob Beers
Clark County Senatorial District No. 6

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bills Nos. 1, 2, 3 and Assembly Bill No. 1, with Senator Raggio as Chair of the Committee of the Whole.

Motion carried.

Senate in recess at 12:19 p.m.

IN COMMITTEE OF THE WHOLE

At 1:01 p.m.

Senator Raggio presiding.

Senate Bills Nos. 1, 2, 3 and Assembly Bill No. 1 considered.

The Committee of the Whole was addressed by Senator Raggio; Brenda J. Erdoes, Legislative Counsel; Senator Nolan; Senator Carlton; Senator Care; Senator Coffin; Gary Ghiggeri, Senate Fiscal Analyst; Michael J. Willden, Director, Department of Health and Human Services and Senator Washington.

SENATOR RAGGIO:

The Committee of the Whole will now come to order. We all understand the purpose for which we are here. That is to consider the Senate bills referred to this Committee, as well as to consider the proposed plan for reduction of the state's budget. I would like to accommodate our Legal Counsel, Brenda Erdoes. The Committee will recall that we previously requested and introduced Senate Bill No. 3, which revises certain provisions governing the parole process. Legal Counsel has had a discussion with Dorla Salling, Chair, Board of Parole Commissioners. The Board has a concern about some of the provisions. Legal Counsel is here to explain that. We will recommend to substitute a new bill in lieu of the present version of Senate Bill No. 3.

BRENDA ERDOES (Legislative Counsel):

Thank you, Mr. Chair. Because of the speed with which the Session is moving, the Board did not get a chance to look at this bill before hand, and they have a concern about a portion of it. We can make an easy technical fix. I ask that this BDR die allowing it to be replaced with a new bill simply because it is more expedient than going through the amendment process. If you would choose to ask for a new bill that has the process in it, I believe it would be agreeable to the Parole Board. The bill could move out of Committee quickly.

SENATOR NOLAN:

What is the change?

MRS. ERDOES:

The change is that the effective date is delayed in Section 10.5 in its entirety. The bill amended subsection 3, 8 and 9. The Parole Board is not comfortable delaying the portion that is in subsection 3, which had to do with the quasi-judicial hearing. The fix would be to delay the

provisions of subsection 9 and 10. The purpose of this is to attempt to help the Board past that "bubble" you have heard about that was created after the last Session. They are comfortable that could happen with the last two subsections being delayed and not the first one. It is the same bill with regard to the quasi-judicial part.

SENATOR RAGGIO:

The Chair represented to Senator Carlton that we did not anticipate changes in this bill. Are you comfortable with the explanation?

SENATOR CARLTON:

Thank you, Mr. Chair. You are saying the quasi-judicial, unlimited-right section will stay in the bill, and the "reasonable notice of a meeting," "opportunity to be present at the meeting" will come out, and "the prisoner representative being allowed to speak at the meeting" will be deleted. Do I understand this correctly?

MRS. ERDOES:

Yes, they are not actually being deleted; they are being delayed until July 1, 2009.

SENATOR CARLTON:

Therefore, those rights will change July 1, 2008. In effect, those prisoners will lose those rights for one year.

MRS. ERDOES:

Yes.

SENATOR CARLTON:

Thank you.

SENATOR CARE:

I would like to request a copy of the bill from the last Session that is subsumed with Senate Bill No. 3. I need to know the particulars we are discussing. I would like to see it in writing.

SENATOR RAGGIO:

With the understanding, Senator Care, that you will have that opportunity, would it be appropriate for us to go ahead and request the newer version? I would like a motion to request the revised version of Senate Bill No. 3.

SENATOR COFFIN:

Mr. Chair, before we do that, I would like to slow down a little bit because I am concerned. I do not serve on the Committee on Judiciary, and some of these things are more familiar to people on that committee or those who are attorneys. I hope that before we request this bill, we could at least have a little background as to why we need it. We could probably read some news stories, but when there are bills that reference a bill and sections in another bill, which we are not familiar with, it is discomfoting.

SENATOR RAGGIO:

Are you able to do that for us at this time, Mrs. Erdoes?

MRS. ERDOES:

Yes, the change to this bill will involve putting in section 10.5 in its entirety so you will be able to see the entire thing. I am happy to answer any questions or explain what the effect will be.

SENATOR COFFIN:

Would we then have a copy of a thicker bill in its entirety instead of this bill? Normally, we would take time for testimony allowing us time to absorb the details.

MRS. ERDOES:

What you will have in the bill would be just section 10.5, but I am happy to provide the bill. I would be able to provide copies to everyone.

SENATOR COFFIN:

As it would be in the statute?

MRS. ERDOES:

The rest of the bill is already in NRS currently. The easiest way to look at this is to see the bill.

SENATOR RAGGIO:

I am not clear on the Committee's concerns. Will they be addressed if we authorize a bill draft request as suggested by Counsel? Any objection to that?

Senator Townsend moved to request a bill draft of a revised version of Senate Bill No. 3.

Senator Beers seconded the motion.

Motion carried unanimously.

SENATOR RAGGIO:

Two bills have been referred to this Committee, Senate Bill No. 1 and Senate Bill No. 2.

Before we get into a full discussion of the budget-reduction plan with the Fiscal Division, the Chair would deem it advisable if we could look at Senate Bill No. 1. This bill would authorize the utilization of the total amount reflected in the bill of the Fund to Stabilize Operation of State Government as it applies to the State General Fund better known as the Rainy Day Fund. This has already been authorized. It is part of the \$900 million previous reduction plan. We need formal action at this time. The Assembly is waiting for this bill. It is the Chair's intention that we recommend a "do pass" on Senate Bill No. 1 and Senate Bill No. 2, the flexibility authority for the various budget accounts of the Department of Health and Human Services. Is there any discussion?

Senator Heck moved to do pass Senate Bill No. 1.

Senator Horsford seconded the motion.

Motion carried unanimously.

Senator Townsend moved to do pass Senate Bill No.2.

Senator Rhoads seconded the motion.

SENATOR RAGGIO:

Are there any comments on the motion?

SENATOR COFFIN:

I would like to know what the purpose of this is. We have seen a ceding of the Legislative authority to the Executive Branch. In the 40 years we have had the Interim Finance Committee (IFC), we have had authority over these accounts. IFC has gone downhill this past year because it has not exercised its authority to reign in the Executive Branch, and I know there is some precedent in some of the budgets for letting the Executive Branch move money around without permission of IFC. When IFC was created in 1969, its purpose was to control these types of things so that an agency would adhere to the intent of the Appropriations Act as passed by all members of the Legislature. I do not see the point in giving any more authority to the Executive Branch of government. If you pass something like this, you give more authority from the legislative to the Executive Branch. You will not see it happen. It is just done. You will not be able to explain to your constituents why this account does not exist anymore or this contract has been terminated, etc. We see this happening a lot. This Executive Branch has pushed the limits. They were practically dragged kicking and screaming to IFC in May for approval of all of the cuts and freezes they have been doing since September. I will oppose this kind of legislation. I urge you to think about it before you cede any more authority of the Legislature to the Executive Branch.

SENATOR RAGGIO:

Before I recognize others on this point, I would like to discuss why this provision is here. During the course of the negotiations, recognizing we were dealing with agency budget cuts; this was a request by Speaker Buckley and those in the Assembly who were willing to have these cuts considered. This was done at their suggestion with the understanding of our Fiscal Division as to the necessity for and the advisability of these needs.

I think the purpose may be misunderstood. It is my understanding that in doing this, whatever action is taken by the Department of Health and Human Services, now headed by Michael Willden, that this would be reported. I do not know what role IFC will have.

GARY GHIGGERI (Senate Fiscal Analyst):

This legislation is an amendment to the Appropriations Act from the Seventy-fourth Legislative Session. It adds to the Appropriations Act language similarly granted to the Department of Corrections to move money between budget accounts with the approval of IFC based on the statutory requirements for NRS 353.220. It is only valid for this next fiscal year and is being provided to the Department of Health and Human Services so that they would have some additional flexibility to address budget reductions. It is not the intent of the Fiscal Division that this be included in the Appropriations Act for the next legislative session. It is only for this fiscal year. It is not being put into statute. It is just the amendment to the Appropriations Act.

SENATOR RAGGIO:

What role if any would IFC have? It was my understanding there would be some report made. The Speaker indicated she felt the opportunity existed for members of IFC and others to talk with the Director when these transfers are suggested. The Director had indicated that he would be responsive to any concerns. There were some special issues that the Speaker and her colleagues had mentioned in dealing with this component, and that they were concerned that if we just mandated straight 3-percent reductions, that without some flexibility in that Department, there would be consequences. For instance, there could be the closing of rural clinics. If we do not give them this flexibility, that is the consequence that may result.

I have tried to explain to this Committee the concerns of your colleagues in the Assembly. This is their request. It is the understanding of the Director, this would be the process.

SENATOR CARE:

I understand the need, but I am wondering if in the negotiations, if there was any representation made by the Director or someone from the Department to give us some idea of where this money would be shifted.

MICHAEL J. WILLDEN (Director, Department of Health and Human Services):

Thank you. This is a request of the Department. The largest expenditure account we have in the Department is the Medicaid budget. The way the Appropriations Act works now is that I cannot take any savings in any other budget accounts except for the Nevada Checkup Program and move them back and forth into the Medicaid program. We are only allowed to move money back and forth between those two accounts. We cannot take savings that we would find in other budget accounts and move them into Medicaid. We are requesting, during this crisis process, to have the authority to move money around between accounts. We would not do that per this bill and per the financial statutes in the State. We still would come to IFC.

The way the Appropriations Act is worded now, I am barred from coming to IFC to ask for that flexibility to move money between accounts. The other departments in state government have that flexibility, but the Department of Health and Human Services does not have that flexibility per the Appropriations Act. We cannot move money, in many cases, between years and, in most cases, between budgets. There are only two budgets that may move money amongst them. Welfare Division has four or five accounts between which they may move money. In the Division of Healthcare Financing and Policy, they can move money between Medicaid and Checkup. We cannot move any other money around. There are caps in the Appropriations Act that say we cannot ask you for more money for the Medicaid program or for the Temporary Assistance for Needy Families (TANF) program. As the economy worsens, our caseloads grow. We have to get money into those programs that serve needy citizens. We are

requesting the flexibility to do that; we will not do it and cannot do it under this bill without coming to IFC.

SENATOR CARE:

We also have before us Senate Bill No. 3, which has a sunset provision. If Senate Bill No. 2 is enacted the way it is written, I see this as a permanent alteration to the statutes. The discretion will remain at the Department.

MR. GHIGGERI:

This would only be effective for this fiscal year. It is in the Appropriations Act, which is session law. It would expire at the end of FY 2009. It does not go into statute.

SENATOR CARLTON:

Just to clarify, I am hearing two different things. Before you make changes, will you present to IFC and have them give you their approval before you make changes, or will you make them and report to IFC the changes made?

MR. WILLDEN:

It would be the same process that is in statute now, that is to do work projects and then come to IFC. There are three ways to move money, a 15-day expedite, the 45-day calendar and then the regular IFC process. The same provisions that are in statute now would apply. We would come to IFC. If you want us to come to IFC without the 15-day expedite I am willing to agree to that. We are looking for flexibility to get money where it is needed. Medicaid is the head of the octopus in our Department. If it is not healthy financially, we do a lot of harm in Mental Health, Children Services and hospitals' bottom line. Medicaid needs to be healthy.

SENATOR CARLTON:

Thank you. I understand what you are trying to do. I do not want to wake one morning and read in the paper that two or three programs we worked hard to have established and that are getting to the point where they can start to grow have all of a sudden disappeared. No one on our side would have any idea that was about to happen.

MR. WILLDEN:

That will not happen.

SENATOR COFFIN:

For clarification, you want the ability to be able to send these to us under the 15-and 45-day provision as well. Is that the consequence of this?

MR. WILLDEN:

That was our intent. As it stands now, I cannot even send a work program to you. This would allow me to access the processes that are in place statutorily. In the Medicaid program and TANF programs, we are the only department barred from sending you work programs. We cannot ask for more money.

SENATOR COFFIN:

Why did you not ask for this in a regular session?

MR. WILLDEN:

I have asked for this flexibility for ten years. It has never flown.

SENATOR COFFIN:

Please repeat.

MR. WILLDEN:

I have asked for this flexibility for many years.

SENATOR COFFIN:

Why have the regular sessions turned you down?

MR. WILLDEN:

There has never been a bill that has ever got to the table. Since I have been the Director, the fear seems to have been that the Medicaid and TANF programs have growing caseloads. Last year, there was a growth of 50 percent. I think the fear is we will need large sums of money and that this capping mechanism was a way to prohibit us from solving those problems. The Medicaid program is projected to be \$60 million short. Either we will have a large supplemental, some sort of fix or you allow me to gather up the loose change in the other budget accounts and move it to help solve some of Medicaid's problems rather than putting out a huge supplemental at the next legislative session. Cash flow is a huge issue in Medicaid. Many of you have probably gotten e-mails or read in the press that we cannot pay our last two weeks worth of bills. We had to defer \$27 million worth of payments from 2008-2009 because I did not have enough money under the processes we have now. This would give us another tool to help make ends meet. It would not be without IFC concurrence.

SENATOR COFFIN:

The phrase "gather up loose change" takes you to exactly what Senator Carlton fears. We are going to places where we have appropriated and you are giving authority to people who are well intended and desperate for money. They are not desperate for money because of our action. They are desperate for money because of our inaction to provide that money. I still feel, though, that if we cede more authority to the agency, it is a mistake.

I cannot approve this, myself, knowing what I know and the history I have with it and the reason is that other legislatures would not do it either.

SENATOR WASHINGTON:

This is a comment on behalf of Mr. Willden. There are other funds that will be in jeopardy, especially federal funds when dealing with Medicaid. Whatever the cash-flow problem is, you can double that because you will lose the federal funds as well. The flexibility is necessary to keep up with the caseload. I think this is a good piece of legislation.

SENATOR RAGGIO:

Is there anything else to add? Does this discussion allay the concerns of the Committee members?

Further comments? We have a motion on the floor for a vote.

Motion carried. Senator Coffin, voted no.

Senator Townsend moved to recess until the call of the Chair.

At 1:43 p.m.

Senator Raggio presiding.

SENATOR RAGGIO:

We will discuss Assembly Bill No. 1. This is a component of the approximately \$900 million budget reduction previously authorized as a companion bill to Senate Bill No. 1, which dealt with the utilization of the Rainy Day Fund. This is a portion of the Rainy Day Fund. This is the \$36 million reserved for special purpose in IFC.

MR. GHIGGERI:

This funding was appropriated by the 74th Legislative Session to IFC with a trigger to the Rainy Day Fund if the General Fund balance attained a certain level as part of the budget-reduction discussion agreement in March and April.

This money was targeted to address the General Fund revenue shortfall. At this time, instead of appropriating the money to IFC and then reverting it, it would be better to not appropriate the funds to IFC. That is what this legislation does.

SENATOR RAGGIO:

This amount was computed as part of the second phase of budget reductions. This does not add dollars to our present budget shortfall. It is formally authorizing the utilization of that fund,

at this time, along with the Rainy Day Fund money in order to avoid any cash-flow situation that can occur between now and when the Legislature formally meets in February 2009. If there are other comments, I will entertain them at this time.

Senator Townsend moved to do pass Assembly Bill No. 1.

Senator Cegavske seconded the motion.

SENATOR CARLTON:

I am not on the Committee on Finance and do not understand the nuances of the money reversions. If something goes wrong and Nevada Division of Forestry appears before IFC, is there still some money left in some contingency fund to deal with an emergency?

SENATOR RAGGIO:

After we approve Assembly Bill No. 1 and have dealt with the Rainy Day Fund, it is my understanding there still will be \$600,000 remaining in the fund for budget stabilization.

Motion carried unanimously.

On the motion of Senator Townsend and seconded by Senator Care, the Committee did rise, return and report back to the Senate.

Motion carried unanimously.

SENATE IN SESSION

At 1:50 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee of the Whole, to which were referred Senate Bills Nos. 1, 2; Assembly Bill No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 27, 2008

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 3, 4.

JASMINE N. SHACKLEY

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 3.

Senator Nolan moved that the bill be referred to the Committee of the Whole.

Motion carried.

Assembly Bill No. 4.

Senator Nolan moved that the bill be referred to the Committee of the Whole.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 1.

Bill read third time.

Remarks by Senators Raggio and Coffin.

Roll call on Senate Bill No. 1:

YEAS—21.

NAYS—None.

Senate Bill No. 1 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 2.

Bill read third time.

Remarks by Senator Coffin.

Roll call on Senate Bill No. 2:

YEAS—19.

NAYS—Coffin, Wiener—2.

Senate Bill No. 2 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 1.

Bill read third time.

Roll call on Assembly Bill No. 1:

YEAS—21.

NAYS—None.

Assembly Bill No. 1 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that the Senate resolve itself into a Committee of the Whole for the purpose of an reviewing the Budget Reduction Plan and for considering bill draft requests and Assembly Bills Nos. 3 and 4, with Senator Raggio as Chair of the Committee of the Whole.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 1:58 p.m.

IN COMMITTEE OF THE WHOLE

At 2:09 p.m.

Senator Raggio presiding.

The Budget Reduction Plan, bill draft requests and Assembly Bills Nos. 3 and 4 considered.

The Committee of the Whole was addressed by Senator Raggio; Gary Ghiggeri, Senate Fiscal Analyst; Senator Lee; Senator Titus; Senator Care; Senator Coffin; Senator Rhoads; Andrew Clinger, Director, Department of Administration; Senator Horsford; Senator Mathews; Paul Dugan, Washoe County School District Superintendent, President, Nevada Association of School District Superintendents; Senator Schneider; Michael J. Willden, Director, Department of Health and Human Services; Charles Duarte, Administrator, Division of Health Care Financing and Policy; Harold Cook, Ph.d., Administrator, Division of Mental Health and Developmental Services; Senator Wiener; Senator Heck; Senator Cegavske; Senator Carlton; Kevin C. Powers, Senate Legal Counsel and Senator Washington.

SENATOR RAGGIO:

At this time, our Fiscal Division will give us an overview of the entire Budget Reduction Plan that is before this Legislative Session. We will discuss the Estimated Shortfall and Potential Solutions (ESPS). This reflects the components of the plan and the estimated shortfall in the amount of \$275 million. Fiscal will explain that target and the measures submitted as components of a budget-reduction plan to reach the targeted amount of reduction.

Please hold questions until the Fiscal Division has had an opportunity to give a full overview of the plan.

GARY GHIGGERI (Senate Fiscal Analyst):

As indicated, the current shortfall is \$275 million. The Fiscal Division's estimate was slightly higher than that number and the Budget Division's estimate was slightly lower. We have agreed to a median estimated shortfall.

The first potential solution is a reduction to operating budgets of \$106 million. That amount is approximately 3 percent, give or take 0.01 percent. That will be worked and presented at the September IFC meeting. The next item is a reduction in the funds provided by the 74th Legislative Session for Project ChalleNGe. This leaves funding for continued placement of students out-of-state. I believe those students are currently placed in Arizona. That is a \$600,000 reduction for Project ChalleNGe.

The next item is the 50-percent reduction to textbooks, instructional supplies and instructional hardware. Included in the legislation for that reduction is a trigger that is dependent upon the Economic Forum's revenue projections at the December 1 meeting in conjunction with the projection by the Legislative Counsel Bureau's Fiscal Division of the General Fund Balance as of June 30, 2009, based on those revenue projections and known relevant information to the Division at that time. That is an approximate \$48 million reduction.

The third item listed in the ESPS is the estimated state share of the Governor's Tax Amnesty Program. The amount is \$4 million.

Next, the Millennium Scholarship Program eliminates the transfer from the Abandoned Property Trust Fund in FY 2009 only. That funding would then be combined with other funds from the Abandoned Property Trust Fund for transfer to the General Fund. That would provide an additional \$7.6 million.

Transfer of funds from the Trust Fund for Public Health would revert the balance of funding of \$27.3 million. At the April IFC meeting, the agreed upon reduction was a \$9.5 million transfer from that fund. This would amount to slightly more than \$36.8 million being transferred.

Next, there is a transfer of the funding from the Tobacco Settlement receipts that would normally go to the Trust Fund for Public Health. In April 2009, this \$4.4 million would be transferred to the General Fund.

The next item in the ESPS would provide for the transfer of approximately \$4.2 million from the Tobacco Settlement payments. The Millennium Scholarship would keep the Tobacco Settlement Funds of \$17.7 million. The Senior and Disability Rx Fund would remain whole at approximately \$7.7 million. There would be an additional \$10.1 or \$10.2 million that would

remain in the Fund for a Healthy Nevada for grant allocations after the \$4.2 million is taken away.

The next item is a transfer of funds from the Senior Rx Reserve Fund. There was \$10 million transferred in April. This will provide for an additional \$10 million from the Reserve Fund. This does not affect any payments. This is reserve dollars as projected by the Department of Health and Human Services.

Next, there is a reversion from the Disaster Relief Account. The current balance in that account is \$9.6 million. This would leave \$5.6 million in that account.

There is an appropriation that was provided by the Seventy-fourth Legislative Session for Youth Parole. There is approximately \$331,000 left in that appropriation for allocation by IFC. That is not anticipated to be utilized by Youth Parole.

There is a reversion of funds from the Homeowner's Disaster Relief Fund. There is approximately \$4.3 million in that fund. This would provide for the transfer of \$3.5 million.

There would be a reversion of \$50 million from the appropriation provided by A.B. 544 of the 74th Legislative Session. That was a \$170 million appropriation; \$56 million will be reverted as part of a prior reduction. This would provide for an additional \$50 million reversion. It is the intent to backfill part of this reversion with \$20 million in General Obligation Bonds that were authorized by the Seventy-fourth Legislative Session for Capital Improvement Projects. That bond authority was freed up based on the actions of IFC at their meeting yesterday. There will be a bill to provide for that. The bill will include language that any bonds issued under this authority would require approval of the Board of Examiners and IFC and would have to be a detailed plan presented to both bodies prior to consideration by either party.

Next, there is a transfer of funds from the Fund for the Care of Sites for the Disposal of (Low Level) Radioactive Waste. The balance in that account is currently \$13.1 million. This would provide for a \$4 million transfer.

The Criminal History Repository will transfer \$4 million from that reserve. There is currently \$7 million available.

There is a transfer of \$3.5 million from the Fund for Mortgage Lending Reserve. Currently, that balance is \$6.98 million.

The next item listed is a transfer of funds from the Industrial Development Revenue Bond Reserve Fund. Approximately, \$1.25 million is available in that reserve. This will provide for a transfer of \$800,000.

The last item is a reversion of unused funds from the Health Care Subcommittee for \$200,000.

The total ESPS provides for an approximate transfer of, just over, \$275 million to address the \$275 million shortfall.

SENATOR RAGGIO:

On the ESPS report, there are letters at the end of each line. These letters refer to items as they are being addressed in this Special Session and the next Legislative Session. Some indicate that no legislation is required to implement the change. But, actually, there will be some legislation required on those items as indicated by Mr. Ghiggeri. What this does is that for budget-reduction purposes, the amount that would be available otherwise is really \$30 million less for the Department of Transportation. It is the Chair's understanding that about \$5 million of that was for an actual project, but the majority of the reduction dealt with deferred-maintenance projects and substitution of bonding.

I know the members of the two caucuses have been briefed by the Fiscal Division on this plan.

SENATOR LEE:

I was concerned as I read the transfer of funds from the Care of Sites for Disposal, but I am satisfied by Mr. Ghiggeri's answer. Could you revert funds from the Homeowner's Disaster Relief Fund? Could you explain this to me? Is that what we anticipate not needing to use, or is it something we always have to maintain in case there is a disaster?

MR. GHIGGERI:

Are you addressing the Disaster Relief of \$9.6 million?

SENATOR LEE:

No, the section that reverts funds from Homeowner's Disaster Relief Fund.

MR. GHIGGERI:

That is funding that was left from the \$300-million rebate that was provided to taxpayers. There was approximately \$5 million that went into this fund. There has been about \$700,000 expended. This removes \$3.5 million of the remaining balance of the \$4.3 million, leaving about \$800,000 in that account. If there is funding available in the future, the Legislature could provide to replenish that fund. It is a revolving loan fund.

SENATOR LEE:

How would you anticipate using this?

MR. GHIGGERI:

I would defer to Senator Titus.

SENATOR TITUS:

That was an amendment I put on a bill that used the money left over from the rebate to put into a fund to help people primarily who have been harmed as a result of floods. Mr. Siracusa, Chief of the Division of Emergency Management, said yesterday, in IFC, that it had been a wonderful program and they had helped a number of people in Fernley who would have nothing because they did not qualify for federal disaster funds. This helped them to rebuild their homes. It is a great program, and I hate to see it cut. The northern part of this State has been experiencing earthquakes recently, and there is a potential for more flooding. People could be left out with no State help when this program is eliminated.

SENATOR CARE:

Like many people, I have read the newspapers and have watched the clips on television, and I know the predictions of revenue shortfalls are woefully challenged. We have heard figures of \$275 million and \$100 million. Mr. Ghiggeri, could you tell us what process was used to get to the \$275-million figure.

SENATOR RAGGIO:

It was a long, long trail. I would like to help explain. Until we had firm numbers, there was some belief on the part of both the Legislative Branch and the Executive Branch that our additional shortfall, after having dealt the \$900 million plus reduction, was \$68 million to \$100 million. That was based on lack of information. With the best data available to not only our Fiscal staff but to the Budget Office in the Executive Branch, a press conference was held and it seemed like the amount could be dealt with at that time without the necessity of a special session.

Following that, the Governor requested that the Economic Forum convene. They did so on a Friday. Both the Fiscal Division and the Budget Office were still indicating to me that there was uncertainty as to the exact amount of the shortfall. To paraphrase their comments, they said, "Either of us might be right, or either of us might be wrong."

These are projected revenue shortfalls. It is an inexact science. They were using different data. Though I was not present, I understand that all of the presentations were made at the formal meeting of the Economic Forum. At that time, the Economic Forum indicated a shortfall of approximately \$248 million to \$258 million. That was the projected shortfall. There was need on the part of the Fiscal Division and the Budget Office to evaluate that projection. Though not binding, it is reasonable and appropriate to utilize this information as a base. There were adjustments that were needed to be made concerning ending-fund balances. Our Fiscal Division did not disagree. They felt that utilizing the projection, the number might be more and might be as high as \$290 million. It is my understanding that the Budget Office thought it might be less.

The leaders involved in the discussion determined what they considered \$275 million to be the most reasonable number to consider as the target for the budget-shortfall consideration.

This is how we got to the \$275 million figure.

MR. GHIGGERI:

As Senator Raggio has indicated, the differences in our projected shortfalls pertain to the Distributive School Account. We have considered some revenue shortfalls that may or may not have been considered by the Budget Office. We are in the process of attempting to reconcile those two projections. That is where the differences in the two revenue shortfalls are. There is a supplemental that will be faced by the next Legislative Session.

SENATOR COFFIN:

I am uncomfortable having our staff being put into the position of not only having to explain, but they would appear to have, to defend these cuts. I have a feeling it would be better if we had someone who really wants these cuts. They cannot take a position. I know they are trying to do their best to explain, but it is embarrassing to me that we have put our staff in this position. We should have someone from the Budget Office explain to us what they mean.

For example, the potential shortfall reduction is listed as \$106 million. That is approximately 60 pages of information. There are many cuts. There should be more curiosity about those cuts from the members of the Senate. We should be able to hear from the administration as to why these particular items will be cut. I do not want to single out any budgets now, but I would like to know why we do not have people from the administration testifying yet.

SENATOR RAGGIO:

They are available.

SENATOR COFFIN:

There are three empty seats here, Mr. Chair. I worry about the people not being here.

SENATOR RAGGIO:

I am assured that the department or agency heads will be available, if needed. They may be moving back and forth between here and the Assembly Committee of the Whole. If anyone on the Committee wants any particular individual, we will request that person be here.

SENATOR COFFIN:

What about members of the public, Mr. Chair? Sometimes, they know these budgets just as well as our agency people. Are we going to invite public testimony to occur here?

SENATOR RAGGIO:

Yes. As I indicated in the Chamber, I would like to get the first part of this done as an overview and then have the agency and department heads respond to the Committee's concerns. We will arrange time within our limits for any member of the public who has comments on this subject.

SENATOR RHOADS:

Has staff taken a look at the \$900-million reduction made earlier and the additional \$275 million and how that will affect the workforce? Will there be a severe reduction in state employees?

MR. GHIGGERI:

It depends on what is done with the additional \$106-million reduction. Staff has not looked at that. It depends on what options would be chosen as far as the reductions. The information we have on the 4-percent reduction was around \$128 million. We have not had a chance to look at that. The biggest reduction we are aware of is the proposed closure of the Nevada State Prison. IFC heard testimony on that yesterday. We have been advised that the Budget Office and the Fiscal Division as well as the Department of Corrections are to look at other alternatives other than closing the Nevada State Prison to see if there are other plans that could be adopted.

SENATOR RAGGIO:

All state agencies would be looking at about 3 percent in additional cuts on agency budgets. At the request of the Governor, the agencies were asked to submit scenarios based on 1-, 2-, 3- and 4-percent cuts. In his message, the Governor proposed 4-percent cuts. The amount in his plan was about \$32 million higher than this amount. In the course of negotiating this plan, we

were less severe in our cuts and that is the reason for the \$106 million figure. That figure represents about 3 percent of the agency budgets. When applying this percentage, the Director of the Nevada State Prisons understood they would have to close the Nevada State Prison facility to meet that percentage. During the discussion, it appeared that if that occurred we would be looking at a potential of 117 employees being displaced. A housing program could be established for the inmates. Every member of the Committee would be concerned about the number of layoffs because of that proposal.

I have said that anything we do in a budget-reduction plan should avoid the loss of jobs in the public sector. Rather than close the Nevada State Prison, I asked if it would not be better to defer occupancy of phase 5 of the High Desert State Prison, which will come on line about the time of the proposed closure of the Nevada State Prison. I was told that was not preferable or practical. I have been told closure is not being considered. They can find alternatives such as delaying the occupancy of phase 5 of the High Desert State Prison. I apologize if I am presuming anything, but that is the last information I have.

I have questions about the impact of layoffs, and we are all concerned about essential services especially those that are particularly sensitive. I am not suggesting some of this is not going to occur. We have some difficult decisions to make.

ANDREW CLINGER (Director, Department of Administration):

I would like to comment that your statements are correct regarding how we arrived at the \$275-million shortfall amount. We have been working with your staff to come to the \$275-million figure. Most differences have been in the Distributive School Account (DSA), and the numbers are close to yours.

As to the comments about the Nevada State Prison, the Governor agrees that he does not want to close the Nevada State Prison. We are going to be working with your Fiscal staff and the Department of Corrections to come up with an alternative to closing the prison that would include delaying the occupancy of phase 5 of High Desert State Prison.

As far as the impact of these reductions to other employees, the impact is minimal, but I would defer to the different department directors to correct me if I am wrong. I believe the biggest impact was with the Nevada State Prison. By taking the Nevada State Prison off the table, I think we have mitigated most of the layoff potential.

SENATOR HORSFORD:

Thank you, Mr. Chair. I would like to commend you and Speaker Buckley for the proposal that is before us today. I know that based on some of the interactions of the last week there have been a number of discussions on how to best balance this budget responsibly, recognizing it is a difficult situation for the State. I commend you and the Speaker for that work.

Mr. Clinger, what is the Governor's plan? I was under the impression there would be a plan brought to this Special Session that would be part of our deliberation. Can you elaborate further on what elements of a plan the Governor proposes for us to consider?

MR. CLINGER:

The Governor's plan is similar to what has been put forward by your Fiscal staff. There are a couple differences with the first being the percentage across-the-board cuts. We had 4 percent in our plan. That adds up to a difference of \$106 million versus \$124 million. The other difference was the textbook money, about \$48 million. We did not have that \$48 million on our list. In place of that, we had funding coming from the Remediation Trust Fund, S.B. 185 of the Seventy-second Legislative Session. Those are the biggest differences. The rest of the items on the list are things that we also had on our list.

SENATOR HORSFORD:

Is there something in writing from the Governor that we can compare to what we have from our bi partisan agreement?

MR. CLINGER:

I do have something. I can provide copies to the Committee.

SENATOR TITUS:

I would like more information as to why the Remediation Trust Fund was chosen rather than the textbooks. Could you remind us what that fund is and how it works.

MR. CLINGER:

The Governor felt strongly about not affecting the textbook money for the children. During the past decades, the school districts have made statements that there are not enough textbooks. He felt strongly about maintaining that \$96-million set-aside for textbooks. The Remediation Trust Fund was established in 2003. Full-day kindergarten and grants for innovative programs are in the fund. The Commission on Educational Excellence meets to distribute grants from the fund, and the grants go to different school districts throughout the State for innovative programs.

SENATOR COFFIN:

I am puzzled by the reduction in books. We appropriated the funds for books based on testimony from all of the school districts that they needed them. I cannot endorse this joint agreement between the Speaker and Majority Leader. We could replace the funds with a 1-percent room tax on the casinos. Could you support that?

MR. CLINGER:

The Governor will not support a tax increase.

SENATOR COFFIN:

We could support all of these textbooks. I raise this as a point we should consider. Some of these things are precious. Maybe I do not feel so bad about it, but maybe others do. Why not talk about it. We are so short here; there are people who can and have volunteered in the casino industry to offer funding. Why do we not ask them? Has the Governor asked them? I know he does not want to raise taxes, but on the other hand, there are many things we are doing here we do not want to do. He said to us, balance the budget any way we can. That was in his call for the Special Session. Could we take it to mean that for certain, despite the fact we are losing \$50 million in textbooks, he would not possibly consider asking the casinos to give up 1 percent on their room tax?

MR. CLINGER:

The Governor reiterated it in his speech last night that he feels strongly given the state of the economy, fuel prices, that consumers already have less disposable income, and that businesses are struggling and laying off employees. To put an additional burden on them, he feels, would not be prudent to do to the citizens of this State.

SENATOR RAGGIO:

Thank you, Senator Horsford, for your generous comments, but there were others involved in the negotiation process. We could have some joint approach to this when this Session convened today. Senators Horsford, Titus, Townsend and Beers were also involved in this process. There were many people participating and trying to come to a difficult decision. The reduction for the rest of FY 2009 is included in this. It is the amount of money set aside within the DSA for what is termed as textbooks, instructional supplies and instructional technology. This represents one-half of the amount of the original budget. In the past, when we were dealing with DSA budgets, it was stated that we were not funding appropriately and that teachers were being required to buy textbooks and instructional supplies. We put into the DSA a component that provided funding for those purposes, and we "fenced" it off. The funding was not available for any other purposes. If it was not used for that purpose, the funds reverted. In some years, the full amount has not been used. Last year, we funded over \$80 million, so this represents the amount that was authorized within that formula for those purposes.

We do not want people to think that we do not think this is an important part of funding education. For that reason, we have reduced this amount for the fiscal year, but this has a trigger mechanism in it based upon the Economic Forum projections in December and how they will affect the ending-fund balance for FY 2009. If the numbers are appropriate and the conditions have improved, then the amount will be triggered proportionately to restore some of this amount. So no one misunderstands, we are taking, for this purpose only, one-half of that amount. There remains \$48 million in the fund.

SENATOR TITUS:

I was under the impression that the "fencing" was going to be lifted in this bill. Does the "fencing" remain?

SENATOR RAGGIO:

Yes the "fencing" remains. We are not changing that. We are changing the amount that is being authorized for FY 2009, but with the understanding that if the conditions improve and the ending-fund balance reflects that, then, there can be an automatic restoration. It would not require any further action.

SENATOR MATHEWS:

Thank you. My question is on a different subject. I was wondering about the transfer of the Low-Level Radioactive Waste Fund. Was that for the site at Beatty, or was that for both Yucca and Beatty?

MR. GHIGGERI:

That is for the Beatty site.

SENATOR MATHEWS:

That will have nothing to do with the money we have reserved for lawsuits?

MR. GHIGGERI:

It has nothing to do with Yucca.

SENATOR RAGGIO:

Many years ago, there was funding coming in continually. It is my understanding that, at this time, there is not any funding coming in for the Beatty site, but we have established a fund and the return from that fund is utilized to monitor that site perpetually. This reduces the amount that is available for investment from that fund. There is still an adequate amount remaining that will ensure that the monitoring process is not in jeopardy.

SENATOR MATHEWS:

Will we need to replace this when our funding is in better condition?

MR. GHIGGERI:

We may need to replace it when revenues improve. There is approximately \$13.1 million in that account. Approximately \$425,000 was approved for the operation of it by the Seventy-fourth Legislative Session on an annual basis. Currently, it earns about \$500,000 a year in interest. Once you reduce the principle in that fund, the interest earnings will go down.

SENATOR HORSFORD:

I have two questions. I would like to hear from a representative of the superintendents. I have heard this may be met within their operations based on the funding that has been provided in previous years.

SENATOR RAGGIO:

Superintendent Duggan will speak for them. The information given to our negotiating group was that the suggestion for the textbook fund came from the superintendents. They offered suggestions in lieu of delaying salary adjustments. The salary adjustments are not part of the plan nor are they part of the Governor's plan.

PAUL DUGAN (Washoe County School District Superintendent; President, Nevada Association of School District Superintendents):

I would like to thank the leadership of the Senate and the Assembly and the Governor's Office for including me in the discussions regarding the serious challenges you are facing today. The out-going president, Mary Pierczynski, Carson City School Superintendent, and the incoming vice president, Superintendent of Clark County, Walt Rulfes, were also included in the talks. I would like to thank this body, the Governor and the Assembly for not maintaining the possibility of holding back the cost of living adjustments (COLA). The loss of the COLAS would have caused significant problems for each school district in the State as well as for our

employees. On behalf of the teachers, bus drivers and custodians, I thank you for not taking back the COLA.

We worked with a variety of different options. In 2003, significant additional funding was given to the school districts to address textbook issues. Since that time, every district has made significant steps forward to assure all students have textbooks. While it is difficult to use the word "support" when talking about cuts to K-12 education, we believe that, considering the other options, this is an option that we can support.

SENATOR SCHNEIDER:

We have worked hard to keep books in the classroom. The Governor, when he was a Congressman, addressed the Legislature. During his presentation, he had a backpack from which he pulled textbooks as he stressed the need to put books in the classroom.

There is a trigger that if we do better, money it will be put back into the fund, but if we do these substantial cuts, equaling \$48 million, I am not confident that one month after the election of a new president that we will be doing better.

What if we eliminate bussing? Two thousand busses run in Clark County every day. Diesel fuel is expensive. Just bussing them to the schools without giving them the books and tools to learn with is just warehousing students. This is a big decision. Do we ask parents to help participate in this plan? Every department is suffering. Do we ask parents to bring their children to school so we can make certain we have books and supplies with which to learn? Teachers already spend their own money for instructional supplies for their classrooms. If we are cutting out more supplies, there goes the 4-percent COLA. They will continue to dip into their personal funds to supply their rooms. I know the discussion about bussing is a tough discussion, but maybe parents will participate. Our option is eliminating the tools in the classrooms so we can just warehouse students. I would like a discussion on this.

MR. DUGAN:

We do not view this as a complete cutting out of any purchase of textbooks or instructional supplies. We view it as a reduction. We view this as a postponement in many districts of adopting new textbooks. It would not be that students would be coming to school with no textbooks, but they would be coming to school without the latest edition in certain textbooks.

It is my feeling that by reducing the textbook allocation, we will not lose students from attending school. If we cut out transportation, as much as it would be great to say that parents will be able to step up and bring their children to school, the fact is many parents, due to their work schedules, completely rely on transportation to get their children to school. We have not discussed this as a group, but personally, as the Superintendent of the Washoe County School District, I would emphatically hope that we would not eliminate transportation. That would affect our attendance rate, which would affect our graduation rate, a rate we know is nothing to be proud of right now.

SENATOR CARE:

There is going a ballot question this fall in Washoe County to increase sales tax.

MR. DUGAN:

That is correct. The proposal is to increase in sales tax by 0.25 percent and ½-cent increase in the government-service tax.

SENATOR CARE:

How would those funds be used if it passes?

MR. DUGAN:

For renewal of our older schools in Washoe County.

SENATOR CARE:

Clark County has one as well. It is a bond question for the construction of new schools.

No one wants to make cuts. I may have to support this reduction, but I am concerned if we do this, how then can we publicly support the ballot questions? It seems to be an inconsistency.

MR. DUGAN:

I am speaking only for Washoe County. Ours is a tax increase. I do not believe Clark County's is. We realized even before the reduction was going to occur that we could not have picked a more difficult time, considering the economy, to go forward with a ballot question. A committee of 15, chaired by Senator Townsend, agreed it was important to address the issue of equity with regard to our older schools and the students attending our older schools. To not go forward and give the voters an opportunity to vote on this would be a disservice and would be ignoring the serious problem Washoe County has. You are correct it will be difficult for us.

SENATOR SCHNEIDER:

I would like to address the bussing issue again. I think a lot of our problem with schools is that there is no commitment by the parents. I am asking that parents make a little commitment. I am frustrated by what happens in our schools. I almost feel we are warehousing them now. Our spending per pupil is one of the lowest in the Nation. We do not have the supplies in schools. Many children show up at school who are dysfunctional students, and they go home at night where there is no follow-up with the parents. Maybe it is time we made parents realize what is happening with our education system. If you pass your bonds and we are still cutting the books programs, there is a possibility there could be schools without books. New schools will be built without books.

Maybe it is time that everyone in this State realizes what is going on. Parents must step up and participate. Some Legislators on the other side of the isle may be in love with private schools. I went K-12 to a private school. My parents made certain I got to school. They had to make that commitment. They paid money. They had to pay for books. I think that maybe we are too easy and it is time for people to step up. This could be a way to get their attention.

SENATOR RAGGIO:

Is there anyone else from the public who would like to testify? No?

SENATOR HORSFORD:

I have questions regarding the Trust Fund for Public Health. This is an endowment, and I am concerned that we are depleting the full amount. What will this mean to the agencies currently being funded by this endowment in the coming years?

MICHAEL J. WILLDEN, (Director, Department of Health and Human Services):

As I understand this transaction, it would take the entire amount out of the Public Health Trust Fund. In round two of the budget cuts, we used \$9.5 million in the \$914 million shortfall. This would take the remainder out of that trust account. The other line item would take the April 2009 payment to that trust fund and put it in this reduction package. It will take that trust fund to "zero" and we will have to rebuild that trust fund. The services provided out of that fund are only funded from the interest earned. Fiscal Year (FY) 2009 would be funded, and FY 2012 would have to start the process of having to rebuild the trust fund. There will be no interest payments until the fund starts to rebuild.

SENATOR HORSFORD:

Based on the principal of the endowment, which is currently at \$27.3 million, it was \$36 million earlier this year, but funds were taken from the fund; the interest off that principal was what was used to fund agencies. Will the deposits of \$3 million or \$4 million be made quarterly?

MR. WILLDEN:

Yes and no. The Trust Fund for Public Health gets about \$4 million per year from the Tobacco Settlement. We are taking the fund to "zero." The first time we get \$4 million back, if the law stays the same, we would only be able to spend it in the next year whatever the current interest rate is on \$4 million. We would only be able to fund programs off that interest versus the interest off the current \$27 million.

SENATOR HORSFORD:

Please elaborate on the types of programs this fund supports. What currently has been funded by this money? Will this be starting in FY 2010?

MR. WILLDEN:

Since the fund was created in 2001, we have funded 72 projects out of this endowment fund totaling about \$5.7 million. Twenty-five of those projects, \$1.7 million, dealt with the promotion of public health and the prevention of illness and disease. Thirteen projects were related to research projects relating to public health, primarily, to the University of Nevada Reno and the University of Nevada at Las Vegas for research related projects. There are 20 projects for \$1.3 million, which were for direct health-care projects. Most notably would be the Saint Mary's Foundation that does oral-health programs for pregnant women. There were a few other programs totaling about \$1.2 million. They are out reach, presentation, education, prevention of disease and research related to public health issues.

SENATOR RAGGIO:

It is my understanding that part of the reductions in your Department will entail what has been referred to in this Committee as Assembly Bill No. 4. That is a bill that "revises provisions governing the list of preferred prescription drugs to be used for the Medicaid program." There is concern about the necessity of that. Please explain this to the Committee.

MR. WILLDEN:

When we talk about the \$106 million in cuts mentioned by Senator Coffin, it is at the 3-percent reduction level.

The Department of Health and Human Services is targeted within that \$106 million at about \$30 million. There is a list of cuts to get to that \$30 million figure. A large share of that money is in the Medicaid program because it is the largest program we have. Mr. Duarte had to come up with \$20 million in reductions.

The Preferred Drug List (PDL) legislation was created in the Seventy-second Legislative Session. PDL is commonly used in the health-care industries where we have a Pharmacy and Therapeutics Committee to make decisions about what are preferred drugs and what are not preferred drugs to be prescribed.

State health employees have PDLs. Most health-care organizations have PDLs. This legislation passed in 2003 prohibited the Department from having a PDL on five or six classes of drugs. Typically, they were the anti-psychotic, anti-convulsion and anti-rejection drugs for transplants. People are often confused and think if we make a PDL then these drugs will not be paid for by Medicaid. That is not the issue. What is an issue is if you have a PDL, Medicaid can get supplemental rebates from the federal government by having a PDL process. By having that process, we can save about \$1 million a year in the General Fund.

Another option to this is that we do not have a PDL. The legislation currently exists. To get to the balance of the \$30-million target we will need to do something else to make our share of the \$106-million balance.

The third option is that you can change this legislation to say, rather than excluding these drugs from the PDL process, you can put them all on the PDL, and then, we will get the supplemental rebates, not all of them for the \$1 million in savings but \$300,000 a year in savings. We can look at these three options.

We use a drug matrix in the Mental Health System where the physicians prescribing medications to our mental-health patients already use a matrix similar to what we are asking to do in Medicaid.

SENATOR RAGGIO:

This requires formal legislative action. How will this affect those who are presently on drugs that would not be on such a list?

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy):

The way we put together our estimates of savings associated with putting four classes of medications on a PDL was to exclude those individuals already on a particular drug. We would

grandfather in those individuals currently on a particular medication and not impose a change of medication on them.

As we went down the list of reductions we had to take and the proposals we had to develop, we focused on the issues we felt where there was no harm to be caused to individuals. We had operated a PDL since 2004 for conditions as serious as mental illness, transplant rejection, cardiac and other serious medical conditions. Those medications are on a PDL. Patients have access to medications for those diagnosis, and they are not harmed by the PDL. The representation that this creates harm to patients is inaccurate. Many states have these drugs on PDLs and operate them safely. We feel this is a prudent and safe opportunity for us to save \$1 million. Otherwise, we would have to go to some other provider group and reduce services or reimbursements to them, causing them harm. This is a prudent approach. We have safely operated a PDL since 2004 for conditions just as serious as mental illness or kidney transplant rejection.

SENATOR RAGGIO

This applies to Medicaid.

MR. DUARTE:

Yes, this applies to Medicaid.

SENATOR RAGGIO:

Is there any other information to present before we take questions?

HAROLD COOK (Ph.d., Administrator, Division of Mental Health and Developmental Services):

Mental Health has been operating a PDL for about four years. We have a medication matrix. Physicians are required to follow the structure that gives them the guideline for what medications may be prescribed for new patients.

As with the Medicaid plan, if a patient comes to us on a particular drug, that patient will remain on that drug. We have been doing this for four years, and it has not created any complexity. If a doctor determines a patient needs a particular drug, which is not part of the matrix at that time or is not part of our formulary, there is a process for the physician to get a medical-director consult and have that medication authorized.

The physician completes a form that provides a clinical justification for the nonformulary medication. That form is reviewed by the medical director and the chief pharmacist in the region in which the physician practices, and once the authorization is provided, then, the medication is prescribed.

SENATOR RAGGIO:

That would apply to the new patients.

DR. COOK:

That would apply to anyone.

SENATOR RAGGIO:

Would that same process be available if this were enacted with respect to Medicaid patients?

MR. DUARTE:

Prior authorization requests for those who need a particular drug which is considered nonpreferred has been in operation since 2004. It does require the patient to meet certain clinical criteria, but that clinical criterion is developed by physicians and pharmacists who advise the Department of our Drug Use Review Committees. It is based on sound clinical practices and has been in place for four years.

SENATOR RAGGIO:

Is that an easy process, or is that something you have to jump through a ton of hoops to achieve?

MR. DUARTE:

There is not a ton of hoops, Mr. Chair. There is only one hoop. It is a telephone call to our fiscal agent, First Health Services Corporation, or a fax that indicates the patient meets criteria. It is commonly done with every other health plan and with all the other patients who utilize the free medications in our system.

We are not keeping people away from the medications they need because a class of drugs, for instance a typical anti-psychotic, is precluded from being put on a PDL. First, it must be determined that all of the drugs in the class being considered are therapeutically equal; that they do the same thing. There must be no difference depending on who makes them or what their brand is. If there are clinical differences, the committee can determine that and set criteria so that it can be safely determined; if a patient meets certain criteria, they get the nonpreferred drug. These medications are first determined to be therapeutically equal. Making one preferred has no clinical impact on patients.

SENATOR RAGGIO:

It is our understanding that if you are given this authority in the Medicaid program, it will give the State \$1 million in savings over FY 2009.

MR. WILLDEN:

In 2009, the savings are just under \$1 million. In 2010 and 2011, we project just over \$1 million in savings.

SENATOR WIENER:

In a past session, I introduced a bill that passed with the support of Mental Health, rural hospitals and the Department of Corrections. It was for the one-time recycling of pristine drugs. These are drugs that are still in their pristine packaging, such as a blister pack. Often in nursing homes or hospitals, a medication is prescribed and there is an adverse reaction or a patient has died and the rest of the prescription is just discarded. A rural hospital was willing to bring in a garbage bag full of drugs they had to destroy. That bill allowed one recycling opportunity with the original pharmacy. We were told that millions of dollars would be saved in the State. What has happened with this law? Medicaid, Mental Health, Corrections, rural hospitals and nursing facilities were affected by this bill.

MR. DUARTE:

My understanding is that was an issue that needed to be addressed, primarily, by the Board of Pharmacy. While we were supportive, I know there were some issues, and I am not familiar with all of the issues and concerns raised by others.

SENATOR WIENER:

I would like it if we could find out because testimony stated we could save millions of dollars. It would be good to know if that would be a resource for revenue savings. Could we have staff request the Board of Pharmacy to explain why we have not done this? How would we do this?

SENATOR RAGGIO:

Staff has an ability to do this.

SENATOR CEGAVSKE:

I was the sponsor of the cancer-drug bill last session. It was a fight between the pharmaceutical industry and the trial attorneys. Neither would agree upon the language and the bill died.

SENATOR WIENER:

No, I am talking about the one I got passed a few sessions ago.

SENATOR HECK:

Mr. Duarte, you indicated you were already doing this anti-rejection medication.

MR. DUARTE:

No, we are not.

SENATOR HECK:

I thought you said you were doing this with people who had transplants.

MR. DUARTE:

We are doing it with individuals who have other diagnosis.

SENATOR HECK:

It was mentioned that you are doing this with a mental-health matrix. Does that include the anti-psychotics?

DR. COOK:

Yes, that includes the anti-psychotics and the mood-disorder drugs.

SENATOR HECK:

I am wondering how you do it in Mental Health on your matrix when it is prohibited and is already one of the exempted ones under the current law. It seems to be a back-door method to get past the PDL exemption. It sounds like you put into place a PDL without calling it a PDL.

MR. WILLDEN:

You have to look at the statute, NRS 422, where this PDL is. Mental Health does not have the kind of language in their statutes that restricts them from doing this.

SENATOR HECK:

But are you doing this for Medicaid patients?

DR. COOK:

The matrix is recommended for all patients including Medicaid patients. There is a single standard of care for everyone.

SENATOR HECK:

The Division of Mental Health and Developmental Services (MHDS) has a de facto PDL for Medicaid patients. I wondered how that came about. Under Medicaid, it is one of the exempted classes. If there is an individual, who is on a specific medication and has switched to Medicaid from a third-party insurance supplier and that medication is not on the PDL, what happens.

MR. DUARTE:

They are grandfathered into the system.

SENATOR CARLTON:

A statement was made earlier that the PDL is similar to what other states do and that we have a similar program for state employees. Is this correct? The difference between having Medicaid patients on something like this versus an employee program is that employees have choices. There may be three different tiers. There may be a generic, a preferred and a nonlist medication. The generic may be \$7; the preferred \$14, and the nonlist may be \$30, \$40 or \$50. Medicaid patients cannot afford to make those types of choices. When they come onto this list to compare a PDL for a Medicaid where we are their safety net, they do not have the same options as other people. I do not think that is a fair comparison.

MR. DUARTE:

Unlike commercial tier-structured pharmaceutical benefits which can preclude someone from getting a drug at a reasonable co-pay that they cannot afford, we cannot do that. Many of my employees cannot afford full-list pricing for third-tier products offered through the Public Employees Benefits Program (PEBP). They cannot afford it and cannot get those medications. Rather than restrict those medications, Medicaid must make them available through a prior authorization process. That is the difference. We are under federal law required to make them available unlike a commercial payer, which is not. There are greater protections still in place even with the PDL for a Medicaid client versus a client insured with a commercial insurance or employer-sponsored insurance.

SENATOR TITUS:

Why did we not do this originally? If it is so good and saves so much money; we do it other places; it works so well, and there are such great protections, why now and not initially?

MR. WILLDEN:

In the Seventy-first Legislative Session in 2001 and the Seventy-second Legislative Session in 2003, this was quite a battleground over these classes of drugs and PDL versus no PDL. There was a compromise made. A lot of testimony was given about the Mental Health System and what we would do in the Mental Health System using, at that time, what was called the Texas Medication Algorithm, which has morphed, into the matrix Dr. Cook talked about. There was a lot of back and forth between Pharma, the manufacturers of drugs and the health-care system. This was a compromise agreement at the end of the 2003 Session. We have gone along in this compromise-agreement mode for five or six years now. We are looking at this as an opportunity for about \$1 million a year in savings. As Mr. Duarte said, if we do not do it here, in what we believe as a no-harm group or category, we will have to go into the hospital rates and reduce them further. We will be putting people on senior waivers longer. This is a tough time for us as it is for you.

SENATOR TITUS:

I appreciate that, but it seems to me it would be more straightforward and intellectually honest to say this was a good idea at the time, but now, we cannot afford it so we are trying to look at what hurts less.

MR. WILLDEN:

If there is a fall back and this does not go, I would look at the other option of putting them all on the PDL. That gives us a chance to get some experience to come back to session.

SENATOR COFFIN:

What troubles me is that this is a major piece of legislation to the people who are in the mental-health community and to people who are concerned with proper medication for patients. This is a bill that surfaced with no warning and no posting for the public to see. The advocates for the groups who are recipients of these medicines are not here to restate the things that caused us to put this legislation into effect. I think this is inappropriate. This is a nickel-and-dime approach. I know you are under the gun. You are not here voluntarily. You are here to try to do the Governor's bidding, to stick it to the people who cannot afford any better.

I remember the testimony through the years on the efficacy of drugs. I may be a layman, but I know and I believe from the medical community and from the psychiatric community that there are differences. This troubles me. This is wholly out of the purview of this Special Session. I object, and I have heard enough to know that you should not be here on this subject. To try to save perhaps \$300,000 this year makes me wonder why we should put a lot of people through this grief. It is inappropriate. I do not know whose idea it was, but it is out of place.

MR. WILLDEN:

It was our idea, not the Governor's Office. We pushed this forward.

SENATOR COFFIN:

You have been asked to find money. This would have been a lot easier if the COLA had been suspended. Naturally, it was not and that is good. On the other hand, I have been on a quest for money and I do not find much support for that, yet. This is where I do not think we should go.

SENATOR CEGAVSKE:

This was a huge discussion in 2003. It was a battle. It was a compromise between everyone. To undo this is wrong. This is not the forum we should be discussing this in because of what we went through during those Sessions to get where we are today.

I agree with Senator Coffin on some of the points he made. I am concerned about the patient. We heard testimony from so many different people who talked to us about access to appropriate medications and the length of time it takes for a person to go through a panel to determine whether they can have a different type of drug.

I do not agree with taking a patient from a generic drug and then deciding to try a different one. The generic drugs do not go through the same type of assessment as name-brand drugs. We know that. I do not want to use people as guinea pigs. I know, Mr. Duarte, that you and I disagree on this, but I am concerned exactly about what you discussed concerning transplant patients. If we deny any access for any of that, who pays for that in the end? It is the taxpayer; I have a concern for the patients, but do I not think this is the appropriate time to undo something that took us an entire session to get to where we are. This is not an appropriate place to undo what we did.

MR. DUARTE:

I do not like the representation that Mr. Willden or myself or any of our staff are treating people like guinea pigs. We are not. We are looking out for their health and safety with a limited budget, and we believe this is a safe methodology, a safe approach to do that. To suggest that somehow we have been derelict to our moral obligation is something I strongly disagree with.

SENATOR RAGGIO:

If there not sufficient support for this component of the 3-percent reduction which is the essence of Assembly Bill No. 4, what would be the alternative suggestion? I understand this is something that represents a potential savings for FY 2009 of \$1 million.

MR. WILLDEN:

When we were at 4 percent, my cut target was \$38 million. At 3.3 percent, the cut target is \$30 million. There is an \$8 million difference. When I heard we were going from 4 percent to 3.3 percent, it would allow us to take a hospital-rate reduction that would have been 10 percent down to 5 percent.

SENATOR RAGGIO:

Are these reimbursement rates?

MR. WILLDEN:

Yes. I am going to recommend the hospital-rate reduction be the balancing mechanism, or I will have to implement the thousand nicks and wounds to every program I have.

SENATOR RAGGIO:

I would like a show of hands as to who favors Assembly Bill No. 4. There are seven votes in favor. The measure fails.

Are there any other questions?

SENATOR COFFIN:

I would like to ask Dr. Cook a question. Could he explain what the \$106 million in cuts is comprised of?

In the budget accounts for Mental Health, there is a column of figures in the document. I cannot tell where the cuts are in Mental Health. What is the 3-percent cut for Mental Health?

DR. COOK:

At the 4-percent level, the cut from the Division is about \$10,649,000. At the 3-percent level, it is about \$8,446,000. This is distributed among the 8 agencies within in the Division.

SENATOR COFFIN:

That cut is on top of the 4.5 percent cut so far?

DR. COOK:

That is correct. We have already implemented the 4.5-percent cut, and this would be on top of it.

SENATOR COFFIN:

You have cut \$20 million out of Mental Health?

DR. COOK:

Something on that order; although, you have to realize that in the 4.5-percent cut much of that was a Capitol Improvement Project (CIP) and one shot-equipment, which did not affect the programming.

SENATOR COFFIN:

So, before us is a cut for another \$8.6 million?

DR. COOK:

Yes.

SENATOR COFFIN:

There are a number of advocacy groups, and there is the Mental Health Advisory Board. Have they been involved in the cuts? Have they had anything to say about where the cuts could be made?

DR. COOK:

The Governor's Commission on Mental Health Developmental Services has had input into this. At the local level we have advisory boards who have had input with respect to the regional issues.

SENATOR COFFIN:

When you say input, what do you mean? Did they speak for or against these cuts, or did they give you some advice?

DR. COOK:

Basically, it is advice. Across the board, people have rejected the notion of the cuts. The Advocates for Mental Health are upset that funding is being cut and service will be delayed. It is less dire than it sounds. We are not, at this point, cutting services. We are cutting growth. We have not yet cut any program.

SENATOR COFFIN:

When you say "delaying growth," you do not mean "services"? You do not mean people accounted for when we passed this budget a year ago? You are saying that the growth does not include services?

DR. COOK:

No, I am not saying that. I am saying that people who are currently in services are not seeing their services cut. What we are doing is delaying the implementation of programs that would allow us to serve more people.

SENATOR COFFIN:

The waiting list continues and gets longer.

DR. COOK:

That is correct.

SENATOR COFFIN:

What is the waiting list in southern Nevada versus northern Nevada?

DR. COOK:

I would have to get back to you on that.

SENATOR COFFIN:

We do not have time. Could you give me an estimate?

DR. COOK:

Depending on the program for the outpatient counseling, we probably have several hundred people on the waiting list.

SENATOR COFFIN:
Statewide?

DR. COOK:
Yes.

SENATOR COFFIN:
How many do we have in southern Nevada?

DR. COOK:
The bulk would be in southern Nevada.

SENATOR COFFIN:
Are we talking 70 percent, 80 percent or 90 percent?

DR. COOK:
Probably 70 percent.

SENATOR CEGAVSKE:
Is the waiting list one that you actually keep the name of the person, or is it just that you have been contacted?

DR. COOK:
The way we maintain waiting lists throughout the Division is that the individual is referred or that person contacts the particular program. We take the individual's name and personal information, and we maintain that information on the waiting list.

SENATOR CEGAVSKE:
Do you then keep checking to see if they still want to remain on the list?

DR. COOK:
That is correct.

SENATOR RAGGIO:
Let us now discuss Assembly Bill No. 3. It provides for the transfers of funds as indicated in the bill. They are self-explanatory. This authorizes the transfer of these funds.

MR. GHIGGERI:
Assembly Bill No. 3 provides for the transfer of the reserve funds that have been identified on the estimated-shortfall and potential-solution worksheet. Included in that legislation is the transfer from the Disaster Relief Account, the transfer of funds from the Homeowner's Disaster Relief Fund, the transfer of funds for the Care of Sites for the Disposal of Radioactive Wastes, the transfer of funds from the Criminal History Repository, the transfer of funds from the Fund for Mortgage Lending Reserve and the transfer of funds from the Industry Development Revenue Bond Fund Reserve.

SENATOR CARE:
In the first six items, the figures represent out of how much?

MR. GHIGGERI:
In the Disaster Relief Account, there is \$9.6 million in that account. In the Fund for Mortgage Lending, there is a current balance of \$6.98 million. The current balances have been identified on the worksheet.

SENATOR CARE:
I see that now, thank you.

SENATOR CARLTON:
Under the item for the Central Repository at \$4 million, the Central Repository processes the fingerprints people submit with their fees. I would like to know how the Repository ended up with and extra \$4 million.

MR. GHIGGERI:

They also receive what is called Court Administrative Assessment Fee revenue. They have built up a reserve. They receive revenue from more than one source. They receive money not only from people requesting fingerprint checks, they also receive the fee revenue. They have overtime built up a reserve.

SENATOR CARLTON:

That would be money from tickets?

MR. GHIGGERI:

Yes, that is part of the allocation of funds. Five or six years ago, the Administrative Assessment Fee did not come in at the level anticipated, and they received General Fund dollars to fund that shortfall.

SENATOR RAGGIO:

Is there a motion to recommend do pass on Assembly Bill No. 3.

Senator Lee moved to do pass Assembly Bill No. 3.

Senator Hardy seconded the motion.

Motion carried. Senator Coffin was absent for the vote.

SENATOR RAGGIO:

We have the reprint as explained by Mrs. Erdoes for what will be called Senate Bill No. 4. This makes the change she referenced. Do we have a motion to introduce?

Senator Townsend moved to introduce BDR 16-28.

Senator Nolan seconded the motion.

Motion carried. Senator Coffin was absent for the vote.

KEVIN C. POWERS (Senate Legal Counsel):

I am handing out the bill from last session, which Senate Bill No. 4 is amending. This information was requested. It is the entire bill from last session.

Senator Townsend moved to recess the Committee of the Whole seconded by Senator Amodei, until the call of the Chair.

Motion carried.

At 4:49 p.m.

Senator Raggio presiding.

SENATOR RAGGIO:

The Committee of the Whole will reconvene at this time to authorize a BDR to provide for the reduction in the component dealing with textbooks, instructional supplies and instructional hardware. This will include the trigger mechanism discussed earlier in the Committee of the Whole.

Senator Townsend moved to request a bill draft.

Senator Nolan seconded the motion.

Motion carried. Senator Coffin voted no.

SENATOR RAGGIO:

Before you is the draft of the BDR 5-24. This will be designated as Senate Bill No. 5.

Senator Townsend moved to introduce BDR 5-24.

Senator Hardy seconded the motion.

Motion carried unanimously.

SENATOR RAGGIO:

The Committee of the Whole heard a discussion on Assembly Bill No. 4 which was the issue concerning the PLD. It is the Chair's understanding that there may be a desire to look again at that bill and to consider an amendment.

SENATOR WASHINGTON:

After some discussion, we found out that, based on the funding and the actual \$1.6 million from the PDL program, the Department indicated that they might have to take the money from two other agencies, from either long-term care or the Hospital Reimbursement Program. The Hospital Reimbursement Program has already suffered a \$10 million hit, and this would be two to one. This would go from \$10 million to \$20 million. I would like to introduce an amendment or to introduce an amendment that would sunset it in 2009. Then, it could be revisited during the next Session.

SENATOR RAGGIO:

The Chair understands what you are saying that Assembly Bill No. 4 in its present form considered by the Committee though not acted upon, that the motion would be to request an amendment to be drafted for that bill. A motion would be in order to request an amendment that would sunset at the end of the fiscal year, the provisions of that bill.

Senator Washington moved to request an amendment to Assembly Bill No. 4.

Senator Townsend seconded the motion.

Motion carried. Senators Woodhouse, Mathews, Coffin, Wiener, Carlton, Cegavske vote no.

On the motion of Senator Townsend and seconded by Senator Amodei, the Committee did rise, return and report back to the Senate.

Motion carried unanimously.

SENATE IN SESSION

At 4:55 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee of the Whole, to which was referred Assembly Bill No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 27, 2008

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 1, 2.

JASMINE N. SHACKLEY
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee of the Whole:

Senate Bill No. 4—AN ACT relating to parole; revising provisions governing meetings of the State Board of Parole Commissioners to consider prisoners for parole; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee of the Whole.

Motion carried.

By the Committee of the Whole:

Senate Bill No. 5—AN ACT relating to education; contingently reducing the amount previously appropriated for textbooks, instructional supplies and instructional hardware; revising provisions governing the required expenditures for textbooks, instructional supplies and instructional hardware by school districts; and providing other matters properly relating thereto.

Senator Raggio moved that the bill be referred to the Committee of the Whole.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 3.

Bill read third time.

Roll call on Assembly Bill No. 3:

YEAS—21.

NAYS—None.

Assembly Bill No. 3 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Senate Bills Nos. 4 and 5, with Senator Raggio as Chair of the Committee of the Whole.

Motion carried.

Senate in recess at 5 p.m.

IN COMMITTEE OF THE WHOLE

At 5:06 p.m.

Senator Raggio presiding.

Senate Bills Nos. 4 and 5 considered.

The Committee of the Whole was addressed by Senator Raggio; Kevin C. Powers, Senate Legal Counsel; Senator Lee; Senator Titus; Senator Carlton; Senator Cegavske; Senator Nolan; Senator Care; Jerry Hafen, Director, Department of Public Safety; Senator Coffin; Senator Horsford; Senator Beers; Senator Heck; Dorla Salling, Chair, State Board of Parole

Commissioners; David Smith, State Board of Parole Commissioners and Senator Townsend.

SENATOR RAGGIO:

The first order of business is Senate Bill No. 4 revising provisions governing parole hearings. Mr. Powers, please explain the provisions of this bill and the effects of it. Brenda J. Erdoes, Legislative Counsel, indicated to us that the original bill draft was changed to accommodate some concerns.

KEVIN C. POWERS (Senate Legal Counsel):

This bill developed as a result of two bills passed out of the last Legislative Session and how they ultimately combined to work together in an unanticipated way. The first bill was A.B. 510 of the Seventy-fourth Legislative Session; it changed the way parole was considered and made it easier for parole to be granted to certain offenders. This created an influx of offenders who were eligible for parole. At the same time, S.B. 471 of the Seventy-fourth Legislative Session adjusted the proceedings for granting parole. The influx of all the new offenders eligible for earlier parole and those new procedures initially overwhelmed the State Board of Parole Commissioners. This legislation is designed to suspend some of those new procedures for approximately a year to give the Parole Board an opportunity to catch up the backlog of cases. After that, on a moving forward basis, all these additional statutory provisions will be implemented. There is no constitutional right to parole. It is a matter of legislative grace. Once a state legislature provides the opportunity for parole, the parole proceedings must meet the minimum constitutional due-process requirements. In addition, a legislature could always grant additional statutory rights above the minimum constitutional due-process requirements. S.B. 471 of the Seventy-fourth Legislative Session extended some additional statutory rights beyond the minimum constitutional due-process requirements. It is those additional statutory rights that are going to be suspended for one year by this legislation, Senate Bill No. 4. This is a temporary extension of the additional statutory rights but the minimum constitutional due-process rights will still remain in place if the Legislature enacts this legislation.

SENATOR RAGGIO:

As previously stated, I would add that this is not computed within the anticipated budget-shortfall savings. However, it has been indicated there may be some savings in the interim as a result of our enacting these provisions at this time. Are there any additional questions?

SENATOR LEE:

That has been a concern to me. I came here to work on a specific problem for the State. I have seen bills come across that are not germane to what we are here for. If these things are happening regularly, then, maybe, we should decide that we could have regular annual sessions to clean up things that are not occurring properly. Next Session, we should consider doing that because if these are this important and we had to wait for the regular session, then, obviously, we are missing other important things.

SENATOR RAGGIO:

Good comment.

SENATOR TITUS:

I want to make sure I understand this since it has gone through several versions. I voted against A.B. 510 of the Seventy-fourth Legislative Session because I thought on the one hand that we were letting a lot of inmates out of prison and on the other hand we were not providing the services that allow them, once they are out, to become citizens with meaningful lives so they can transition into society. Rather, we just sort of threw them out there and who knew what would happen. All the evidence was that there would be increased recidivism. They are out there but will commit more crimes and that seemed to me like Willie Horton. Now, I am looking at this and we are trying to speed up the parole process to get more inmates out faster. We would be granting parole to inmates we are just talking to on the phone, inmates we are not even

meeting with, not getting a lot of information on and are not having full hearings so that it speeds up the process, inmates we are then turning out into society to potentially prey on citizens without the services for them when they are released to ensure that does not occur. Yet, we are speeding up the process to parole them. Is that not what is happening with this?

SENATOR RAGGIO:

Do we have someone here available from the Division of Parole and Probation? It would be helpful if someone from that Division could be here to respond to that type of question. Mr. Powers, do you have a response for Senator Titus?

MR. POWERS:

With the minimum constitutional due-process requirement still in place, there will still be the need to obtain evidence, to review that evidence and for the Parole Board to exercise their judgment in a reasonable noncapricious, nonarbitrary manner. It will not necessarily speed up the process in the sense of the decision making, but it will remove some of the costs of transporting inmates to the hearing and of dealing with the other additional statutory rights that the original legislation had included in it. Still, the Parole Board will be required to deliberate and make a reasonable decision. I would believe they would make those decisions based on the facts and evidence before them.

SENATOR TITUS:

I would hope they would too, but under this now, they can make a decision by talking to the parolee on the phone instead of in person. Is that correct?

MR. POWERS:

That is correct. If the Parole Board chooses to develop procedures for just a telephonic hearing, they could do that under the suspension of this legislation. They could choose to implement procedures that do not require the inmate to appear in person before the Parole Board.

SENATOR TITUS:

That troubles me. I have never known a telephone conversation that could be as meaningful as meeting with someone, looking them in the eye, talking to them and trying to figure out if they should be turned back out into society.

SENATOR CARLTON:

In the interest of full disclosure, I have been married to a parole and probation officer for over 25 years, 17 of those years in the State of Nevada. With that said, I had some concerns over the original version of this bill knowing the impact it would have of basically draining the prison system and moving people through the parole system much quicker. It is interesting to note that one of the unintended consequences was we had felons being paroled a lot faster and on the probation side we had felons getting off probation a lot faster than we had misdemeanants. Mr. Powers, I am trying to figure out when we remove the language of "not denying parole" what we are going back to? What procedure will be reinstated?

MR. POWERS:

Could you refer to a specific page and line?

SENATOR CARLTON:

The only thing I have is proposed Senate Bill No. 4.

SENATOR RAGGIO:

You should have before you both the bill draft request which is BDR 16-28 and the printed version which was envisioned to be Senate Bill No. 4.

SENATOR CARLTON:

That would be page 3, section 1, subsection 9. It seems to me that this proposed bill is just the exclusion of that lined out language.

MR. POWERS:

That is correct, and these are all of the original statutory rights that the Legislature granted last Session above the minimum constitutional due-process rights. These will be suspended for one year.

SENATOR CARLTON:

Can anyone opine on what we will be going back to? Will we be going back to the original system that had the problems we were trying to fix?

MR. POWERS:

It will provide the Parole Board the opportunity of reverting to the original system or modifying that system in any way they see fit as long as they meet the minimum constitutional due-process requirements. Removing these from the statute means they are not required to do these additional things by law. It does not mean they cannot improve their procedures and implement on their own additional procedures that may be an improvement over what you are referring to that has occurred in the past.

SENATOR CARLTON:

A lot of the things happened with the two-to-three different bills that impacted the process. Between the open meeting law, changing the parole hearing and changing the transportation issues a lot of those things all ended up meshing together and pretty much created the mess we have. Then, we had distinct inactivity on the Parole Board's side. I am weary of just trying to fix one small section if we are not going to try to deal with some of the other issues. We have already lost 30 probation officers, and as of July 1, 2008, 20 more will be gone. That is a total of 50 officers down, and we are taking inmates out of the prison system and putting them on the streets without supervision. I am not sure what we will actually solve with this bill.

SENATOR CEGAUSKE:

Because we have heard that we do not have enough probation officers to supervise, I am concerned about the workload of the probation officers and what will happen to ensure that we can have the new parolees supervised.

SENATOR NOLAN:

On top of the issues we have identified with Parole and Probation that my colleague has pointed out, we have a formula for disaster. Not only for that Division but within society, because we are not only losing parole and probation officers, but on July 1, the Adam Walsh Act becomes effective. With this Act, we will be taking an additional 2,000 plus parolees and moving them from tier-1 status, which is essentially nonoffending, nonthreatening, nonpedophile predators or rapists and are classifying them as tier 3. This will now require what few parole and probation officers we have who are monitoring the tier-3 dangerous sex offenders and throw another 2,000 ex offenders at them. These people are sex offenders, but more than half of them are not classified as dangerous pedophiles or predators. There was an editorial recently in the *Las Vegas Review-Journal* which really qualified this is an enormous problem within the Division that they are not going to be able to manage. I think we have an opportunity here to address this. The federal government does not require the Act to be implemented until July 2009, and there are already a number of ongoing legal challenges across the Country. I would imagine there would be some significant cost savings if we held off on the implementation of the Act until some of the civil lawsuits are processed. Then, we could get into the next Legislative Session and really see what the implications of putting that into effect right now are going to be. It sounds like it will be a social disaster if that is implemented now because we will not have anyone to monitor the most serious sex offenders.

SENATOR RAGGIO:

I am told that the Chair of the State Board of Parole Commissioners is on her way so we will have the opportunity to address some of these questions to her when she arrives.

SENATOR CARE:

I cannot address the substantive comments about the Parole Board or the Division, but as I understand it, all this bill does is suspend procedural mechanisms we enacted in 2007 for a year. There are a couple of notice provisions, both pre-and post-hearing, and then some options for the potential parolee, the inmate, as to representation and making a statement on his own behalf. Is that correct Mr. Powers?

MR. POWERS:

That is correct.

SENATOR CARE:

I do not want to put words in your mouth, Mr. Chair, but we are not sure if this bill would save money or if there is a possibility of that.

SENATOR RAGGIO:

As I understand it, we have no way to measure the potential savings that may result. The potential savings would result only if the expedited procedures here that are envisioned would, in effect, allow them to move more rapidly to release what I was assured would be low-risk offenders. That may have some fiscal impact in the interim legislative period during FY 2009. I know that is not a complete answer for you, and we are not calculating this into the budget reductions. As I understand it, we are using the opportunity of a special session to formally authorize this in order that it can be implemented, and that may result in some savings. I cannot answer anything more than that.

SENATOR CARE:

We are not imposing any sort of standards, if you will, upon the Parole Board? That discretion is not disturbed?

SENATOR RAGGIO:

The Director of the Department of Public Safety is here. I hope he has walked into this meeting knowingly, and I would like for him to join us in this discussion on proposed Senate Bill No. 4. Mr. Hafen, are you familiar with the discussion we are having on this bill?

JERRY HAFEN (Director, Department of Public Safety):

No sir, I am not. I just walked into the room.

SENATOR RAGGIO:

Mr. Powers, would you explain to him what this bill accomplishes in reference to parole hearings.

MR. POWERS:

It is the representatives for the Parole Board who we need to be discussing this with.

SENATOR RAGGIO:

We will hold our questions until those representatives arrive.

SENATOR NOLAN:

Mr. Hafen, what is the cost of the implementation of the Adam Walsh Act, and what impact will it have on the Division of Parole and Probation?

MR. HAFEN:

The legislative mandate for the Adam Walsh Act is July 1, 2008. There are several aspects to the Act, and the one that affects the Department of Public Safety and the Division of Parole and Probation as well as the Division of Information and Technology is that there is a sex-offender website that reclassifies sex offenders from tiers 1 and 2 to tier 3. We estimate that, with the reclassification, there will be approximately 1,500 to 2,000 sex offenders who will be reclassified to the higher level of tier 3. The Act is problematic in a few ways. We have already built the data base through the Department of Information Technology, and it is ready to go live on July, 1. Since then we received a number of actions through our office, a number of lawsuits that would request a stay of the Act. We have already received stay orders in Clark and

Humboldt Counties. The problem for Information and Technology is that we cannot go "live" for separate counties because it is a statewide database. I have requested an opinion from the Office of the Attorney General on whether or not we can stay the entire State for the flipping of the switch that would actually stand up the database with the reclassification of the sex offenders. The second aspect of the impact on the Division of Parole and Probation would be that anyone currently under the Division that is reclassified from tier 1 or 2 to a tier 3 would then continue to be supervised, so that would not be an increase in supervision. The impact would be that we would have to physically go out and meet with the new tier 3 offenders to ensure they meet the requirements of the Act. The biggest impacts will be on the Department of Motor Vehicles with the annual driver's-license renewal requirement as well as the 90-day registration with the local county sheriffs.

SENATOR COFFIN:

The Division of Parole and Probation failed an audit this year primarily because of a lack of employees. You were down 55 employees, and now, you will be down 65 or 70. What will happen if we do not add personnel to your budget?

MR. HAFEN:

I am very much aware of the most recent audit and prior-year audits that basically reflected the same type of information. It is very disparaging, and it was obvious when I was appointed as the Director that would be the focus of attention for my office to correct those things. I was not completely convinced the answer was strictly to add more personnel. I looked at the organizational structure of the Division, and during that time period, the current Chief, John Gonska, decided to leave the Division. I appointed a new person to replace him who has great organizational skills. I tasked him with looking at the structure of the organization for ways to continue to provide the maximum amount of service with existing personnel. I think he has done a wonderful job, and when the results of the audit come in, I think you will see he made some adjustments to personnel and procedures in response to the audit that will be pleasing to this body. If we use the existing personnel properly, I feel we can complete the mission.

SENATOR RAGGIO:

I am going to defer this until the representatives from the State Board of Parole Commissioners arrive. We will now move to proposed Senate Bill No. 5.

SENATOR HORSFORD:

I would like to offer an amendment to this bill. The Legal Division has advised me it is germane to the provisions of this bill. I recently met with Bruce James, Chair of the Spending and Government Efficiency Commission regarding his vision for the Commission. I fully support the concept of identifying ways to address spending and government efficiency, but according to Mr. James and other information I have gathered, the Commission does not have authority to review educational oversight including K-12, the Department of Education and higher education. I think that is problematic recognizing one of the largest components of the state's budget is education, and if we are looking for ways to find efficiency and streamline government, we need to start with one of our largest budget items. This amendment expands the scope of the Commission to include the authority over education. It would increase the Commission membership from 12 to 16 members allowing for 2 additional appointees from both Senate and Assembly leadership. In subsection 5, paragraph (d), to also expand the Commission's oversight role dealing with education to determine whether the pupils enrolled in public schools of this State are provided comparable educational opportunities. Taking into consideration those pupils who reside in rural or remote areas of the State and pupils who reside in large urban school districts and in its review, the Commission shall identify inequities in public education and determine whether those inequities are a result of the current system of financing public education. This is meant in the spirit of the Governor's Executive Order. Again, it was something brought to my attention when I met with Mr. James, and I fully believe if we want to find efficiencies and streamline government, we have to allow this Commission to work on those items dealing with education. I would respectfully request this Committee consider this amendment. Based on the discussions today as it relates to the cuts and adjustments being made

to education, we need to ensure this discussion occurs within the Commission and we receive the necessary reports and recommendations from them. I would request a roll-call vote on the amendment.

SENATOR RAGGIO:

The Chair has not accepted your motion.

SENATOR HORSFORD:

Point of order, I have the motion, and if there is a second, then, the Committee would determine this based on a majority vote.

SENATOR RAGGIO:

As the Chair, I like to rule on whether we are going to accept the motion or whether it is germane.

SENATOR HORSFORD:

With all due respect, are you going to accept my motion and a second?

SENATOR RAGGIO:

No, not at this point. I would have appreciated the Minority Leader having told me that you anticipated doing this. We are on an expedited mission to try to deal with the issue before us. I will speak to your comments before accepting a motion. I would indicate to you this is an appropriate matter that can be taken up at the next Legislative Session in February. Whether or not this is considered germane, it does not appear to me to be that. All this amendment does is get us into another long discussion and debate about the impact and role of the Commission. It does not serve us well at this time. I wish you would have discussed this with us before because it is now late, and I am going to rule that this motion is not in order. Please state your point of order.

SENATOR HORSFORD:

With all due respect, as I understand the rules, there are no rules for the Committee. The rules we adopted this morning indicate any member of the Committee can bring forth an amendment to a bill. With a second to that amendment, the Committee, with a majority vote, can pass the amendment.

SENATOR RAGGIO:

In the interest of time, I will accept your amendment.

Senator Horsford moved to adopt the amendment.

Senator Woodhouse seconded the motion.

SENATOR CEGAVSKE:

I agree with the comments of the Chair that it would have been nice to see this amendment earlier. I do not think there is enough to the amendment. If you were to do something like this you should have included K-16 and the Department of Education. We have had too many surprises today, and this is another one.

SENATOR BEERS:

Why is there no fiscal note on the amendment? The amendment has language that the Director of the Legislative Counsel Bureau shall provide administrative support to the Commission. That would carry a cost which is the wrong direction for purposes of this Special Session.

SENATOR TITUS:

I do not think that is new language. I think this is funded the same way it has always been funded, and the members of the Commission pay their own expenses. I will leave that to someone else to answer. As far as the complaint, now, that this has come as a surprise, everything that has been introduced in this Special Session has been a surprise including the Governor's speech last night on the eve of the Special Session. This is no different from the way

this whole Special Session is being run. We got a surprise bill asking us to speed up and streamline the parole process so we could release inmates faster and hopefully save money in that budget. We got a surprise bill from the Department of Health and Human Services requesting a change in the way medicines are covered for people who have liver transplants and other serious health issues. I suspect there are more surprises coming. That is a poor excuse not to consider a bill that would require some accountability and oversight of education. We all know that funding education is the biggest piece of the State budget. Yet, you have this so-called Commission looking at government expenditures that do not even address education. We are now being asked to vote on a measure that eliminates books and instructional equipment, but we are not going to ask for accountability of the school districts. That makes no sense. I think this is a worthwhile amendment and deserves consideration.

SENATOR RAGGIO:

I am requesting a roll-call vote on the motion to amend proposed Senate Bill No. 5.

SENATOR HECK:

As a point of clarification, according to the Executive Order, the Commission is responsible for its own staffing and resources. Having the Director of the Legislative Counsel Bureau provide administrative support to the Commission would result in the necessity of a fiscal note.

Motion failed. Senators Amodei, Beers, Cegavske, Hardy, Heck, McGinness, Nolan, Raggio, Rhoads, Townsend and Washington voted no.

SENATOR RAGGIO:

I will accept a motion of do pass on proposed Senate Bill No. 5.

Senator Beers moved to do pass Senate Bill No. 5.

Senator Townsend seconded the motion.

Motion carried. Senators Care, Carlton, Coffin, Horsford, Lee, Mathew, Schneider, Titus, Wiener and Woodhouse voted no.

SENATOR RAGGIO:

Members of the State Board of Parole Commissioners are now here. I will now reopen the hearing on proposed Senate Bill No. 4. Are you familiar with the provisions of this proposed bill?

DORLA SALLING (Chair, State Board of Parole Commissioners):

Yes.

SENATOR RAGGIO:

I will allow a limited period of not more than 10 minutes for questions that Senators may have on this proposed bill.

SENATOR COFFIN:

Were you given notice that this bill was coming?

MS. SALLING:

The Legislative Counsel Bureau requested we work with them on suggested changes that may speed up the process. We met with the Legal Division this morning, and that was the first time we actually saw this proposed bill. We have worked with them and are happy to be involved in the process.

SENATOR TITUS:

The purpose of this is to speed up the process so you can move more inmates out of prison and into society. Is that your understanding?

MS. SALLING:

That was not my understanding. My understanding was the purpose of the language was to clear up the backlog and not necessarily to grant or deny the inmate. We do not determine that until we actually see the inmate.

SENATOR TITUS:

What is the backlog?

MS. SALLING:

Mr. Smith is our analyst and can speak to the question better than I.

DAVID SMITH (State Board of Parole Commissioners):

Currently we estimate the backlog to be approximately 900 inmates. The backlog consists of inmates who are eligible for release on parole today or past eligible, meaning they could have been eligible a month ago but have not yet had a hearing. It does not mean those 900 inmates would be granted parole. If we had a 50-percent grant rate, 50 percent could already be released at this time.

SENATOR TITUS:

Can you give an estimate of how many you think will be affected? Why is this coming now? Is it not coincidental this is coming now when we are looking for ways to save money that this kind of speeds it up and gets more people out of the prison system? I think Dr. Austin was here during the last regular Legislative Session saying we need to move more inmates out and that would save a lot of money for the Department of Corrections. Do I remember that correctly?

MR. SMITH:

There were two bills passed, A.B. 510 and S.B. 471 of the Seventy-fourth Legislative Session. A.B. 510 increased the amount of credits earned for inmates to reduce their sentences, and it sped up parole eligibility dates. That created the initial "bubble." The amendments to S.B. 471 afforded inmates rights to be present and have representation for parole hearings. The delay in applying the credits caused the "bubble" to occur at the same time the new laws affording those rights to inmates occurred. We have been carrying this backlog of hearings since October. What is happening now is we have asked for funding, received it and are close to being staffed. Even with that staffing, we do not expect to be through the "bubble" until later this year. Right now, it is mainly the denials that are causing the problem. We have been concentrating on more favorable cases over the last several months, but there are a large number of inmates who are higher-level, higher-risk who we have been avoiding simply to try to keep the prisons moving inmates through the system. Hopefully, we can get through, cut the backlog and get back to a regular schedule.

SENATOR CARE:

This bill is contemplated in item number 14 of the Governor's Proclamation. You were outside of the room, but the comment was made that we are not sure what the fiscal impact may be or if this saves money. How does this play into what I understand to be the underlying theme of this Special Session?

MS. SALLING:

I am not certain it will save money, except that if an inmate was going to be paroled then the inmate would be paroled in a timelier manner, therefore, getting the inmate out of the system. It is hard to estimate. We do not know until we actually see the inmate who is going to be paroled or not. They certainly will not be paroled until they have had a hearing or until we review them. I think that is the idea behind this. It is to catch up on the backlog and move anyone out that can be safely moved out. Public safety is always our concern.

SENATOR CARLTON:

A.B. 510 and S.B. 471 of the Seventy-fourth Legislative Session created this "bubble," but the "bubble" was allowed to grow from the time the two bills passed in June 2008 until the time the Parole Board decided to take these two issues seriously. That was in October and November, that they started dealing with the good-time credits and got people going and got

things rolling. Now we are changing the plan and eliminating section 1, subsection 9, where it says "you may not deny." When you look at the double negative in this, are we going back to the original plan, which was one of the problems? Are we going out of the pot and into the fire on this? Are we going to have even more problems with getting inmates their hearings and getting this expedited and in getting inmates where they are supposed to be, which is either in or out of prison?

MS. SALLING:

For some reason, there is an impression that the Parole Board waited to take action. S.B. 471 of the Seventy-fourth Legislative Session did not go into effect until October 1, 2007. We did not wait on that bill. A.B. 510 of the Seventy-fourth Legislative Session went into effect July 1, 2007. Because it was passed on the last day of the Session, we did not have any input on the bill. The Department of Corrections was in the process of implementing a new computer system, and as soon as the credits were applied, they had to reprogram their entire computer system. We could not even obtain an eligibility list to figure out who was eligible for parole until August or September. We kept everyone informed and certainly did not sit on anything. We operated as fast as we could, but the day it became effective, we were immediately behind by hundreds, if not thousands, of hearings. As fast as we could do hearings, it was like a hole filling with water. We would clear cases out, but more would come in. We worked as fast and as diligently as we could. We did not write this bill. It was something we just saw this morning. It is not something we are promoting, but once we saw the bill, we did not object to it. I think it is a good idea and a good solution to alleviate the backlog and allow us to catch up. It has always been the intention of the Parole Board to apply the laws you pass. This is a way to try to get caught up and get the inmates who are eligible for parole through the process. Those who are not will be dealt with as well.

SENATOR RAGGIO:

Is there a motion to recommend a do pass on Senate Bill No. 4?

Senator Townsend moved to do pass Senate Bill No. 4.

Senator Nolan seconded the motion.

Motion carried unanimously.

SENATOR RAGGIO:

We now have before us Assembly Bill No. 2. It passed out of the Assembly with a vote of 42-0. This bill clarifies the applicability of sales taxes to certain meals provided by business entities. This essentially relates to the gaming industry and its employees, independent contractors, patrons or guests. Mr. Powers, please explain the bill and its purpose to the Committee.

MR. POWERS:

In this bill, we are dealing with the sales-and-use tax and a recent Nevada Supreme Court case in which the Court itself characterized the use tax as an ever elusive concept. At times it can be an abstract concept. In Nevada, we have an excise tax on the sale or purchase of tangible personal property. There are two components to the excise tax; a sales tax and a use tax. The concept behind the excise tax is that if anything escapes the sales tax it would be covered by the use tax. If a sale, for whatever reason, on the original transaction was not exposed to the sales tax, then, the use tax would apply. Conversely, when the use tax does not apply, generally, the sales tax applies. The idea is to capture all sales and purchases on tangible personal property. That is the idea of this excise tax. When you speak of the sales tax and use tax, we are essentially talking about two sides of the same coin.

The most recent decision of the Court involves complimentary meals provided by businesses to their guests, patrons, employees or independent contractors. In 1979, a statutory amendment to the sales-tax act exempted food for human consumption from the sales tax. In 1984, the voters put in a constitutional amendment that also exempted food for human consumption from the sales tax. That exemption does not extend to prepared food intended for immediate consumption. The food exemption is generally groceries bought in a retail store, and they are exempt from

sales-and use-taxes. Meals prepared in a restaurant and served to patrons of the restaurant are subject to sales-and use-tax.

The question before the Nevada Supreme Court in the recent case of *Sparks Nugget, Inc. v State ex rel. Department of Taxation* was whether use tax applied to a complimentary meal provided by the business entity to its patrons and employees. The Court limited holding to the use tax and said, that under the food exemption, the State could not impose a use tax on those complimentary meals. However, the Court left open the possibility the State could impose sales tax on the complimentary meals if consideration for those complimentary meals was shown. By consideration, I mean if it is shown that the business receives some type of valuable benefit or detriment occurs that justifies imposing the sales tax on that transaction. Because the Court opened up the possibility that the sales tax could apply in those circumstances, the Legislative Counsel Bureau examined the existing statutes. Upon examination of the existing sales-and use-tax statutes we determined that, under existing law, we believe complimentary meals are subject to the sales tax. We believe that consideration is provided and the existing statutes do provide for the implementation of the tax. However, to remove any doubt, we believe it was necessary to propose clarifying legislation, which is the purpose of Assembly Bill No. 2, to clarify that when, on a regular basis, a business provides complimentary meals to its patrons and employees, there is in fact consideration. That consideration is the valuable goodwill the business receives from its patrons by providing those complimentary meals. It is also the consideration of the convenience to the employer by having its employees remain on site during their meal break. The employer is receiving benefits when it provides complimentary meals. We believe, under the existing statutes that is sufficient consideration to impose the sales tax.

I want to emphasize that up until the Court's decision, the Department of Taxation has been collecting use tax on the complimentary meals. This bill clarifies that although the use tax is not the appropriate moniker to put on the tax, the sales tax, the compliment to the use tax is, and the tax would continued to be collected as it has been in the past. This is not changing anything other than clarifying it is not the use tax being applied but the sales tax. Essentially, it is not changing law but clarifying the law.

The bill says it applies both respectively and retroactively. I need to clarify exactly what we mean by retroactive. General-rule statutory construction is that when legislation clarifies law but does not change it, the result of that legislation is to explain what the original statutes meant, and therefore, that interpretation, by subsequent legislature, applies to the original legislation. In a sense, it is retroactively interpreting the legislation, but simply saying, this is what the law meant at all times. This bill provides that any pending refund application or case involving complimentary meals would be subject to this clarifying legislation as long as the applicable statute of limitations of three years did not bar the claim. If a complimentary meal issue was older than three years and is not pending before the Department at this present moment, this bill will have no impact. This bill simply says that when you come with your refund claim under the use tax to the Department, because you are saying under the Court decision you are entitled a refund, the Department will then apply the sales tax and use this legislation in applying that sales tax. Because this is clarifying legislation, it is appropriate and constitutional for it to apply to those pending applications for a refund.

That covers the main highlights and points of this legislation.

SENATOR RAGGIO:

Mr. Powers, in a discussion with Ms. Erdoes, it is the Chair's understanding this does not require a two-thirds majority vote because this retains the status quo. Please expand upon that.

MR. POWERS:

That is correct. It does retain the status quo.

SENATOR RAGGIO:

I would point out this is item 18 on the Governor's Proclamation list for items to be considered. This bill is consistent with the Governor's Call for this Special Session.

SENATOR TOWNSEND:

As Chair of the Legislative Commission, I authorized the Legal Division to file an amicus brief, which is exactly what Mr. Powers explained to you today in this case. This case has not been finalized. There is every indication that the Court will reconsider its decision and utilize our pleadings to review the case. As a result of that, you have to look at the uniqueness of the day we face today. If this Special Session had not been called, our only option would have been the amicus brief. That is where it would stay, and that would be our position. It is no different than what Mr. Powers explained. I am hopefully explaining process to you and not the substance of our argument. We are here, today, and as a result, I would recommend we give no further consideration to this because there is already a process in place to deal with this issue. We believe that our argument is strong and that it will prevail along with the Department and other interveners. Therefore, we will have won the case and will move on and continue to collect the tax. If we do not win, we have the 2009 Legislative Session to have a legitimate debate about what I think is an important and interesting component of tax law. Mr. Chair, at your pleasure, I would recommend we no longer consider this bill.

SENATOR CARE:

Mr. Powers, if this bill was enacted and adopted would it moot the matter before the Court?

MR. POWERS:

Thank you, Senator Care. I first want to thank Senator Townsend for the comments, but I disagree with him on one point.

Because the case of *Sparks Nugget, Inc. v. State ex rel. Department of Taxation* involved use taxes and this bill involves sales taxes, I do not think it necessarily moots the case. In that case, we are arguing the food exemption does not apply at all to those transactions because the food is not purchased for domestic or household use. It is essentially purchased at wholesale and then used to provide the complimentary meals. If we were to prevail in that argument, then, the Department would be able to impose the regular use tax on those transactions. If you can impose a use tax, then, you do not have to impose the sales tax. I believe the constitutional question of whether or not the food exemption applies to those wholesale-type transactions is still a live controversy whether or not this legislation passes. If the legislation passes, it would ensure that if the Court said "you cannot apply the use tax under the Constitution," it would be clear the sales tax was still an available avenue.

SENATOR CARE:

The intent here is to clarify. Was there any discussion, either in the opinion or going back, if the Legislature has ever addressed what it intended as to the applicability of either the sales or use tax to complimentary meals?

MR. POWERS:

I do not believe there is any past legislative history dealing specifically with the issue of complimentary meals. However, there are several statutes that do relate to the issue of prepared food intended for immediate consumption. One of those statutes is being amended in this bill, NRS 372.727. That statute was, essentially, providing the Department with guidance in how to calculate the tax on complimentary meals. By enacting the statute, telling the Department how to calculate the tax on complimentary meals, the Legislature was essentially, if not explicitly, but implicitly, saying the tax should be imposed on complimentary meals. In fact, the Legislature has acquiesced in the taxation of complimentary meals for many decades.

SENATOR CARE:

With the retrospective application, we are the Legislative Branch and are entitled to enact, amend or delete policy. It is policy; is that correct?

MR. POWERS:

Correct, but in this context, because we have the sales-and use-tax act approved by the voters as a referendum and we have a constitutional food tax exemption, the power of the Legislature is somewhat circumscribed by those provisions.

SENATOR CARE:

Mr. Chair, this is not intended to be a surprise, but before we leave the subject of this bill, at some point, I am going to offer a concept for an amendment.

SENATOR RAGGIO:

In the interest of time, could you describe the concept?

SENATOR CARE:

On the subject of the Legislature being able to enact tax policy, and if you will, take it back, I just voted against the approval of taking \$47 million from textbooks so it is a fair question to me of what is the alternative. Last session, we enacted a bill that gave what I think was hundreds of millions of dollars in property and sales-and use-tax abatements to projects on the Las Vegas Strip. I would propose an amendment to repeal those abatements. I think it is germane because it is sales-and use-tax, and secondly, the Governor's Proclamation says "any other actions directly related to a solution for the projected General Fund revenue shortfall for the current biennium."

SENATOR RAGGIO:

I am not clear on what your repeal proposal is.

SENATOR CARE:

The "green" Leadership in Energy and Environmental Design bill. Some of that money would be local funds, but some of it would have gone into the state coffers had we not done that.

SENATOR RAGGIO:

Mr. Powers, do you have a comment on that?

MR. POWERS:

Not directly on Senator Care's proposal on the question of whether or not it would be germane. It would have to be decided by Legislative Counsel. She would have to examine the amendment in relation to the bill.

I would like to elaborate on something I said earlier. Essentially, what we are asking within this legislation is a two-prong approach. On the litigation approach, we are still making the argument, under the petition for rehearing under our amicus brief, that the use tax should be applicable. At the same time, under this bill, we are clarifying that if the use tax is not applicable then the sales tax is. This two-pronged approach is to ensure that this tax-revenue stream is preserved, whether we get the Court to agree with our argument or if we clarify the existing legislation through this bill.

SENATOR RAGGIO:

The Chair would note again that the passage or nonpassage of this measure is not going to affect the budget reduction plan we are considering. It will not result in dollars. What I am hearing is this bill is to clarify legislative intent. I am going to take one more comment, and then, I will ask for a show of hands as to whether or not the Committee wants to process this bill.

SENATOR TITUS:

I did not understand it that way. I understood that, if we did not pass this, they were asking for about \$100 million back so it does have an impact on income.

I am proposing an amendment to this bill. My amendment has to do with NRS 365.185. That statute deals with the State's motor-fuel tax. Under this provision, the State of Nevada increases the State motor-fuel tax whenever the federal tax rate is decreased. The amount increase must be equal to the amount by which the federal tax is decreased. I have been assured by our Legal Division that making this amendment to this bill is appropriate under the court upheld one-rule provision that applies to excise taxes. Furthermore, this is appropriate under the Governor's Proclamation for the Special Session, section 19. There has been a lot of recent talk by presidential candidates, members of Congress and both political parties about a possible federal gas-tax holiday. If this were to pass and occur, the citizens in only four states; Nevada, Oklahoma, California and Tennessee, would not be able to enjoy this short-term respite at the pump where gas prices are fast approaching \$5 per gallon. This is most unfortunate because Nevadans are being squeezed at the pump like never before. The amendment I have provided to

you would not change Nevada's law in the larger picture because I think it is sound policy, but allows Nevada to continue to raise funds for needed transportation projects if federal dollars fall short. The change I am proposing would be limited to a temporary gas holiday if one is declared by Congress. In short, it would exempt temporary gas holidays declared by the federal government from the existing requirement that Nevada gas prices automatically increase. I believe the benefits to Nevada citizens would outweigh any disadvantages to the State because a federal gas holiday would be short term and would only have minimal impact on the overall federal transportation funds and would most likely be accompanied by provisions that would make up for any losses in revenue. Passing this amendment would be like passing a second stimulus package for the citizens of Nevada. Putting a little more money in people's pockets would enable them to spend more elsewhere, thus, stimulating the economy and increasing needed sales-tax revenues in particular and State revenues in general. I request you give this serious consideration to see if we can give Nevada citizens relief at the pump should the federal government pass a national gas holiday.

SENATOR RAGGIO:

I would like a show of hands of whether there is a desire to process Assembly Bill No. 2.

The indication is there is not a majority on this Committee who desire to process this bill. All 10 Democratic Senators of the Committee voted to process the bill, and all 11 Republicans Senators on this Committee voted not to process Assembly Bill No. 2.

On the motion of Senator Townsend and seconded by Senator Amodei, the Committee did rise, return and report back to the Senate.

Motion carried unanimously.

SENATE IN SESSION

At 6:38 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee of the Whole, to which were referred Senate Bills Nos. 4, 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 4.

Bill read third time.

Roll call on Senate Bill No. 4:

YEAS—13.

NAYS—Care, Carlton, Coffin, Mathews, Titus, Wiener, Woodhouse—7.

ABSENT—Cegavske.

Senate Bill No. 4 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 5.

Bill read third time.

Remarks by Senators Horsford, Schneider, Woodhouse, Raggio, Beers, Titus and Carlton.

Senator Horsford requested that the following remarks be entered in the Journal.

SENATOR HORSFORD:

Thank you, Mr. President. I would like to say that if I did anything during Committee of the Whole in bringing forth an amendment without being able to share it in advance, I did it only because this process is moving so fast and we are getting the bills ourselves, it is hard to know exactly what we are voting on or the provisions.

As I look at Senate Bill No. 5, clearly, I know that members of this body and the Assembly have worked hard over the years to provide supplemental appropriations for textbooks and instructional supplies and technology for our classrooms across this State regardless of the location. I know that in rural communities because of the effect of getting technology we cannot get T-1 lines into some of the schools. Students are competing as they graduate from high school, not just against students in Nevada but across the Country and ultimately across this world. They should have access to technology. I know many schools in my district do not have adequate textbooks. Many times students go home, required to do homework, but do not have a book to do what is needed.

We talk a lot about parental participation in education. As a father with three young children, two in school, I take this responsibility seriously. If parents cannot help their children do their homework because they do not have a textbook, it makes learning difficult.

While I know the Majority Leader and the Speaker have worked hard to bring a proposal here to balance this budget, I cannot support a bill that does that to education.

I believe there are alternatives. There are other areas in this budget that can be cut. We have tried to make recommendations. If we are going to cut education, then, I think we need to ensure that we are looking at the efficiency of how education is run both in public education, K-12, and in higher education.

My colleague, the Senator from Washoe County, and I were on a news program this week. We know there are layoffs happening right now in higher education. Some are happening at the administrative level. We all want the resources to get into the classroom whether in K-12 or higher education.

I believe that we cannot balance this budget on education alone. Too much has been cut from K-12 education. The 4.5 percent cuts made, unilaterally, by the Governor and the additional cuts of 3 percent will have a direct effect in the classroom. I want to do whatever it takes to reach a consensus and to balance this budget as we are constitutionally required to do. I will no longer do it on the backs of children in public education.

I thank my colleagues for working so hard to ensure the COLAs were maintained. The proposal by the Governor to eliminate those COLAs was rejected. I am glad other schemes proposed were not considered. There is a way to balance this budget. We do not have to do it by taking textbooks from the classroom, by taking away instructional supplies for teachers or by not having technology in the communities. We are living in a different world. This is the 21st Century. Our children are competing against the best and the brightest. They are competing in a global economy. We do not equip teachers with the tools they need to teach our children. We do not help parents ensure that they have the supplies to support their children with textbooks. I think we have to do better. This is no way to run a state. It is no way to say that we support education. We have not made education a priority despite all of the grandstanding, the rhetoric, regardless of party affiliation. It is time we take a stand. I will be voting "no" on Senate Bill No. 5, and if this bill results in a \$48 million shortfall, I am willing to stay up all night to find a way to balance this budget, not through this mechanism.

Thank you to my colleagues for listening.

SENATOR SCHNEIDER:

Thank you, Mr. President. Clark County represents 75-80 percent of the students in this State. If we pass this, we will cut the basic support guarantee to \$4,958. We are nearly last in the Nation. We have fallen back. We are cutting the per-pupil expenditure again. From what we approved, from what was passed in the last session 18 months ago, we are falling back from there.

If you do not think the cost of living and the cost of food in the cafeteria, the cost of diesel fuel for the busses, the cost of electricity for the schools is not affecting us, you are fooling yourself. These costs are going to the school districts. They are paying more dollars every single day, and now, we are cutting what they are doing. We are taking books out of the classroom.

A month and a half ago, I met with Summer Hollingsworth who is head of the NDA. I complained to Summer that I did not like the advertising campaign he is doing in California. He is advertising to the lowest common denominator. He is saying, "Come to Nevada and do not pay taxes." That is what he is advertising. I told him that is a "no win" situation. People who come here do not want to pay anything, let alone their fair share. They do not want to pay for our schools. As the conversation progressed, he told me he could not recruit to Las Vegas because of our national-average school-funding level. Good high-tech companies look at that number and they pass on us. They say they cannot get employees to move here because of how we fund education.

Two weeks ago, I was in Albuquerque at Sandia National Laboratory. I was honored to have been appointed to a national select committee for energy, the ACE Committee for NCSL. We were talking with 60-year-old scientists. These are the scientists who won the Cold War for us. The day we were there they did a fusion experiment. They had a big explosion and created fusion. That will be our energy in the future, some 30 years from now. We asked what we could do for them. There were 12 legislators from across the Nation there, and the scientists told us we could fund education better. There are no scientists to replace them. They are worried about that. They have been meeting with different universities and different businesses to try to figure out how to get scientists for this Country. Their solution is that the states must put more resources into education. Now, we are cutting those resources, and we are falling behind in the national average. This is a horrible message for Nevada to send to the rest of the Nation.

I will vote "no."

SENATOR WOODHOUSE:

Thank you, Mr. President. As a retired teacher and school district administrator, unfortunately, I will have to stand in opposition to this bill. I understand the reasons for it, and I applaud the efforts of leadership for finding the cuts because we have to do this.

However, education has taken a terrible hit over this last year and over many years as Senator Schneider indicated; basic support for schools has continued to decline. This is one more cut I do not believe education can take. As a teacher and as a principal, I joined with my colleagues over the years trying to find ways to bring more resources into the classroom. It is important that our teachers be given the resources they need. Textbooks are part of that; instructional supplies are a part, and so is the technology that we have tried to put in our schools. They need the instructional hardware to do so. We have worked too long and too hard to take away this opportunity. This cut is one that desperately and deeply hurts our children, our students in our schools, who are trying to achieve that academic excellence that we all are requiring of them. This hurts those teachers who are trying to deliver that education to them. I will vote "no" on this bill.

SENATOR RAGGIO:

Thank you, Mr. President. This late afternoon and early evening has been full of surprises. The distinguished Minority Leader indicates it was not intended that way, but it has certainly been that way. When he refers to the fact that the Speaker and I have somehow constructed this plan, he omits the fact that the Minority Leader, at all stages of these negotiations, has been part of the process. Now, we hear him suggest that somehow grandstanding is involved. I would say if there is any grandstanding, it is taking place right now on the floor of this Senate. It is suggested that we now should not pass this bill which is an integral part of the reduction plan essential to having a balanced budget. It is suggested that we should spend some time here without any preparation and start talking about finding another \$40 million. This translates into: we should take some time here to raise taxes.

This has become a partisan divide after there has been a bipartisan effort to create this plan in both Houses. I am not in this Special Session to suggest that we raise taxes to find \$40 million. We have had extended discussion already in the Committee of the Whole as to what the impact to this is. Let us start with reminding ourselves where this proposal comes from. This proposal

comes from K-12. This proposal came from the Superintendents who suggested that this is the area resulting in the least impact.

We are not taking away all of the money that is allocated for Fiscal Year 2009 for textbooks, instructional supplies or other items. You have heard Superintendent Duggan who spoke on behalf of all of the Superintendents for their association. This solution was a response to the possibility of delaying salary increases for teachers and state workers.

We are mindful that we do not want to have layoffs. We do not want to have people hurt by less income. This has been a nonpartisan effort. All of a sudden tonight, everything has turned into a partisan display. It is unfortunate, uncalled for, and it does not help us with the bipartisanship displayed by the Assembly leadership. I was given assurances that your caucus, Mr. Minority Leader, had agreed to this reduction plan with maybe one exception. This is another surprise. Some of the amendments should have been shared before we heard about them for the first time in the Committee of the Whole.

The hour is getting late, and if this is going to go down on partisan lines or upheld on partisan lines, I think it is a lack of responsibility in dealing with this matter. All of us have education as our first priority. It is not confined to either the Democrat Party or the Republican Party. I stand here not only as a Senator but also as a father of a teacher who teaches fourth grade. I do not want to hurt education. None of us does. Do not use this subject for campaign purposes to indicate that somehow by passing this that we are balancing the budget on the backs of teachers or our schoolchildren. I resent that. It has no place in these discussions.

I suggest that if we assume our responsibility and that we do this with less impact, that we be as fiscally responsible as possible in these tough times; that this is a component that has been agreed to and understood and is an integral part of a responsible effort to reach a balanced budget with this reduction plan.

Thank you.

SENATOR BEERS:

Thank you, Mr. President. I did some quick math, and after this reduction, the textbooks, instructional supplies and instructional hardware fund will give \$125 per child left to be spent during the next fiscal year with the ability to double that if the money comes back. When this Special Session was first discussed, it was described in terms of either having to reduce the COLA or lay people off. It was apparent we did not have the votes for adjusting the COLA; that left layoffs as the option if the Legislature was unable to come to an agreement. I believe that voting "no" on Senate Bill No. 5 is a vote for laying teachers off, and that is why I will be voting in favor of this bill.

SENATOR TITUS:

Thank you, Mr. President.

I am almost at a loss for words. I cannot believe the arguments I have heard offered on this floor to justify cutting textbooks, instructional supplies and modern technology to schools. You can blame this on partisanship. You can cast personal aspersions. You can try to distort the way things have occurred during the last 12 hours, but the fact is voting for this is voting to cut funding, not for administrators, not for salaries, but for the tools that go directly into the hands of children. These are tools that allow them to make better scores on all the tests we have said they have to take to meet the requirements for "No Child Left Behind" that has been imposed on us, to meet the challenges of the future, to learn and to have the opportunity to fulfill their god-given potential.

When I hear this is about partisanship, this is about campaign speeches or this is about taxes, none of that is true. It is an attempt to cover up an effort to undermine public education. That is the bottom line. A few minutes ago, I will remind this body, that against the advise of our own Legislative Counsel Bureau's, Legal Division, who we are always praising for their expertise and their legal acumen and their ability to lead us down the right path, some members of this body voted not to ensure that we get the \$100 million from gaming that we have always gotten, that they have always paid but now they are asking for back because of a Supreme Court decision. Here is your choice: You vote to give gaming yet another \$100-million tax break, you vote to cut schools technology and books by \$50 million, and you refuse to even take a vote on a gas

holiday for the public. Those are the facts. Those are your priorities. That is fine but just accept them and do not try to blame them on other things that do not exist and have not been the case.

SENATOR CARLTON:

Thank you, Mr. President. I had not planned on rising, but when I heard the partisanship and campaigning comments, I wanted to make certain that everyone understands that the "no" vote I am going to cast is as a citizen.

My husband brought me to the State of Nevada because he got a better job and our children could go to better schools. That was the reason we came here. We have been here 17 years. My daughters got a good education. It started to get a little rocky, later on, as we started to see disintegration in the schools. That scared me. I had hoped we would be able to fix some of those things. I hoped if we really did value education, that we would be able to step up and say, "Yes, this is important; this is what we are going to do."

Now, I am facing that stage of my life where there are probably going to be grandchildren. I do not want my daughters and sons-in-law leaving southern Nevada to go somewhere else so that their children can get a better education. That is a sad thing. We do the best for our children; we want even better for our grandchildren. We want to help our children give that to our grandchildren. I do not want my children to have to make a choice of leaving the family they have grown to love in southern Nevada and all of their friends, teachers and the other wonderful people they have gotten to know through the political process they have been involved in since they were teenagers.

These are reasons I am voting "no." It comes to a point where you cannot say, "I can justify this any longer." This is just too much. I cannot go there.

Senators Townsend, Raggio and Beers moved the previous question.

Motion carried.

The question being on the passage of Senate Bill No. 5.

Roll call on Senate Bill No. 5:

YEAS—12.

NAYS—Care, Carlton, Coffin, Horsford, Mathews, Schneider, Titus, Wiener, Woodhouse—9.

Senate Bill No. 5 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

Senator Horsford requested that his remarks be entered in the Journal.

Thank you, Mr. President. Since debate was cut off during our discussion of Senate Bill No. 5, I would like to respond to a few items. First, I do not regret bringing the amendment forward to expand the authority of the Spending and Government Efficiency Commission to include their oversight authority for public education and higher education. I regret the manner in which I brought forth the amendment and that I did not reach out to all of my colleagues in advance, but because of the manner in which these proceedings are advancing, it is hard to make certain that all of these items are heard. When my colleague, the Majority Leader, represents I was part of the negotiations, that is correct. However, as the Majority Leader is aware, there were multiple levels in that negotiation, and I made every effort to be a part of those negotiations to the best of my ability. I made it clear there were concerns with the proposal, and the issue on textbooks was one of those concerns.

While my colleague in Senate District 6 says there will be \$125 per student available for computers, textbooks and classroom supplies, I ask him, as an accountant, how we can balance that budget when computers cost at least \$500, when teachers are taking money out of their own pockets to buy supplies for the classrooms and when the average textbook costs \$50 to \$75. Based on the standards we have imposed on middle schools, high schools and elementary schools, whether in math, English, science or in all the areas where students are required to meet standards, they must be equipped with the tools to do so.

Yes, we do need responsibility in balancing this budget, but we also need leadership as my colleague from North Las Vegas says, balancing responsibly. No one has brought up taxes. We are talking about making tough choices. Those choices can be made. However, they do not have to be made on higher or public education. I want the record to be clear that this is a deliberative process. We were called into this Special Session not to just agree to a deal but to deliberate on how best to balance this budget. Cuts have already been made for \$913 million, and now, we are to cut \$275 million more. That is \$1.2 billion. It is cutting deep into essential services for the citizens we represent.

I am here for one purpose only, and that is to represent my constituents. My constituents have told me that they cannot continue to have substandard schools, substandard tools in the classroom or to not have the cost of living increasing, something we need, so we can recruit and retain teachers. While I have tried very hard to work in a bipartisan manner to reach a consensus, in the end, it is my job to represent my constituents and to show leadership when the time is necessary. That time is now.

Senator Lee requested that his remarks be entered in the Journal.

Thank you, Mr. President. This was never a caucus issue. Each in our caucus has a mind of their own. We lead one way; we work one way; we vote whatever way we want. I want the press area to know this was not a caucus vote. This was built upon how you felt about where Nevada was going.

The way I consider it, our State is a business. I could not find the \$45 million more dollars needed, but I know the first order of business is to stay in business. We have to keep this State afloat. We have to keep moving forward. We have to keep trying to do things that make this State better. We are a sick state right now, as are other states. When I was in high school, we went to half-day sessions at one time. We fixed it later, and all of us got good educations. I am assuming that we are going to come back next Session and work hard to stop this immediate situation.

I know we are not talking about raising taxes, but it is time that many businesses pay attention to what they are really giving to this State and what they are receiving from this State. More people are benefiting than are losing.

My vote, today, is to tell you that my vote was cast to keep the business of the State in business, but we need to tell business that we need to pay attention because we are hurting our children and ourselves. We are not hurting each other in here. As a Democrat in this body, there is not a person in my caucus who puts a thumb on me and tells me how to vote nor do I do that to them. We are individuals. We believe as we do, and we respect the decisions of each other. Thank you.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 7:13 p.m.

SENATE IN SESSION

At 9:14 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 27, 2008

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 5.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 2.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 4, 5.

JASMINE N. SHACKLEY
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 2.

Senator Nolan moved that the resolution be referred to the Committee of the Whole.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 5.

Senator Nolan moved that the bill be referred to the Committee of the Whole.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering Assembly Bill No. 5 and Assembly Concurrent Resolution No. 2, with Senator Raggio as Chair of the Committee of the Whole.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 9:16 p.m.

IN COMMITTEE OF THE WHOLE

At 9:17 p.m.

Senator Raggio presiding.

Assembly Bill No. 5 and Assembly Concurrent Resolution No. 2 considered.

The Committee of the Whole was addressed by Senator Raggio.

SENATOR RAGGIO:

We have a resolution and a bill from the Assembly. Both of these are components of the plan for reduction of expenditures. Assembly Concurrent Resolution No. 2 incorporates all of the components involved with the plan for reduction.

There was a question on page 2 of the bill after the preamble as to whether or not the first item, the additional reductions of \$106 million, did include higher education in K-12. It is my understanding it does include those items.

Senator Lee moved to adopt Assembly Concurrent Resolution No. 2.

Senator Townsend seconded the motion.

Motion carried unanimously.

SENATOR RAGGIO:

The next item to consider is Assembly Bill No. 5. This component authorizes the utilization of the \$20 million on proceeds that were addressed by IFC. This allows, instead of a total of

\$50 million reduction from the Department of Transportation, a \$30-million impact on any projects that are currently within the Department's purview.

Senator Townsend moved to do pass Assembly Bill No. 5.

Senator Rhoads seconded the motion.

Motion carried unanimously.

SENATOR RAGGIO:

There is no need to process Assembly Bill No. 4, which was the bill that dealt with the preferred drug list. In conversations with the Director of the Department of Health and Human Services, he indicated that if this were not processed, there would not be a further impact on the fund for the nuclear site at Beatty. This bill was a proposal to bring in another \$1 million. Fiscal advises strongly that it would be inappropriate. The Director has indicated they would not resort to that. Another indication was that this might affect the reimbursement for hospitals. The Director has indicated that they will find other ways rather than utilizing that as a budget reduction. Unless there is an objection, the Committee of the Whole will give no further consideration to Assembly Bill No. 4 even though we requested an amendment that would have put a sunset provision into the bill.

On the motion of Senator Townsend and seconded by Senator Amodei, the Committee did rise, return and report back to the Senate.

Motion carried unanimously.

SENATE IN SESSION

At 9:30 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee of the Whole, to which was referred Assembly Bill No. 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee of the Whole, to which was referred Assembly Concurrent Resolution No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

WILLIAM J. RAGGIO, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 2—Expressing the reductions in expenditures approved by the Nevada Legislature during the 24th Special Session.

Senator Raggio moved the adoption of the resolution.

Remarks by Senators Care, Raggio and Titus.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

GENERAL FILE AND THIRD READING

Assembly Bill No. 5.

Bill read third time.

Roll call on Assembly Bill No. 5:

YEAS—21.

NAYS—None.

Assembly Bill No. 5 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Coffin, the privilege of the floor of the Senate Chamber for this day was extended to Anna Coffin.

On request of Senator McGinness, the privilege of the floor of the Senate Chamber for this day was extended to Jamie Sei.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to Brian Anderson.

On request of Senator Titus, the privilege of the floor of the Senate Chamber for this day was extended to Gavin Goorjian.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 9:36 p.m.

SENATE IN SESSION

At 10:09 p.m.

President Krolicki presiding.

Quorum present.

Mr. President appointed Senators Nolan, Beers and Carlton as a committee to wait upon the Assembly and to inform that honorable body that the Senate is ready to adjourn *sine die*.

Mr. President appointed Senators Hardy, Cegavske and Care as a committee to wait upon His Excellency, Jim Gibbons, Governor of the State of Nevada, and to inform him that the Senate is ready to adjourn *sine die*.

A committee from the Assembly, consisting of Assemblymen Anderson, Leslie and Marvel appeared before the bar of the Senate and announced that the Assembly is ready to adjourn *sine die*.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 10:10 p.m.

SENATE IN SESSION

At 10:20 p.m.
President Krolicki presiding.
Quorum present.

Senator Nolan reported that his committee had informed the Assembly that the Senate is ready to adjourn *sine die*.

Senator Hardy reported that his committee had informed the Governor that the Senate is ready to adjourn *sine die*.

REMARKS FROM THE FLOOR

SENATOR RAGGIO:

Thank you, Mr. President. Assuming that we have no further special sessions between now and November, this will be the last session in which Senator Dina Titus will serve. I would like us to adjourn in honor of her many years of distinguished service to this body.

Senator William J. Raggio moved that the Twenty-fourth Special Session of the Senate of the Legislature of the State of Nevada adjourn *sine die* in honor of Senator Dina Titus.

Motion carried

Senate adjourned *sine die* at 10:22 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate