

LOOKING OUT FOR BUSINESS

410 South Minnesota Street • Carson City, NV 89703-4272

775-882-1700 • www.rannv.org

NEVADA NEWS

“OH, GOOD GRIEF”

By Bryan Wachter

IN CHARLES SCHULZ'S CLASSIC COMIC, THE PEANUTS, THERE IS A RUNNING GAG THAT

has Charlie Brown trying to kick a football that Lucy is holding. The joke is that every time Charlie attempts to kick the ball, Lucy would pull it away and then, later on, convince Charlie Brown that next time she wouldn't pull it away. Every time, in the end, Lucy would pull the ball away.

That's the only metaphor that comes close to explaining the Bill Draft Request (BDR) process and how it relates to elections. Elections are not about voting for the most likable or the best dressed or the most successful fundraiser. Elections are about electing those candidates that, when they are burdened with power, will implement policies that you as a voter agree with, or can see the rationale behind. Election Day, November 2, is not the end of the political game; it's just the day that the teams are

picked. What most voters may not realize is that they have an opportunity to peek at each team's playbook, and while you can't see the whole play, you are allowed to know the names. These plays come in the form of BDRs.

In preparation for the 2011 Legislative Session, our current legislators have already begun submitting ideas for legislation. Each BDR has been given a number and a brief, one-sentence description. As of mid-July, almost 200 BDRs were available for review, with more being added each week. You may access the entire list on the Nevada Legislature's website at www.leg.state.nv.us. But again, at this stage of the process, you will only be able to see the subject of the BDR, not any actual bill language, so it is difficult to determine the true intent or potential content of that future legislation. Eventually, during session, the sponsor of the BDR will work with a bill drafter, who is an attorney with the Legislative Counsel Bureau, to explain their objective. The bill drafter will then translate that information into proper legal terminology and check it for conformance with other state laws.

RAN will continue to monitor the BDRs and provide regular updates on requests that may affect the retail

industry in Nevada. But while you are looking at this list and determining which BDRs may impact your business, notice the requests made by the candidates in the races that you will be voting on. These BDRs can indicate a candidate's true position on the role of government, or the particular issues they feel strongly about. If their campaign rhetoric doesn't match the laws they are interested in enacting, then a voter has the right and responsibility of asking that candidate to clarify their position. In the end, it comes down to this: do you as a voter believe Lucy is going to keep her promise and hold the ball, or will voters, much like Charlie Brown, be left on their backs? ■

**IN
MEMORIAM
Former Governor
KENNY GUINN
1936 – 2010**

INSIDE

A Call to Question	2
Tax Amnesty Act II	3
Election 2010	3, 4, 5
Nevada State Board of Pharmacy Wins Award.....	4
From the Labor Commissioner's Office	4
Back to School Sales Up	8
Change Your Mind, Please!.....	9
Passage of Landmark Swipe Fee Fix a Major Victory ...	11



A CALL TO QUESTION

By Bryan Wachter

JUNE 15TH HAS COME AND GONE, AND WITH IT, THE DEADLINE FOR SIGNATURES TO QUALIFY AN INITIATIVE

question for the fall election. While you may have heard that several petitions were looking for signatures, none qualified for the November ballot. But alas, an educated voter's job is never done, and on the ballot will be four questions that give the public an opportunity to shape debate on important policy questions. While this is meant to be a brief explanation of those questions, more information can be found at the Secretary of State's website www.nvsos.gov.

BALLOT QUESTION NUMBER ONE asks voters if they would like to amend the Nevada Constitution to allow the Governor to appoint Supreme and District Court Judges from a list of candidates supplied by the Commission on Judicial Selection. Those appointed would then have to seek 55% voter approval at the next election. If, in the next election, voter approval is not given, the appointment process would start all over again. The subsequent appointment would have to be a different person.

Currently, Nevada elects its judges for 6-year terms at elections. If vacancies arise during those 6 years, the Commission on Judicial Selection presents a list of qualified candidates to the Governor who

then appoints a judge for the remainder of the term. Proponents of this question argue that judicial elections are too costly and ethical questions arise when judges hear cases by those who have donated to their campaigns. Opponents of the question argue that removing the initial election by the voters actually eliminates public scrutiny. Ethical questions would still arise, as judges would be mounting campaigns to persuade the public to give them the 55% approval votes.

BALLOT QUESTION NUMBER TWO seeks voter approval to authorize the Legislature to create an intermediate appellate court that would have jurisdiction over certain civil and criminal cases arising from the district courts. At present, all appeals from district court decisions are made to the Nevada Supreme Court. Those in favor of this question argue that because of increased caseloads and population, Nevada's current judicial system is overwhelmed. The argument presented by the opposition is that the establishment of an appeals court would simply shift the caseload from the Supreme Court to a lower court, add another step in the process of litigation, and increase costs.

BALLOT QUESTION NUMBER THREE should the legislature be authorized to amend or repeal any provision of the Sales and Use Tax Act of 1955, only if necessary to resolve a conflict with any federal law or interstate agreement for the administration,

collection or enforcement of sales and use taxes. The proposed amendment would not authorize the legislature to enact any legislation that would increase the rate of any tax imposed or narrow the scope of any exemption under this act.

Proponents of this question argue that because of time constraints, and with our legislative and election cycle, there is a real possibility of a two-year delay in acting upon changes to the Streamlined Sales and Use Tax Agreement. Such a delay could cause Nevada to lose its membership status within the Streamlined Sales and Use Tax Agreement, and possibly additional tax revenue. The ability for the legislature to act is narrowly defined. Those against this question argue that Nevada is currently a member of the agreement, and has been for some time without this change, and voters should not give up the right to decide these types of tax questions themselves.

BALLOT QUESTION NUMBER FOUR gives voters a choice to repeal Article 1, Section 22, (known as the People's Initiative to Stop the Taking of Our Land -PISTOL) of the Nevada Constitution, and amend Article 1, Section 8 of the Constitution to revise provisions relating to eminent domain.

The revisions to Article 1, Section 8 would make the following changes: (1) the private party obtaining the property uses the property primarily to benefit a public service such as a utility, railroad, public transportation

project, pipeline, road, bridge, airport, or facility that is owned by a public entity; (2) the property is leased to a private party that takes up a portion of an airport or facility that is owned by a public entity so long as the public entity notifies the original owner of its intention and allows the owner the opportunity to bid or propose on such a lease; (3) the property taken has been abandoned by the owner, is a threat to public safety, or contains hazardous waste that must be remediated, and the original owner is granted first right of refusal to reacquire the property on the same terms and conditions as anyone else; (4) the entity that obtains the property exchanges it for other property in order to relocate public or private structures or avoid excessive compensation or damages; or (5) the person from whom the property is taken consents to the taking.

Those seeking this change argue that while PISTOL was important it does contain flaws that have the potential to cost taxpayers money and hamper efforts to maintain and upgrade infrastructure. This question builds on the success of PISTOL while correcting its deficiencies. Those who argue against this change suggest that the new language weakens the protections contained in PISTOL by expanding the circumstances under which a government can use eminent domain to transfer property from one private party to another. They say there is no reason to change the provisions of PISTOL. ■

UPCOMING EVENTS

ARTS USERS' MEETING 2010
September 13-14, 2010
Orlando, FL

RAMA CMO SUMMIT 2010
September 22-24, 2010
Hyatt Gainey Ranch
Scottsdale, AZ

SHOP.ORG
ANNUAL SUMMIT 2010
September 27-29, 2010
Gaylord Texan Hotel &
Convention Center
Dallas, TX

CHAIN RESTAURANT CEO
POLICY SUMMIT 2010
September 27-28, 2010
NCCR Offices
Washington, DC

TAX AMNESTY, ACT II

By Bryan Wachter

ASSEMBLY BILL 6, OF THE 26TH SPECIAL LEGISLATIVE SESSION, CREATED A

Tax Amnesty period that started on July 1 and ends on September 30th. Unlike the first Tax Amnesty of 2008, there will be no extensions granted. What this program seeks to do is

recover millions of dollars in late taxes by allowing payment in full, without penalties and interest. The program grants a one-time waiver of penalty and interest for certain taxes that were due before July 1, 2010 -- provided the tax due is paid in full during the amnesty period. The total amount of taxes must be

paid by September 30th. The amnesty program includes the following taxes: Sales & Use Tax, Modified Business Tax, outstanding Business License fees payable to the Department due on or before September 30, 2009, Cigarette Tax, Other Tobacco Products Tax,

Continued on next page



ELECTION 2010

Over the past few issues, we've spotlighted various candidates for the primary and general elections. This month we look at some of the candidates running for constitutional offices.

SECRETARY OF STATE: THE SECRETARY OF STATE IS THE THIRD HIGHEST- RANKING STATE OFFICIAL,

behind the Governor and Lt. Governor. Some of the many duties include: Supervising state and local elections; registering corporations and other business entities; appointing, training and regulating Notaries Public; regulating and enforcing the securities industries and applicable laws and keeping the official acts of the Legislative and Executive Departments.

The Secretary of State also serves on the State Board of Prison Commissioners, the State Board of Examiners, the Tahoe Regional Planning Agency Governing Board, the State Records Committee, the State Advisory Committee on Participatory Democracy and the Executive Branch Audit Committee.

ROSS MILLER, DEMOCRAT. INCUMBENT RUNNING FOR RE-ELECTION.

When Miller was elected in 2006, he faced quite a challenge. He was replacing the popular Dean Heller, who had just been elected to the House of Representatives. Miller was up to the challenge. He had some new ideas he wanted to implement. Little did he know the economy was about to tank.

"I had to adjust from a booming economy to working on nurturing the economy. There were things that had to be accomplished, but with a limited staff and budget. Now some of my goals are to reduce unemployment and streamline government," he explained.

His goal was, and is, to make Nevada the most business-friendly state in America. His first

accomplishment was to create a Web site www.whynevada.com. The site answers questions about doing business in Nevada and has encouraged the growth of business filings in his office.

His business and technology background led to a logical question -- what would be the best way he could help businesses and the state? The answer was the Business Portal. A one-stop-shop, the Portal would enable businesses to go to one on-line site to register their business, pay their taxes and get all information necessary for doing business in Nevada.

"It's turned out to be a bit more complicated than I originally thought," said Miller, "but it's moving forward. We've worked with the Department of Taxation, and getting all the technologies to be compatible has been a challenge, but we just selected the software we need and we're moving forward! When this is completed, it will be the first one in the Nation! We'll be ahead of all the other states," he said enthusiastically. Ross Miller estimates that, once completed, the Portal could generate more than \$20 million a year in new revenue for the state.

The requirement to file the business license fee through his office has turned up an interesting problem. In the law, a person who operates a business out of his/her home and doesn't make more than \$25,000/year is exempt from the fee. This year, an unusually large number of people are not filing, claiming they fall under the exemption.

"I'm going to be checking this out," Miller explained. "A business has to file to get the exemption. You can't just decide you're exempt. It isn't fair for the businesses that

comply with the law, that those who compete against them do not. This could mean a loss to the state of \$30-40 million a year," he declared.

Miller also moved the state forward in the elections area. In 2008, a statewide voter database was made available on-line. Through this site, people could verify if they were already registered to vote. If not, they could fill out the information necessary to take to their local clerk's office to complete the registration. And for the first time, the state could check and find people who were registered to vote in more than one location.

"I'm really proud of maintaining the integrity of Nevada's electoral process," Miller said. During the 2008 election, Miller investigated and accused ACORN of voter fraud for their voter registration practices. "The best way to deter these activities is stiff penalties and enforcement of the laws," the former assistant district attorney said. The case expected to go to court soon. ■

ROB LAUER, REPUBLICAN CANDIDATE, SECRETARY OF STATE

An Army reservist and owner of a small real estate business in Las Vegas, Lauer says he's the better man for the job of Secretary of State because of his private sector background.

"I've spent many years in the business world, first in California and now Nevada. I can bring real-world experience to the job," Lauer emphasized. "I understand what businesses need."

Lauer opposes the business license fee the Secretary of State's office is required to collect. If elected, he says that he would go to

the Legislature and ask to have that repealed.

"For a person, running his/her own business, that fee is nothing but an income tax. And that's unconstitutional under Nevada's constitution," he explained. "It also keeps us from being competitive. The business license fee in Colorado is \$49.00."

Lauer is also not in favor of the business portal.

"It may make sense someday, but spending \$4-5 million on it during this recession just doesn't make sense to me," he said.

"My plan to create jobs is to cut the regulations and allow businesses to open in a free-market atmosphere. Right now with the red tape, it takes 7-9 years to open and establish a new mine. And mining is the most lucrative industry we have," Lauer said. "I also think the Ivanpah Airport has potential for jobs with an airbus service, cargo facilities and an international airport."

Rob Lauer is particularly interested in the elections division of the Secretary of State's office. "We have to have voter I.D.," he said. "If you care about voter fraud, you would support it. You need to show an I.D. when you buy beer or use a credit card. It's not that cumbersome to show I.D. when you vote."

Lauer attended the University of Southern California. As a student he interned for a California congressman. His redevelopment business became full-time and he concentrated on his career while volunteering to help in various campaigns. In 2005, he joined the U.S. Army and became an MP (military policeman). A back injury forced him to leave the active service. ■

TAX AMNESTY

Continued

Liquor Tax, Bank Branch Excise Tax, Insurance Premium Tax, Tire Tax, Live Entertainment Tax (non-gaming), Short-term Lessor (Passenger Car), and Exhibition Facilities Fees, Property Tax that are Centrally

Assessed, and Net Proceeds of Mineral Tax. (The Secretary of State now administers the business license fee.)

The Amnesty is available to any person or business with

outstanding debt, that has not entered into a compromise or settlement with the Nevada Tax Department. It does not apply to individuals or businesses that cannot pay the tax due in full. Those

that do qualify for the amnesty program can fill out an application at the department's website at <http://tax.state.nv.us> and at all district offices. ■



ELECTION 2010

TREASURER: THE STATE TREASURER'S OFFICE IS DIVIDED INTO SIX FUNCTIONAL AREAS:

Administration, Cash Management, Debt Management, Investments, Education Programs, and Unclaimed Property. Some of the responsibilities include: Receiving, receipting and safeguarding all designated money of the state; disbursing the public money under warrants drawn upon the Treasury by the State Controller; and establishing and operating investment programs for all available state funds which include, but are not limited to, the General Investment Portfolio, the Local Government Investment Pool, Prepaid Tuition Program, Millennium Scholarship Program and the Permanent School Fund.

The Treasurer also is a Member of the State Board of Finance; Administrator of the Municipal Bond Bank, the 529 College Savings Plan and Trust Fund, the Nevada Prepaid Tuition Program and Trust Fund, the Fund for a Health Nevada and the Trust Fund for Public Health; Chairman of the Board of Trustees of the College Savings Plan of Nevada.

KATE MARSHALL, DEMOCRAT, INCUMBENT RUNNING FOR RE-ELECTION

"I have successfully guided this state through its worst financial crisis," said Kate Marshall. "When our state faced employee layoffs and cuts in service, my office produced \$60 million and a line of credit to avoid both. We kept our credit rating at AA+ which gets the state low interest rates when it sells bonds."

Marshall credits the Retail Association of Nevada (RAN) for helping. "RAN has been an invaluable source on our BRAT (Bond Rating Advisory Team). I really count on them." The BRAT advises her office as it prepares for bonding sales.

Other members include gaming, mining, utilities and school districts.

She points to other accomplishments:

- She passed legislation to raise the Permanent School Fund Guarantee saving taxpayers over \$5.1 million for schools;
- She renegotiated a new banking contract, which saved taxpayers \$1.2 million.
- During the 2009 economic downturn, she placed a hold on selling securities so they wouldn't

be sold at a loss. When the market stabilized, investments made a net profit.

Marshall graduated from the University of Berkley before serving with the Peace Corp. She then got her law degree from UC Berkley. She was working with the Antitrust Division with the Justice Department when she was hired to begin an antitrust department in the Nevada Attorney General's office. Prior to running for Treasurer, Marshall was in private practice as an attorney. ■

STEVE MARTIN, REPUBLICAN, CANDIDATE FOR STATE TREASURER

A member of the State Board of Finance, some of Steve Martin's responsibilities are reviewing and approving or disapproving the policies established by the State Treasurer for investing the state's money as well as that of the Local Government Pooled Investment Fund. A Certified Public Accountant (CPA), Martin was appointed to a four-year term last November.

"In these challenging times, Nevada needs a state Treasurer with the experience and qualifications

to make the correct decisions to protect the taxpayers," Martin said.

"I want to bring accountability and transparency to the office," he continued. "One of the first things I would do if elected is have an audit, especially of the unclaimed property division."

Martin points to his experience as former state Controller (six months) and as a CPA specializing in auditing and consulting issues along with accounting systems. "If you're going to have someone handling your money, it should be someone with a financial background. I have 30 years of accounting and management experience. As a Certified Fraud Examiner, I understand the complex financial issues facing our state," he concluded.

Martin was in the U.S. Marines where he attained the rank of Major. While in the Marine Corps, he received his Bachelor's Degree from George Washington University. He received his Masters Degree in Accounting from Nova Southeastern University. He was president and CFO for a Texas firm before moving to Nevada. ■

THE NEVADA STATE BOARD OF PHARMACY WINS AWARD

By Liz MacMenamin

THE NEVADA STATE BOARD OF PHARMACY WAS PRESENTED WITH THE FRED T. MAHAFFEY

Award by the National Association of Boards of Pharmacy (NABP) at its' annual meeting in May.

The award was presented for the Nevada Board's "Inspection for Safety" initiative which focuses on continuous quality improvement and patient safety.

In making the award, it was noted that the Nevada Board's initiative includes a retooling of its inspection forms to emphasize the safety of the patient as the primary inspection goal. The Nevada Board now inspects for everything from patient and drug information, to communication, workflow, staffing, drug storage, and workplace environment. The goal of the Board's initiative was

to ensure that all pharmacies are in compliance with the law, and to emphasize patient safety. The initiative achieved success through the support of all Board members and the teamwork of investigators, staff, and inspectors.

The National Association of Boards of Pharmacy® (NABP®) honors leaders in the protection of public health at their annual meetings each year. The awards are

presented to individuals who have worked with unwavering dedication to ensure NABP's continued service to the regulation of pharmacy practice, and its efforts to assist the state boards of pharmacy in protecting the public health.

The 106th Annual Meeting was held May 22-25, 2010, in Anaheim, California. ■

FROM THE LABOR COMMISSIONER'S OFFICE

By Lea Tauchen

NEW MINIMUM WAGE POSTERS AVAILABLE

The new Nevada minimum wage posters are now available for downloading through the Nevada Labor Commissioner's website at www.laborcommissioner.com.

From the home page, click on the Forms link and then select the Rules to be Observed by Employers form. This document must be printed on 8.5 X 14" paper and posted in a conspicuous location where all employees can easily access it.

This poster has been updated to reflect the increases to minimum wage that went into effect July 1. The minimum wage for employees who receive qualified health benefits from their employers has increased from \$6.55 per hour to

\$7.25 per hour, and the minimum wage for employees who do not receive qualified health benefits has increased from \$7.55 per hour to \$8.25 per hour.

These changes will also affect

Continued on next page



ELECTION 2010

ATTORNEY GENERAL: THE NEVADA ATTORNEY GENERAL IS THE TOP LEGAL

officer for the state of Nevada. The Attorney General represents the people of Nevada in civil and criminal matters before trial, appellate and the supreme courts of Nevada and the United States. The Attorney General also serves as legal counsel to state officers and, with few exceptions, to state agencies, boards and commissions.

The Attorney General may also work with or help district attorneys, local law enforcement, and federal and international criminal justice agencies in the administration of justice. In addition, the Attorney General establishes and operates projects and programs to protect Nevadans from fraud or illegal activities that target consumers or threaten public safety, and enforces laws that safeguard the environment and natural resources. To meet its statutory obligations the office is divided into the following:

Bureau of Consumer Protection; Bureau of Criminal Justice; Bureau of Governmental Affairs; Bureau of Public Affairs, which includes enforcement of Nevada's Open Meeting Law.

CATHERINE CORTEZ MASTO, DEMOCRAT, INCUMBENT RUNNING FOR RE-ELECTION

"So much of what my office does affects businesses in Nevada," said Cortez Masto. "Even domestic violence can invade the workplace and we've gone in to help businesses cope with some risky

situations." Child Advocacy and domestic abuse have two important issues for the Attorney General. She's sponsored events like the CyberSafety Summit and oversees the Technological Crime Board. Even those events reach into businesses as employees may misuse computers and other technology in the office.

Another area that affects businesses is the Bureau of Consumer Protection. Trusted with the task of keeping utility rates reasonable, the Bureau is supposed to represent small businesses as well as residential customers. Recently, the Bureau with the Attorney General's support, sued NV Energy on behalf of the Las Vegas Review-Journal, to uncover the actual costs of renewable energy. The base costs could cause a large hike in electric rates.

They have filed numerous successful lawsuits against companies for violations ranging from charity phone scams and fraudulent real estate transactions.

RAN works with another segment of the Bureau to warn businesses about scams and other crimes that might affect them.

Cortez Masto also worked with RAN to pass a bill regarding retail theft and racketeering.

Other bills the Attorney General passed or supported, which might apply to businesses, include I.D. theft, deceptive trade practices while also keeping trade secrets confidential; repealing certain requirements regarding the delivery of cigarettes sold to consumers;

revised the provisions relating to certain crimes involving credit and debit cards.

"Of course one of our functions is giving legal advice to most of the regulatory boards and commissions in the state. That even includes the Tax Commission," explained Cortez Masto. "Probably nothing else affects businesses more in this state. We're sensitive to regulations which might prove too burdensome on businesses by exceeding the laws upon which they're based."

A native Nevadan, Catherine Cortez Masto graduated from UNR with a BS degree in Finance. She then graduated Cum Laude from Gonzaga University School of Law in Spokane, Washington. Prior to running for Attorney General, Cortez Masto worked as an assistant Clark County manager, a federal criminal prosecutor, and Chief of Staff to Governor Bob Miller. ■

TRAVIS BARRICK, REPUBLICAN CANDIDATE FOR ATTORNEY GENERAL

"If I were attorney general, I would be helping Governor Jim Gibbons fight the Obama health care bill," said Travis Barrick. "As the primary law enforcement officer of the state, it would be my responsibility to represent the people and the state and administer justice equally."

Barrick feels the biggest issue facing the state is illegal immigration.

"Illegal immigration presents the most interesting and pivotal legal issue," he explained. "The lack of comprehensive national

immigration reform has put states, like Nevada, in the unenviable position of needing to do something locally now."

But it's in the area of regulations that Barrick would make the most changes.

"The Attorney General participates in every aspect of the business community. In these tough economic times, we need less regulation, instead of burdensome regs and complicated paperwork. I've been in the private sector. It would be a change to have an A.G. who has some private business experience and knows the effects of what government does," Travis explained. "The State needs to treat business and industry as customers who deserve respect and service, not disdain and stone-walling."

Born in Henderson, Nevada, Travis's first job was at Bob's Big Boy following his graduation from Rancho High School, followed by work at the Silver Slipper. After marriage, he and his wife moved to California where he worked as a general contractor. He earned a Bachelor in Legal Studies and a Masters in Public Administration from National University in San Diego. In 2002, he graduated from the University of San Francisco School of Law. He took and passed the bar exams in California, Nevada and Utah.

Barrick also works in the field of parliamentary law and is certified as a Professional Registered Parliamentarian and currently serves as treasurer on the board of the American College of Parliamentary Lawyers. ■

LABOR COMMISSIONER'S OFFICE *Continued*

the threshold for daily overtime since the rate is tied to minimum wage. Nevada has a daily overtime requirement in addition to the requirement to pay overtime for more than 40 hours in a workweek. Employees who receive qualified health benefits from their employers, and earn less than \$10.875 per hour, and employees who do not receive qualified health benefits and earn less than \$12.375 per hour, must be paid overtime when they work more than 8 hours in a 24 hour period. Please note that

this does not affect employees who are exempt from overtime under Nevada state law.

NEW LABOR REGULATIONS

On June 30, new labor regulations took effect addressing Nevada Administrative Code (NAC) Chapter 608: Compensation, Wages and Hours. To review the language, please visit the Nevada Labor Commissioner's website at www.laborcommissioner.com. From the Home page, click on the Statutes and Regulations link and then select

Chapter 608 from the list of NAC. Here is a brief summary of topics covered:

- Revises the definition of "salary".
- Establishes provisions for the payment of employees who are on salary.
- Prohibits an employer from making certain deductions from gratuities that are charged to a credit or debit card.
- Requires an employer to post notice of their policy tracking an employee's work hours with

a time clock and restrictions regarding the manner in which an employer may adjust work hours indicated on the time clock.

- Clarifies the daily overtime requirement.
- Revises provisions requiring payment to employees for preparatory or clean-up activities.
- Establishes criteria to determine whether an employee is in a bona fide executive or administrative capacity. ■



Nevada Notes

EMPLOYERS LIKELY TO FACE INCREASE IN UNEMPLOYMENT TAX RATE

While a lot of politicians are promising no new taxes for the 2011 session of the Legislature, Nevada's 60,000 business owners will still get hit with a hike in their unemployment tax next year. "I guarantee it will happen," said Ray Bacon, executive director of the Nevada Manufacturers Association. He isn't looking forward to it but said he believes it's necessary to stabilize Nevada's depleted unemployment trust fund.

The Nevada Employment Security Council has scheduled a meeting for Aug. 3 to take public comments and review the impact of federal loans to pay the insurance benefits to the jobless.

The state has borrowed about \$400 million since last fall from the federal government to pay the claims. Nevada has the highest jobless rate in the nation at 14.2 percent.

The division says in its meeting notice it "anticipates an increase may be necessary in the average unemployment insurance tax rate for experience-rated employers for calendar year 2011" due to the economic downturn.

The average rate statewide for employers this year is 1.33 percent for the first \$27,000 earned by each worker, the same as it was in 2009. The rate of an employer is based on the worker turnover in the business. The maximum rate for an employer is 5.4 percent. New employers must pay 2.95 percent of taxable wages for several years until they obtain an experience rating on the basis of their worker turnover.

Las Vegas Sun

SPARKS: RETAIL HUB DECLINE A MIXED BLESSING

Before the recession, businesses paid about \$1.15 per square foot to rent a storefront at McCarran Plaza, a once-bustling Sparks shopping center at McCarran Boulevard and Prater Way.

Five years ago, the three shopping centers at McCarran and Prater were major retail hubs with crowded parking lots and national names like Target, Long's Drugs and Safeway. Today, McCarran Plaza, Ironhorse and Silver State Plaza have

as many empty storefronts as they do national brands.

The reasons for the intersection's commercial decline are numerous:

- Target moved to Legends two years ago.
 - CVS Caremark bought Long's and closed half its stores, including the McCarran-Prater location.
 - Safeway shut down after a newer store opened on nearby Vista Boulevard.
 - The recession dropped retail profits across the nation, forcing other businesses to close.
- Less traffic has meant greater access. Four small businesses have opened their doors in McCarran Plaza in the past 12 months.

RGJ

RETAIL RECOVERY ELUDES LAS VEGAS MARKETPLACE

The retail market recovery in Southern Nevada is more than nine months to a year away, and landlords will have a tough time finding tenants even though rents are declining, according to the second-quarter report from Colliers International Las Vegas.

The brokerage said it would take significant improvement in the national economy to speed up the local recovery.

Las Vegas brokerages said the retail vacancy rate exceeded 10 percent in the second quarter. Colliers reported a 10.1 percent vacancy rate, which is 7 percentage points higher than the onset of the recession in 2007's fourth quarter. The southwest valley had the highest vacancy rate at 15.2 percent, according to CB Richard Ellis. It also remained the most expensive at \$2.02 per square foot per month.

The retail sector is hurt by weaker than expected consumer spending and consumer confidence levels, said Jake Joyce, a project manager at Applied Analysis. "The retail market is where consumer sentiment is ultimately realized, so as long as the economic outlook and pace of recovery appear soft, (lease rates) in the retail market will continue to correct," Joyce said.

In Business Las Vegas

TAX BENEFITS AVAILABLE FOR NEARLY 80 PERCENT OF NEVADA SMALL BUSINESSES

Almost 80 percent of Nevada's small businesses will be eligible for tax credits to help pay for employee health coverage this year, according to a report released Thursday. The tax credit, part of the Patient Protection and Affordable Care Act, applies to small businesses with fewer than 25 employees in Nevada and across the nation. To qualify, a business must have a per-worker compensation below \$50,000. More than 29,600 small businesses in Nevada will qualify for the credit in 2010, and 9,400 of those qualify for the maximum credit of 35 percent reimbursement on employee health care coverage costs.

These are businesses that employ 10 or fewer workers, who earn an average wage of less than \$25,000 a year, or those that traditionally have the hardest time affording insurance.

To see if your business is eligible, go to www.smallbusinessmajority.org.

- 29,600 small businesses in Nevada are eligible for the tax credit
- Nationally, more than 4 million small businesses are eligible
- To see if your business qualifies, use the input calculator at www.smallbusinessmajority.org

RGJ

JOHN L. SMITH: WALMART FOUNDATION GIVES \$50,000 BOOST TO LAS VEGAS ZOO

The feisty Las Vegas Zoo is small, but it has made a big friend in the folks at Walmart. Representatives of the Walmart Foundation's Nevada State Giving Council converged on the zoo to present a \$50,000 check to benefit its Wildlife Enrichment Educational Program.

After learning of the need, Walmart employees and the company's foundation in recent months have contributed more than \$100,000 to the zoo, at 1775 N. Rancho Drive.

Among the elected officials in the crowd: Mayor Oscar Goodman, County Commissioners Larry Brown and Lawrence Weekly, and Clark County School Board President Terri Janison.

Although I listened, I didn't hear one joke comparing the

elected officials to any of the animals in captivity.

LVRJ

TAX BOOST A DRAG TO ECONOMY, STUDY SAYS

Nevada legislators could worsen an already disastrous economy by increasing taxes in 2011, a national tax research organization said in an analysis released today.

The Tax Foundation said legislators risk hurting the economy further if they decide to levy a corporate income tax or a gross receipts tax or expand the sales tax to services not now taxed. Legislators and others have mentioned these taxes as those that might be considered at the next session.

Noting that California, Washington, Oregon and Arizona recently raised taxes, the Tax Foundation commented in its study: "Nevada's already enviable tax climate looks better and better. As the economy improves, the state is well-positioned for capital investment and job creation." Created in 1937, the Tax Foundation has taken conservative stances on taxes and consistently ranked Nevada as one of the least taxed states in the nation. It ranked Nevada this year as having the fourth most favorable tax climate for business. In 2008, it found that the Silver State's residents have the second lowest state and local tax burden in the nation.

In the analysis, Henchman said corporate income taxes are harmful to economic growth and are a volatile way to raise revenue. He said gross receipts taxes — considered and rejected by Nevada legislators in 2003 — are "destructive." The same problem exists with expanding the sales taxes to include services that are not now taxed, Henchman said.

"Right now we are seeing a glimmer of a national economic recovery. State revenue increases will lag until people start investing and spending money. Nevada doesn't need to make it more unattractive to investors," he said.

LVRJ



National Notes

CUSTOMER SERVICE AS A GROWTH ENGINE

Executives are paying more attention to customer service in an effort to increase sales and gain market share in the economic recovery.

Drug-store chain Walgreen Co. is training pharmacists to spend more time helping patients with chronic illnesses.

Walgreen is trying to gain the loyalty of patients with chronic illnesses, starting with diabetes. Since January, it has trained 500 pharmacists to work closely with diabetes patients. The pharmacists set up regular 20-to-45-minute meetings with patients to help them manage their disease. Pharmacists normally meet with patients for about three to five minutes. Walgreen is betting that loyal customers with lifelong illnesses will spend more money at the pharmacy and consolidate prescriptions there.

With 4,000 new diabetes cases being diagnosed each day, according to Walgreen research, Mr. Watts expects the program to attract new customers. In an effort to improve customer service, executives conducted home visits with patients. Diabetic patients said they were confused about managing the disease and the advice they received.

The company plans to roll the program out nationally by the end of 2010—it's in eight regions now—and extend similar services to customers with asthma and hypertension.

Wall Street Journal

RETAILERS ARE ALREADY FEELING A HOLIDAY SHIVER

It may be hot and sticky outside, but stores across the nation are already getting a chill thinking about Christmas.

Retailers are having second thoughts about orders they placed earlier this year, when the economic recovery looked stronger and Americans were more willing to spend money. Now they worry they could end up stuck with too many toys and sweaters come the holidays and have to cut prices. Stores are fretting that even small increases in their holiday stocks for this year may be too ambitious. Some are waiting to see how

spending turns out in the back-to-school season before trimming their holiday orders, but others aren't wasting any time.

Most stores have until August to do any tweaking on their holiday orders, though the largest chains, which have more power over suppliers, can cancel some orders later.

A lot is at stake: For many retailers, holiday business accounts for as much as 40 percent of revenue and profits, says Ken Perkins, president of research firm RetailMetrics. For toy sellers, it's half. With unemployment stuck near 10 percent and the stock market having wiped out its gains from earlier this year, Americans are skittish about spending as the second half of the year begins.

The Associated Press

RETAILERS WELCOME BREAK FROM DEBIT CARD FEES

When President Obama signs the financial regulation overhaul bill Wednesday, he'll usher in sweeping changes for everything from Wall Street investment firms to Main Street banks. The bill also gives a break to retailers who say they have suffered years of high fees on debit card transactions.

When people pay with plastic, about 2 cents on the dollar gets eaten up with fees. The money goes to the banks that issue the cards and to the payment networks Visa and Mastercard. It may not sound like much, but to some companies, it's the second largest expense behind payroll.

Everyone agrees that means merchants will be paying less in the future. But there's much disagreement about whether consumers will be ultimately better off.

The banking industry is predicting this one component will cost it billions and could have unintended consequences for consumers.

The bill also allows merchants to set a minimum dollar amount for accepting a credit card — say \$10. It also allows them to offer discounts to people who forgo plastic and pay with cash or check.

NPR

VITAMINS AND DIETARY SUPPLEMENTS: WHY PHARMACISTS' RECOMMENDATIONS MATTER

As Americans increasingly turn to vitamins and herbal supplements to prevent, augment, or replace their prescription drug use, medical professionals and government leaders worry that few realize the implications of taking what they perceive as innocuous, over-the-counter dietary aids.

Unbeknownst to many consumers, vitamins and dietary supplements can have toxic and life-threatening side effects when used in megadoses or combined incorrectly with prescription drugs. They also can contain significant levels of heavy metals or be spiked with prescription drugs. And manufacturers may make illegal claims about their drugs' effectiveness in treating, curing, or preventing disease.

A report released in May by the Government Accountability Office (GAO) and covered by The New York Times found pesticide residues that appeared above the allowable limit in 16 of 40 supplements tested as part of a Congressional investigation. This is a matter for concern, in light of the fact that the number of Americans taking vitamins and herbal supplements seems to be growing. The dietary supplement industry is expected to continue to grow, along with the aging of the population and an increasing popular interest in personal health and wellness, according to a 2009 GAO report. Although dietary supplements can have widespread harmful effects, the U.S. government has almost no control over supplement manufacturers. That could change soon, as Congress prepares to embark on what is being called a "landmark" food safety bill that is likely to require supplement manufacturers to register annually with FDA and allow the agency to recall supplements it deems dangerous.

The loophole gives pharmacists, as frontline healthcare professionals, a unique opportunity to counsel patients on the correct use of vitamins and herbal supplements.

DRUG TOPICS

NRF RELEASES BLUEPRINT FOR RETAILERS TO LEVERAGE MOBILE TECHNOLOGY

Thanks to features like texting, GPS and web browsing, mobile phones have quickly become a necessity many consumers cannot live without. Nearly three-quarters of retailers are exploring mobile strategies, according to a recent Shop.org survey. However, 62 percent of retailers have either not yet begun or are only in the early stages of planning their mobile strategy. This alarming gap shows that many retailers are not prepared to leverage the industry's newest channel.

With mobile commerce representing a major growth area for retail, the National Retail Federation, through its Mobile Retail Initiative, has unveiled the first version of the Mobile Retailing Blueprint. The blueprint is a virtual roadmap for retailers to assist in the use of mobile to enhance their marketing, e-commerce and store operations with a special section on implementation planning and technology. The blueprint also explains multiple secure mobile payment processes that can provide customer convenience and lower processing costs.

The blueprint is designed to help retailers answer the following questions:

- How can mobile retailing improve my business?
- What technologies and standards apply in the mobile field?
- What implementation options should be considered?
- What capabilities do mobile phones currently offer?
- What types of mobile applications help consumers shop?
- What are the choices for mobile payment?
- What types of mobile applications help associates be more efficient?

A complimentary copy of the 176-page blueprint is now available through the Mobile Retail Initiative's web site. (www.nrf.com/mobile)

NRF Press Release



BACK TO SCHOOL SALES UP AS PARENTS REPLENISH CHILDREN'S NEEDS, ACCORDING TO NRF

MORE FAMILIES FOCUSED ON GENERIC PRODUCTS, COMPARISON SHOPPING THIS YEAR

HAVING OUTGROWN SHOES, SHIRTS AND EVEN BACKPACKS THEY'VE USED

the last two years, children heading back to school this year will arrive in style. The National Retail Federation's 2010 Consumer Intentions and Actions Back to School survey, conducted by BIGresearch, found that the average American family will spend \$606.40 on clothes, shoes, supplies and electronics, compared to \$548.72 last year, and close to the \$594.24 in 2008. Total spending on school-aged children in grades K-12 is expected to reach \$21.35 billion.*

Combined K-12 and college spending will reach \$55.12 billion*, serving as the second biggest consumer spending event for retailers behind the winter holidays.

"We are encouraged by the fact that parents are eager to start their back to school shopping this year, but the industry still remains cautiously optimistic about recovery," said NRF President and CEO Matt Shay. "As the second half of the year gets under way, retailers will gauge their customers' spending appetites, which often serve as a bellwether for the all-important holiday season."

There remains no question that the economy will continue to play a role in American families' back to school preparations. This year's survey found that 44.3 percent of Americans will buy more store brand or generic products, compared to 41.7 percent last year. Additionally, more parents will comparative shop online (30.3% vs. 26.4% in 2009.) The state of the economy will also impact some families' lifestyles, such as deciding whether their child should attend public or private school (8.1% vs. 5.7% in 2009).

Most families agree that growing children means growing apparel budgets. Spending on apparel will take up the majority of consumers' budgets with the average family of school-aged kids expected to spend \$225.47 on jeans,

shirts and other types of clothing. Running the gamut from laptops and net books to smart phones and MP3 players, parents are expected to spend an average of \$181.60 on their children's electronic or computer-related school needs. Families will also spend an average of \$102.93 on shoes and \$96.39 on school supplies.

As far as where families will shop this year, seven in 10 (71.2%) will head to a discount store and more than half (53.9%) will visit their favorite department store. Other popular shopping destinations include clothing stores (49.0%), electronics stores (23.0%), office supply stores (41.2%), drug stores (19.5%) and thrift stores (17.0%). Whether to save a few bucks and compare prices or simply because of the convenience, more people will shop online this year (30.8% vs. 22.2% last year.)

"Many of today's shoppers are smarter than any other generation before them, especially when it comes to finding the best price," said Phil Rist, Executive Vice President, Strategic Initiatives, BIGresearch. "The affordability of online shopping gives parents an extra edge over the sometimes expensive back-to-school shopping season with price comparison options, free shipping offers and even coupons."

The survey found that teenagers and pre-teens will dish out more of their own money for apparel, supplies and accessories this year. Teenagers are expected to shell out an average of \$31.74 for school items, up slightly from \$30.88 last year. Pre-teens will spend an average of \$18.27, up from \$11.94 in 2009. When it comes to how much say children have in parents' buying decisions, six in 10 adults (61.1%) say their children influence 50 percent or more of their back-to-school purchases.

Nearly half (47.6%) will begin their shopping three weeks to one month before school starts and one-quarter (24.8%) will start one to two weeks before school begins. Some will get a jump start

and begin shopping two months before the new school year (21.6%). Three percent (3.0%) will wait until the week school starts or even after school begins.

SPENDING ON BACK TO COLLEGE MERCHANDISE TO INCREASE SLIGHTLY; MORE COLLEGE STUDENTS FLY THE COUP AFTER TWO YEARS WITH MOM AND DAD

While spending on school items for K-12 students is expected to increase this year, spending on college-specific items will remain similar to last year. NRF's 2010 Back to College Consumer Intentions and Actions survey, conducted by BIGresearch, found the average college student's family will spend \$616.13 on new apparel, furniture for dorms or apartments, school supplies and electronics. Students and their families spent only slightly more last year (\$618.12). Total spending on back to college merchandise is expected to reach \$33.77 billion.*

Combined K-12 and college spending will reach \$55.12 billion*, serving as the second biggest consumer spending event for retailers behind the winter holidays.

"This year, parents will make sure to shop smart, stocking up on necessities like gift cards, apparel and personal care items for their everyday needs," said NRF President and CEO Matt Shay. "Some families may not have the luxury of providing extra spending cash for their child throughout the year, so preparing ahead of time will at least guarantee their child has the essentials."

College students and their families will spend the most on electronics, though not nearly as much as last year. The average family will shell out \$236.94 on computers, cell phones, MP3 players, cameras and other electronics; down from the \$266.08 estimated last year when spending on electronics reached an all-time high. Other expenditures include shoes (\$62.20), collegiate branded

gear or supplies (\$36.26) and school supplies (\$62.91). College students will spend significantly more on dorm or apartment furnishings this year, signaling a change from last year when more students lived at home to save their family money. Families are expected to dish out an average of \$96.94 on bedding, microwaves, small refrigerators and chairs, up from \$80.06 last year.

The survey found that just over half (51.8%) of college students will live with mom and dad, down from 58.5 percent who lived at home last year when money was tighter and jobs were more scarce. That being said, those planning on living at home encompass more than any other group. Nearly one-quarter (23.0%) will live off campus in an apartment or house, 18.8 percent will live in a dorm room or other college housing and 2.0 percent will go Greek and live in a sorority or fraternity house.

"As more students fly the coup this year, some retailers can expect a nice boost in the home furnishings and accents departments," said Phil Rist, Executive Vice President, Strategic Initiatives, BIGresearch. "Smart retailers would stage merchandise mom and dad would like near the Back to College aisles to boost parent impulse purchases while shopping with their college-bound children."

When asked how the state of the U.S. economy will impact their back to college purchases, 34.1 percent of families responded they would buy more store brand or generic products, up from 32.5 percent last year. Families will also shop online more often (18.2%) or share or borrow textbooks instead of buying new ones (19.3%). One in five (20.6%) said their back to college plans will not change.

Most college students (53.8%) will buy what they need from discount stores, 42.5 percent will head to department stores and more than one-third (36.5%) will shop at office supply stores. Other popular shopping destinations will

Continued on next page



CHANGE YOUR MIND, PLEASE!

NEW FINDINGS IN PREFERENCE REVERSAL RESEARCH

By James Larsen, Ph.D.

HAVE YOU EVER WANTED SOMEONE TO CHANGE HIS OR HER MIND? FOR

example, when a valued employee hands you his 2-week notice, when a customer tells you she's decided to purchase a comparable product or service from a competitor, when your banker tells you your loan application has been denied, when your spouse tells you she's decided to trade you in for a new and improved model, or when your daughter tells you she's decided to marry the unemployed kid with spikes in his hair who's been hanging around lately. These are all occasions when your heart aches and your mind whirls in frustration searching for a strategy to reverse the decision. Grasping, yet coming up with nothing.

Would it surprise you to learn that there is a body of research that investigates this need? It's called "preference reversal."

When people have many choices and then make a decision, they must first form a preference. The fact is, preferences are very fragile. Usually, there isn't a lot of difference between choice A and choice B. That's why people have trouble making up their minds and switch their preferences, and if you'd like to see this in operation, there's an experiment you can try.

Select two competing

products that vary in price and quality. One day, show your spouse one of the products and ask her to rate it and explain why she gave it the rating she did. Wait a week and repeat this exercise with the second item. Again, ask her to rate it and explain why she gave it the rating she did. Wait another week. This time, give her two different competing products at the same time that vary in price and quality. Ask her to tell you which one she

prefers and why. If your experiment works, when evaluating the choices individually, quality will be the more important factor. The higher priced, higher quality product will be her choice. When evaluating the second set of products side-by-side, price will be the more important factor. The lower cost product will be her preference and her choice.

Why do you suppose this difference affects preference formation?

Stephen Gould, from City University of New York, investigates this subject, and recently, he conducted three experiments exploring it. He was interested in learning what goes through people's minds as they form preferences. He asked his subjects to complete tasks similar to the ones described above, and to write

down their thoughts as they did so. Next, Gould analyzed what they wrote. He knew from previous research that people use one part of their brains for joint evaluations, and another for separate evaluations. His analysis of the thoughts his subjects wrote down confirmed this.

When you read this research, you can't help but get excited. Altering the preference-formation task a person completes will change the portion of their brain he/she

employs to arrive at preferences, and, with any luck, change the preference and the decision that flows from it. You can get people to change their minds.

For example, if an employee jointly considers two jobs, he/she may line up easily quantifiable factors and compare them, for example, he may compare salary. A preference for one and a decision may follow, and you may lose a valuable employee. But if you change the preference-formation task and ask the person to list all the important factors of the job he/she has, then you've changed the problem. You've made it more complex, and different thinking will be focused on the problem. The decision may well reverse.

Altering the preference-formation task for another person

can be accomplished easily. You only need to listen closely and determine if joint or separate evaluations of alternatives has taken place. The daughter who has considered the unemployed kid with spikes in his hair and rated him as "Mr. Wonderful," has not done a side-by-side comparison of alternatives open to her. The employee who has only considered salary in evaluating two jobs has not done a thorough rating task. Once you know which preference formation strategy the person has used, you can respond accordingly.

You can direct the attention of a person employing joint evaluation to a separate evaluation task, or you can direct the attention of a person employing separate evaluation to a joint evaluation task. If you develop skill in making this switch, you'll likely have much greater success in getting decisions you can live with. Your valued employee may decide to stay. Your spouse may decide to keep you around the house a little longer, and your daughter may decide to go away to school after all and get that degree... and so on and so forth. ■

Reference: Gould, Stephen J. and Thomas Kramer (2009) "What's it Worth to Me?" Three Interpretive Studies of the Relative Roles of Task-oriented and Reflexive Processes in Separate versus Joint Value Construction. *Journal of Economic Psychology*, 30, 840-858.

"When people have many choices and then make a decision, they must first form a preference."

BACK TO SCHOOL SALES UP Continued

include online (28.6%), clothing stores (28.2%), electronics stores (18.0%) or drug stores (17.0%). Forty-three percent are planning on buying décor, apparel or other items school from their college bookstore.

The survey found one-third (33.1%) of college shoppers will begin hitting the stores one month before school starts, with 23.2 percent preferring to wait

a bit longer and go one to two weeks before school starts. One in five (20.2%) will start at least two months before school starts, 12.6 percent will wait until the week school starts and 10.9 percent will go after they've already started school.

ABOUT THE SURVEY
NRF's 2010 Back to School

and Back to College Consumer Intentions and Actions Surveys were designed to gauge consumer behavior and shopping trends related to back to school spending and back to college spending. The surveys were conducted for NRF by BIGresearch. The poll of 9009 consumers was conducted from June 30 – July 7, 2010. The consumer polls have a margin of

error of plus or minus 1.0 percent. ■

BIGresearch® consumer intelligence provides analysis of behavior in areas of products and services, retail, financial services, automotive and media. The BIGresearch Consumer Intentions and Actions® Survey (CIATM) of 8,000+ respondents is conducted monthly and the Simultaneous Media Usage® Survey (SIMM®) of 15,000+ respondents is conducted semi-annually.

*Extrapolation of U.S. population of adults 18+



TIME TO RE-ORDER FOR 2010!

Easy online ordering at www.wecard.org
Or, call 1-800-934-3968

Under 18 No Tobacco

We Card

ORDER TODAY AT WECARD.ORG

©2009 Coalition for Responsible Tobacco Retailing, Inc. All rights reserved.

Important Information for SIG Members

The NRS governing self insured groups requires notifying members of all new members to the Nevada Retail Network Self Insured Group. New members for NRNSIG from July 1, 2010 to July 31, 2010 are listed below.

360 Exteriors

Austin's House

Gary S Dankworth, MD

J'ossies

Kept Swept

Marmot REOF1

SP Payments

NRNSIG members who wish to register a negative vote on a new group member, please write NRNSIG at 575 S. Saliman Road, Carson City, NV 89701, indicating which member and the reason(s) for the negative vote.

TAKE CONTROL OF YOUR WORKERS' COMP COST

Be Part of...

The Nevada Retail Network
Certificate #5004



- Greater management control that cuts overhead costs
- Pre-employment screening at a small co-pay for NRN members only
- Team Safety/Loss Control Program for all members
- Investigation and defense of claims
- Direct savings that give members greater incentive to control losses

Take Control Today...

Call Mike Olson
800-859-3177

- **Self Insured Group** •
- Membership in RAN Required •

Sponsored by:

The Retail Association of Nevada

410 South Minnesota Street
Carson City, NV 89703-4272

MEMBERSHIP INFORMATION: Find out more about RAN's self insured group.

Call Mike Olson, **800-859-3177**,
or the RAN office at **775-882-1700** (toll free in Nevada 800-690-5959).

Don't forget to check out our website, **www.RANNV.org**.



NRF CALLS PASSAGE OF LANDMARK SWIPE FEE FIX A MAJOR VICTORY FOR RETAILERS AND CONSUMERS OVER DEBIT AND CREDIT CARD FEES

WASHINGTON — PROVISIONS IN THE FINANCIAL SERVICES reform bill passed by the Senate requiring reasonable debit card swipe fees and making it easier for merchants to give discounts to customers who don't use credit cards represent a major victory for retailers and consumers in their fight against card fees, the National Retail Federation said.

"This is a landmark step forward in protecting Main Street against the excesses of the banking industry," NRF Senior Vice President and General Counsel Mallory Duncan said. "Five years ago most consumers didn't know these fees existed or that the banks were quietly taking billions of dollars out of their pockets. But today we have a bill on its way to the President's desk that tells the big banks enough is enough. The days of big bank bailouts are coming to an end – Congress has clearly sided with Main Street businesses and their customers."

"This is an all-around win for consumers," Duncan said. "By requiring debit fees that are reasonable and proportional to actual costs, retailers will see their

costs reduced and will be able to pass on the savings through lower prices and greater value for their customers. Eliminating obstacles to giving a discount or other benefit for cash, check or debit cards will make it easier for retailers to reward customers who are clued into these fees and choose not to use credit cards."

"Swipe fees are a prime example of banks charging fees that are incredibly out of proportion with the costs involved, a story that's familiar to anyone who's ever been charged a \$35 overdraft fee for a buying a cup of coffee or an inactivity fee for the credit card crime of not having used their card enough," Duncan said. "Banks began saving huge sums over the cost of processing paper checks when they introduced debit cards as 'check cards' a generation ago. When debit cards first came out, transactions were redeemed at full value. But saving millions wasn't enough. The banks couldn't resist the urge to invent yet another fee."

The Senate voted 60-39 to approve the conference report on H.R. 4173, the Dodd-Frank Wall Street Reform Act of 2010, named for Senate Banking Committee Chairman Christopher Dodd,

D-Conn., and House Financial Services Committee Chairman Barney Frank, D-Mass. The report is the final version of a pair of wide-ranging financial services reform bills first passed by the House in November and the Senate in May. The report was approved by the House on June 30 and now heads to President Obama.

The bill includes an amendment sponsored by Senate Majority Whip Richard Durbin, D-Ill., that would require the Federal Reserve to set regulations resulting in "reasonable and proportional" swipe fees for debit cards. The Fed would be required to consider banks' actual costs for processing the transactions and the fact that paper checks drawn on the same accounts are paid at face value. The amendment would also bar the card industry from interfering with merchants who offer a discount or other benefit to customers who pay by cash, check or debit card rather than credit cards, and would allow merchants to set minimum purchase amounts of up to \$10 for credit cards.

Swipe fees — officially known as interchange fees — are a percentage of the transaction charged by card company banks

each time a card is swiped to pay for a purchase. The fees average between 1 and 2 percent for debit cards and 2 percent or more for credit cards. Overall swipe fees charged to retailers and other business by Visa and MasterCard banks totaled \$48 billion in 2008, with debit swipe fees accounting for \$20 billion of the total.

Current card and banking industry prices effectively require retailers to include the fees in the price of merchandise, resulting in the average household paying \$427 more annually than they would pay without the fees, according to NRF estimates.

As the world's largest retail trade association and the voice of retail worldwide, NRF's global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the United States and more than 45 countries abroad. In the United States, NRF represents the breadth and diversity of an industry with more than 1.6 million American companies that employ nearly 25 million workers and generated 2009 sales of \$2.3 trillion. ■

www.nrf.com

RILA COMMENTS ON PRESIDENT OBAMA'S SIGNING OF SWIPE FEE REFORM LEGISLATION

SWIPE REFORMS INCLUDED IN DODD FRANK FINANCIAL REFORM BILL

THE RETAIL INDUSTRY LEADERS ASSOCIATION (RILA) ISSUED THE following statement from RILA President Sandy Kennedy following a bill signing ceremony at the White House. President Obama signed into law legislation that contains meaningful swipe fee reforms that will bring relief to consumers and merchants who currently face excessive swipe fees imposed by credit card companies and big banks.

"Today is a great day for retailers who have fought for years to bring fairness and transparency to a broken system.

"The swipe fee reforms signed into law today by President Obama will benefit America's retailers, small and large, and their customers by reining in the excessive debit swipe fees imposed by credit card companies and big banks.

"We applaud leaders in Congress, specifically Senator Durbin and Representatives Welch and Shuster for standing up for

America's retailers and consumers and we look forward to working with the Federal Reserve to ensure that the goals of reform are preserved as the rulemaking process moves forward."

The swipe fee reform language included in the Dodd Frank Financial Reform Conference Report was based on an amendment introduced by Senator Richard Durbin (D-IL) and passed by the Senate in a broad bipartisan vote on May 13. Representatives Peter Welch (D-VT) and Bill Shuster (R-PA) were

instrumental to consideration of swipe fee reform in the U.S. House of Representatives.

RILA is the trade association of the world's largest and most innovative retail companies. RILA members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs and more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad. ■



Retail Association of Nevada
 410 South Minnesota Street
 Carson City, Nevada 89703-4272

PRESORTED
 STANDARD
 U.S. POSTAGE PAID
 CARSON CITY, NV
 PERMIT NO. 98

NEVADA NEWS

Nevada News is published by the Retail Association of Nevada, a nonpartisan, nonprofit corporation founded in 1969 representing the Retail Community, the Chain Drug Council and the Grocery Industry Council.

Mary F. Lau
President/CEO

Elizabeth MacMenamin
Vice President of Government Affairs

Lea Tauchen
Senior Director of Government Affairs

Bryan Wachter
Director of Government Affairs

Piper Brown
Office Manager

Mike Olson
Account Executive / Workers' Comp

Ande Engleman
Newsletter Editor

Sue Arzillo, Alphabet Soup Inc.
Newsletter Design & Layout

WASHINGTON RETAIL INSIGHT

VAT AMONG TOP ISSUES AT NRF TAXATION COMMITTEE MEETING

CONTINUED TALK OF A NATIONAL VALUE ADDED TAX WAS among the top issues as members of the NRF Taxation Committee met in Washington.

The two-day meeting came less than a week after Erskine Bowles, co-chairman of President Obama's deficit reduction commission publicly voiced support for enactment of a consumption tax. Speaking at a July 14 conference in Washington, the former Clinton Administration chief of staff said he favors simplifying the income tax and reducing both personal and corporate rates. He also said the country desperately

needs more revenue and that it should come from a broad-based consumption tax. Taxation Committee members spent an afternoon addressing VAT and other pressing tax issues with staff members at the Senate Budget and Finance Committees, and met with deficit commission Chief Tax Counsel Josh Odintz at NRF headquarters the following day. Odintz didn't address Bowles' comments but said, "Everything is on the table. Nothing has been removed." Odintz said the panel — officially known as the National Commission on Fiscal Responsibility and Reform — is confident it will meet its December

deadline to present deficit reduction recommendations to Congress. He said the commission would welcome seeing an NRF study on the economic impact of a VAT that is currently being conducted. Committee members told Odintz retailers are worried that a VAT would worsen consumer-spending levels that have already been dampened by the recession of the past two years. One said higher prices that would come with a VAT could have a psychological effect that would discourage spending even if tax reform was structured in a way that ultimately left consumers with more money in their pockets. Ernst and Young

economists, Bob Cline and Bob Carroll, updated the committee on progress of the study, which is looking at the impact of a VAT on consumer spending, employment and gross domestic product. Preliminary numbers show a negative impact on each of those categories, they said. The committee also addressed uncertain tax positions, sale-leasebacks, economic substance, gift cards, vendor allowance, repairs and audits, among other issues, and met with officials from the Internal Revenue Service chief counsel's office. ■