

Minutes of the
LEGISLATIVE COMMISSION
Nevada Legislative Counsel Bureau (LCB)
August 24, 2009

The third meeting in 2009 of the Legislative Commission, created pursuant to Nevada Revised Statutes (NRS) 218.660, was held on Monday, August 24, 2009, commencing at 1:05 p.m., in Room 4401 of the Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada with a simultaneous video conference to Room 3138 of the Legislative Building, 401 S. Carson Street, Carson City, Nevada.

COMMISSION MEMBERS PRESENT:

Assemblyman John Ocegüera, Chair (in Las Vegas)
Assemblyman Marcus L. Conklin, Vice Chair (in Las Vegas)
Senator Maggie Carlton (in Las Vegas)
Senator Barbara K. Cegavske (in Las Vegas)
Senator Steven A. Horsford (in Las Vegas)
Senator Randolph J. Townsend (in Carson City)
Senator Maurice E. Washington (in Las Vegas)
Senator Joyce L. Woodhouse (in Las Vegas)
Assemblywoman Marilyn Kirkpatrick (in Las Vegas)
Assemblyman James A. Settlemeyer (in Carson City)
Assemblywoman Debbie Smith (in Carson City)
Assemblyman Lynn Stewart (in Las Vegas), alternate for
Assemblyman John C. Carpenter

COMMISSION MEMBERS EXCUSED:

Assemblyman John C. Carpenter

LCB STAFF PRESENT:

Lorne J. Malkiewich, Director (in Las Vegas)
Brenda J. Erdoes, Legislative Counsel (in Carson City)
Gary L. Ghiggeri, Senate Fiscal Analyst (in Carson City)
Mark W. Stevens, Assembly Fiscal Analyst (in Carson City)
Paul V. Townsend, Legislative Auditor (in Carson City)
Donald O. Williams, Research Director (in Carson City)
Risa B. Lang, Chief Deputy Legislative Counsel (in Carson City)
Marilyn K. White, Assistant to Director (in Carson City)

The meeting was called to order by Chair Ocegüera. The agenda is attached as Exhibit A. Attendance records are attached as Exhibit B.

Item I – Approval of Minutes of Meeting Held May 29, 2009 – Assemblyman John Oceguera, Chair.

ASSEMBLYMAN CONKLIN MOVED APPROVAL OF THE MINUTES OF THE MAY 29, 2009, MEETING. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED.

Item II – Legislative Auditor:

A. Request for audit of the Department of Agriculture – Paul V. Townsend, Legislative Auditor.

Mr. Townsend called attention to a handout of a draft letter from the chairs of the Assembly Committee on Ways and Means and the Senate Committee on Finance requesting an audit of the Department of Agriculture (copy attached as Exhibit C). The letter indicated that in closing the Department of Agriculture's budget, the committees requested that the Legislative Auditor conduct an audit of the Department of Agriculture's cost allocation practices. The letter details concerns that organizational changes have been made without adjusting the corresponding revenue sources; therefore, there is a concern that federal funds and industry fees collected by the department may be used to supplement programs, staff and services once supported by General Fund appropriations. Additionally, Mr. Townsend referred to a document entitled "Audit Program – Calendar Years 2009 and 2010" in the meeting packet showing the audits the division currently has in progress. He said that he does have staff coming available and he would be able to start the audit immediately. He said that it is his understanding that the request is for the Legislative Commission to approve an audit in accordance with the letter of intent and that would be contingent upon the final approval of the letter by the chairs of the "money" committees and his receipt of the signed document.

ASSEMBLYMAN CONKLIN MOVED APPROVAL OF THE REQUEST FOR AN AUDIT OF THE DEPARTMENT OF AGRICULTURE. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED.

B. National State Auditors Association Report on Nevada Legislative Counsel Bureau Audit Division's System of Quality Control – Paul V. Townsend, Legislative Auditor.

Mr. Townsend explained that this item contains the results of the Audit Division's recent external quality control review. He said the division conducts its audits in accordance with government auditing standards that are issued by the Comptroller General of the United States who also serves as head of the Government Accountability Office for Congress. The standards provide a framework for performing high quality audits with competence, integrity, objectivity and independence and the standards also require that an external quality control review, also referred to as a peer review, be conducted once

every three years. The most recent review was completed on August 14th and was conducted by very experienced auditors from the states of Maryland, Tennessee, New York and Hawaii and the results of the review are discussed in the letter in the meeting packet where the team concluded that the Audit Division's system of quality control provides reasonable assurance of conforming with government auditing standards. He said this is a very positive report and he is very proud of the Audit Division staff in meeting these rigorous standards. The standards also require that the results of their review be presented to the oversight body and, therefore, he is requesting that the Legislative Commission accept the report on the Audit Division's external peer review. He said that he would be happy to answer any questions.

Chair Ocegüera commented that it looked like Mr. Townsend's division did an excellent job on this and he appreciates their hard work.

ASSEMBLYMAN CONKLIN MOVED ACCEPTANCE OF THE REPORT ON THE AUDIT DIVISION'S EXTERNAL PEER REVIEW AND ADDED CONGRATULATORY REMARKS THAT THE WORK WAS APPRECIATED. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED.

Item III – Legislative Commission Policy:

A. Review of administrative regulations – Brenda J. Erdoes, Legislative Counsel.

Ms. Erdoes referred to a packet containing five regulations that have been submitted since the last meeting of the Legislative Commission. The last regulation is an early submission – the meeting to adopt R052-09 will be held the next day and approval will allow the regulation to be filed if adopted with no changes after the meeting the next day. She said that the Legal Division reviewed each of the regulations and did not identify any regulation that appears to exceed the statutory authority. Representatives of each of the agencies have been asked to be present today in case members have any questions.

1. Regulations submitted pursuant to NRS 233B.067.

Chair Ocegüera said as is the usual and customary procedure, he will go down the list of regulations and if members would like a regulation held for more thorough review that they let him know and then a motion would be made to approve the remaining regulations. Senator Horsford requested that regulations R128-07 and R047-08 be held for further discussion. Assemblyman Conklin requested that regulation R052-09 be held for further discussion.

ASSEMBLYMAN CONKLIN MOVED APPROVAL OF REGULATIONS R182-08 AND R189-08. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED.

On Regulation R128-07 from the Labor Commissioner, Senator Horsford said that he would like an explanation of the regulation from the Labor Commissioner.

Michael Tanchek, State Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry, appeared before members in Carson City. He said that the regulation is the classification regulation relating to prevailing wages and is essentially his response to what is referred to as the "Littlefield decision" that was rendered by the Nevada Supreme Court on March 8, 2007. He explained that what precipitated that issue was a change in two of the classifications out of the 3,000-plus classifications for which his office publishes prevailing wages. The Supreme Court in that decision said that "we conclude that when the Commissioner adds, deletes or substantially modifies workers classification, that action constitutes rule making and thus he must first comply with the APA's rule-making requirements. The definition of a regulation encompasses the addition, deletion and substantial modification of worker classifications under NRS Chapter 338. Such determinations are subject to the APA's rule-making requirements."

He said his interpretation of what the court was saying in that case was that the job classifications for which they publish rates every year are, in fact, a regulation. However, that regulation exists outside of the Nevada Administrative Code. In 233B.0621 B, it says that permanent regulations must be incorporated into Nevada Administrative Code. The list before members, estimated to be around 300 pages, contains the job classifications that existed on the day that the "Littlefield decision" was issued in 2007. All the regulation would do is put those classifications into the Nevada Administrative Code.

Senator Horsford asked if all the affected parties were part of the hearings on the regulation. Mr. Tanchek responded that they were and they were not happy with it. He said, "That regulation is not near and dear to my heart either because I think it is not a particularly good solution to a not particularly bad problem; however, I think it does bring us into compliance with the Supreme Court's decision."

Senator Horsford said that he would like to hear from any other stakeholders that have any concerns or to hear their perspective on the regulation if possible.

Senator Carlton asked Mr. Tanchek if he could tell her the consequences of the way the regulation is drafted and not having his job classification included. Further clarifying her question Senator Carlton asked, "If my job classification is not within this regulation, what happens to my job classification?" Mr. Tanchek replied, "That's a very good question. If your job classification is not within that regulation, then essentially for all intents and purposes, it does not exist. Whatever work you were performing, we would have to fit it into one of the existing job classifications or else we would have to go through rule making to amend the list of classifications. The problem being is that like I say those classifications are not in the NAC's right now so it becomes a question of what it is we are amending." Senator Carlton asked if Mr. Tanchek is aware of any significant job classifications that were debated on being included in this regulation that are not included now." Mr. Tanchek responded, "I can think of, well over time alright,

for example right now there's a sort of an ongoing issue between sheet metal workers union and the roofers union over whether not, or how or where sheet metal roofing should be classified. During the last session of the Legislature when legislation was introduced to modify the process for doing this, a classification was requested for lightning protection technicians, a classification that would parallel the existing classification in Davis Bacon. We had one where a classification was changed, although this happened prior to the 'Littlefield decision' where the laborers union down south added three little words 'includes metallic pipe' into their classification which put them into conflict with the electricians union down south in terms of putting conduit in buildings. So, these changes do – they are coming up – and we're trying to provide a mechanism for changing those. Now another one that we were able to work around involved the operating engineers local down in southern Nevada last year where they had, in their collective bargaining agreement they have what are called group classifications which is where a lot of these classifications come from and, in fact, that's essentially what was the subject of the lawsuit itself. In the process of collective bargaining, the operating engineers moved a lot of their subclassifications into different groups. The problem was that even though they were now in different groups reflecting different wage rates, we could not move those classifications from group to group without going through the rule-making process. The operating engineers did a good job in basically going back looking at the way our tables were restructured or structured and moving the dollar amounts around which we can do. We can't move the classifications but we can move the dollar amounts. The consequence of that is we ended up with groups which historically reflect a single wage rate for every sub-classification within that group. Now the sub-classifications are reflecting a variety of different wage rates within that one group. So, operationally not being able to change these classifications around have created some problems. Thus far other than not bringing in any new classifications, it hasn't been anything that we haven't been able to work around."

Ms. Smith indicated that she did not serve on the Legislative Commission during the last interim but if she was not mistaken this regulation was before the commission some time last fall. She asked what happened then and what has changed since then.

Mr. Tanchek explained that the regulation has been before the commission twice and he withdrew it both times. He said that last fall he was talking about and it was requested that an opportunity be given to address the issue with legislation rather than adopting this rule and he agreed to have it "pulled" from the agenda to give the Legislature a chance to address the issue. Ms. Smith asked what happened in that situation.

Mr. Tanchek said that Mr. Daly from the laborers union is present and he spearheaded an attempt to put a new process in place where the regulations would be that the additions, deletions, changes and adopting classifications would be a legislative function rather than a regulatory function. Essentially, it would put the Legislature in charge of investigating and determining what classifications should or should not be in and out in terms of the prevailing wages. He thought that bill passed and his position on it was that he didn't think it was a particularly good idea but he was not actively opposing it and it was vetoed by the Governor.

Danny Thompson representing the AFL-CIO appeared before members in Las Vegas. He apologized, noting that he had not planned on attending the meeting today and he just heard about this matter. Mr. Thompson said that Mr. Tanchek was correct in that there was a bill – Senate Bill 376 – that would have changed the process. That bill was passed by both houses and vetoed by the Governor. He said that he believes that it should be done by the Legislature and not through the regulatory process. He said that the classifications have been “fought out” for decades based on decisions that both sides have fought over. His concern is exactly the question that Senator Carlton asked, that if it’s not in this group then it doesn’t exist. He said, “I would submit to you that by doing this, and I understand why the Labor Commission is doing it, but by doing it in this way you’re going to open up a bigger can of worms than the can of worms that is already opened. We are opposed to this regulation and we would plan to come back to the Legislature and seek a remedy there again.”

Chair Ocegüera asked Mr. Thompson, “By doing nothing or rejecting these regulations again, in your view and I will ask Mr. Tanchek the same thing, where are we at – what is the effect.” Mr. Thompson said, “Mr. Chairman, I don’t want to speak for the Labor Commissioner but that is what he currently does now, he decides these issues often times it is a case-by-case basis. We would essentially be where we are today.”

The Chair asked Mr. Tanchek if he would agree with the assessment by Mr. Thompson. Mr. Tanchek responded, “Absolutely. I think Mr. Thompson makes a very good point. This is, and I have said it on numerous occasions, I think this is not a particularly good solution but I feel that I’m sort of painted into this corner by the nature of the legislation. If the committee was to vote this regulation down now, I will be quite candid with you it would be less work for my office because it would maintain the status quo. There has been a lot of water under the bridge since this thing passed, however, that being said it’s here. Essentially what I’m looking for – I’m looking for a vote. Voted up it goes into effect and we can deal with it going forward. Voted down we maintain the status quo. Either way works for me.” Chair Ocegüera said he would accept a motion to reject the regulation.

SENATOR CARLTON MOVED TO REJECT REGULATION R128-07. MOTION
SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

On Regulation R047-08 from the Labor Commissioner, Senator Horsford requested an explanation of the regulation from the Labor Commissioner. Mr. Tanchek said that every year cost of living information is reviewed and the apprenticeship minimum wage is adjusted. He said that the dollar amount itself is embedded in the regulation and they go through rule making once they have calculated what the new number is and it has been reviewed by the State Apprenticeship Council. Senator Horsford asked, “So these are rates not less than, it doesn’t indicate what the actual rates are by trade, correct?” Mr. Tanchek responded, “That’s correct, senator. Each of the apprenticeship programs adjust their own rates – they vary depending on the experience and length of time that

the apprentices have been in the program. What this does is it just sets a minimum wage that's uniform for all the programs."

Senator Carlton noted that Mr. Tanchek said that they have been reviewed and she asked if they were agreed upon or have they been worked on and is it a consensus document. Mr. Tanchek responded, "Yes. What they have been looking at is two different alternatives for calculating a wage but this number is actually based on the accepted practice right now. One recommendation I'm going to make to the State Apprenticeship Council is to change the regulation to adopt the formula rather than the number itself at which point it would just become more of a ministerial function every year. In other words, they run the numbers and the number is what the number is and then we would just announce the number."

Ms. Smith said she wished to note that her husband is a member of the State Apprenticeship Council but this does not affect him or her in any other way so she will be voting.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF REGULATION R047-08. MOTION SECONDED BY SENATOR CARLTON AND CARRIED UNANIMOUSLY.

2. Regulations submitted pursuant to NRS 233B.0681.

On Regulation R052-09 from the Commissioner of Mortgage Lending, Mr. Conklin said that he just wanted to confirm with legal counsel about the proceedings for this regulation. He said that it is his understanding that if the commission approves the regulation today, it is a pre-approval that will then go to public hearing put forth by the Department of Mortgage Lending and if no changes are to be made, this regulation goes into existence at the end of the meeting. If there are changes, any changes, to be made as a result of the public hearing, then this approval is null and void and a new set of regulations comes before the next Legislative Commission meeting. He asked if his understanding was correct. Ms. Erdoes responded, "Yes. That's exactly the way that it will work."

Ms. Kirkpatrick asked that as the public hearing process is done that the members have a copy of the information as they do in the other regulations of the testimony summary that was provided in the folks that attended.

Joseph Waltuch, Commissioner of Mortgage Lending, appeared before members in Las Vegas said that the information could be provided with no problem.

Mr. Conklin said that having sponsored the bill, he has an acute interest in seeing the regulation go forward as soon as possible and he knows that Mr. Waltuch and the LCB Legal Division have worked it out to make sure that at least the regulations are

compliant with the bill. His only hesitation is to make sure that if there is a dispute, they have given the authority to the commissioner to resolve that dispute. He wants to make sure that there is an opportunity if there is a disagreement between the commissioner and some members who are going to be governed under this that it is dealt with fairly. He said, "I am not suggesting it wouldn't be but because we have given it up after today. That is my only concern and this is definitely an area that needs to be regulated sooner rather than later. Just a note of caution but I will be supporting approving this."

Senator Carlton asked Ms. Erdoes if the Legislative Commission often does a pre-approval like this situation today. Ms. Erdoes responded that it does not and there are very few of these that have occurred during her years at the LCB and this is probably only the second or third time. Senator Carlton said that she has some concerns that the commission would be giving their stamp of approval before the workshops and public comment and it almost seems that they are saying "this is the way we want it, we hope you guys agree with it." She said she is a little apprehensive about the message that they might be sending. Mr. Waltuch explained that the agency has already had the public workshop and in that process they have sent this draft and all the prior drafts to their "interested party" list. They automatically send materials via email to anyone who is interested and wants to see it. They have received written comments and telephone call comments as well. He reiterated that the regulation has gone through a workshop and comments have been received. He said that he also wanted to point out that Assembly Bill 152, which requires him to adopt the regulations, also required them to have the regulation to the commission within 90 days of the adoption of the bill which would be the next Thursday. If they had it to members next Thursday, the next meeting of the commission is October and understanding the urgency with which the matter needs to be addressed, they decided to try an early approval, one day earlier than the public adoption hearing which is set for tomorrow.

Further, Senator Carlton asked, "So if there is a problem at the meeting tomorrow and it cannot be resolved, then you would bring this regulation back and if the Subcommittee to Review Regulations met before the commission met then you could handle it that way." Mr. Waltuch replied, "Yes, that's exactly correct."

Ms. Kirkpatrick referred to section 126, subsection 21, page 98, of the regulation and asked why that portion was amended. Mr. Waltuch said that it is his understanding that this section is a duplicate of section 21 of the bill and it is dependent on whether federal laws change sometime in the future. If federal laws change, then this section gets repealed. Ms. Kirkpatrick ask if they are notified of the changes or does it automatically change. She said that she does not have a case either way but just noticed that it was different than it had been in the past. Mr. Waltuch said that he would have to defer to the LCB on that question. Ms. Erdoes responded that there is not an actual procedure for that because it has not ever occurred but there are a lot of sections that carry that same parallel section. She indicated that her office does monitor those things and if federal law does change, then they would make the revisions

to the NRS. She thought it would be a good idea if the agencies and other people who were affected by the

change. She said that at the very least they would change the codified version of the NRS to remove those sections.

Mr. Settelmeyer said that he has a bit of problem based on the same thing mentioned by Ms. Kirkpatrick. He said, "We're basically talking about approving something and then waiting for the public input after the fact. Is there any way we can figure out some way to get around this type of a theory? It is very problematic to me to basically be saying we don't care what the public's going to say in the next couple of days we're just going to approve this."

Chair Ocegüera said that he tended to agree with Mr. Settelmeyer to a certain extent except for the fact that the public input has happened and this is just the approval. He is a little uneasy with it as well but is relying on the folks that are present who have read the regulation and seem to be comfortable with it. The chair said that it is the pleasure of the commission and noted that the Legislative Commission's Subcommittee to Review Regulations could also hold a meeting between now and the next time the commission meets.

Ms. Kirkpatrick asked if there is an emergency regulation in place and what happens if the commission does not do anything with this regulation. Mr. Waltuch responded that there are emergency regulations in place that expire about November 7th but those emergency regulations basically only pertain to giving the division the authority to issue licenses, accept fees and do some limited enforcement activities. He said these are the permanent regulations and include many more items such as the bonding requirement, pre- and post-licensing education, much more enforcement authority and among other things some additional consumer protections and deceitful advertising protections that are not in the emergency regulations. Ms. Kirkpatrick said, "I guess that's why I'm a little bit more sympathetic especially throughout our state the highest foreclosure rate . . . I worry that if we don't do anything that we'll see more folks flood to try and get through the process." She asked when the public workshop was held and how soon could they get that documentation. Mr. Waltuch said that he believed it was outside the 30-day window so he believed it was held at least a month ago towards the end of July. The public adoption hearing is set to the next day and it will take them a couple of days to have the minutes assuming anybody wishes to put anything on the record to have transcribed. He believed they could be provided by the end of the week.

Further, Ms. Kirkpatrick inquired if the agency had received any written comments and were they submitted after the public workshop. She thought that it is important that the commission move forward with the regulation and is just curious as to what the feedback was at the public workshop. Mr. Waltuch replied that he believed only three written comments but he may have it wrong and it might have been slightly more and they received two or three telephone calls as well. He said, "The comments basically overwhelmingly supported what we're doing as far as the regulations go. The real dispute, if you want to call it a dispute, has to do with first, the licensing fee. Some people felt it was too high, others felt it was too low and one felt that we should

differentiate between out-of-state licensees by making their fees even more than for in-state licensees. The other major comment had to do with the bonding requirement amount. What we did in response to that is we staggered the amount of the bond depending on how much money is held in the trust account on an average monthly balance. So we basically compromised on both the fees and the bonding requirement but other than that there were very few comments objecting to the procedure at all."

Chair Ocegüera asked Ms. Erdoes to define the process for early review and how that exactly works so that it might give the members a little more comfort. Ms. Erdoes said, "Basically this fits in after the agency has held its workshop at least and most times as I think it is in this case is after they have held a hearing on the actual regulation. The regulation would have to be adopted exactly as is in your packet today for the approval to be effective. Once the agency hears the regulation, I believe they are hearing this tomorrow, once they hear the regulation, have a discussion and the public hearing on it if there are no changes to be made then we would file it as soon as they notified us that they adopted it as is. If there were any changes to it at all, then the pre-approval of the Legislative Commission would not be effective and what would happen at that point is that the agency would need to resubmit the regulation and they could ask, under the statute it says they could ask for an expedited review in which case we would, if you appoint a committee to review regulations today we would have a meeting of that committee to review the regulation and that could be as quickly as we could get a quorum of that committee following the date on which the agency notified us of the approval of the regulation." Chair Ocegüera commented that gives him a lot more comfort although he would say to agencies that are listening, this would not be the regular process and this seems like an extraordinary case and the fact that it would have to be approved exactly as members have it in their packet gives him more comfort and he would entertain a motion.

ASSEMBLYWOMAN KIRKPATRICK MOVED APPROVAL OF REGULATION R052-09. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

B. Amendments to Rules and Policies of the Legislative Counsel Bureau concerning Furlough Policy – Lorne J. Malkiewich, Director.

Mr. Malkiewich referred to material contained in the meeting packet for this agenda item which contains a draft of the amendment. He recalled this furlough policy was adopted at the last meeting and he was embarrassed to say that although he worked quite a bit on the policy, the one adopted was not in compliance with the statute. He noticed that shortly after adoption and the LCB has been complying with it in accordance with the statute. He said the big difference is that it used to say that a person could take up to 96 hours in a year but the statute provides that everyone other than classified employees has to take exactly one day per month and that is the biggest change in the regulation. Since a person has to keep up with the one day of furlough, the "catch up"

provision at the end of the rule that says if one is not keeping up it is taken away at the end when he or she leaves is deleted.

ASSEMBLYMAN CONKLIN MOVED APPROVAL OF THE PROPOSED AMENDMENT. MOTION SECONDED BY ASSEMBLYWOMAN KIRKPATRICK AND CARRIED UNANIMOUSLY.

The chair proceeded to agenda Item III. E. prior to addressing Items III. C. and D.

C. Request to State Board of Examiners for Allocation from Contingency Fund (NRS 353.266) to retain the services of a qualified, independent consultant to review Nevada's public revenue structure pursuant to Senate Concurrent Resolution No. 37 of the 2009 Legislative Session (File No. 102) – Lorne J. Malkiewich, Director.

Mr. Malkiewich called attention to material in the meeting packet for this agenda item which contained a portion of S.C.R. No. 37 that talks about the Interim Finance Committee (IFC) seeking an independent consultant to review Nevada's public revenue structure. He said that the committee met this morning to discuss the request for proposals on that matter. Also included in the packet is a copy of the three statutes concerning the Contingency Fund. He believed it was explained this morning at the subcommittee that the intent is for the Legislative Commission to go forward and to request a Contingency Fund allocation from the Board of Examiners to pay the cost of the tax study. Since the request for proposal (RFP) will be released in the next couple of days once the language is available, the responses will come back by October and it is the hope to go to a meeting of the Board of Examiners. He noted there is a meeting scheduled for October 13th to which he would like to be able to take that request. It would mean that the subcommittee of the IFC that has the authority to issue the RFP would know by the time it receives the RFP responses about what it would cost. He requested authority to take the request from the subcommittee to the Board of Examiners for an allocation from the Contingency Fund. It would need to be approved by the Board of Examiners and then the IFC. While it is a bit circuitous, he did not want to have a special Legislative Commission meeting although that could be done and there could be another Legislative Commission meeting, a Board of Examiners meeting and an IFC meeting in October. The only thing missing is the number that will be supplied by the RFP's. He thought it would simplify the process if it is the commission's desire to just go forward and approve the authority to take the request to the Board of Examiners.

Senator Cegavske said that she would have to know what the amount of the request would be and what kind of funding does the Board have available. Mr. Malkiewich explained that it would be a Contingency Fund allocation and Mr. Stevens and Mr. Ghiggeri are present in Carson City but he thought that \$7.5 million was appropriated to the Contingency Fund, there have been a couple of allocations out of it and there was \$7 million left. He stated that the study would be nowhere near that amount. He said that an appropriation of a few hundred thousand dollars was discussed during the legislative session. The problem is the RFP as structured asks the

respondents to itemize the different components and put a price on them. He thought what the subcommittee would do would be to say we can afford these two but not this and then come up with an amount. That is why it is impossible at this point to say we are going to set a \$400,000 cap on it when the RFP does not have a number in it. Senator Cegavske thanked the director for the explanation, noting that she understands the dilemma but just has a concern about okaying something without knowing the dollar amount.

Further, Senator Cegavske asked if Mr. Malkiewich could tell her when was the last time that there was a revenue structure review from the state. Mr. Malkiewich responded, "For the tax studies, I'd defer to the Fiscal people. I know we have a Website that shows the past study . . . I think it depends on how you would define it. In the late 80's, there was the Price Waterhouse Urban Institute study and I think that was the last comprehensive one. There have been other smaller studies – there's the Governor's Tax Study – but I don't think something of this scope since 1988."

Senator Townsend asked if he is to understand from Mr. Malkiewich's presentation that he would ask for a maximum of \$400,000 under this proposal. Mr. Malkiewich replied, "At this point, that was a number I pulled out of thin air from prior studies and from appropriations bills that have been considered but I don't know that there is a single number in the RFP that was approved this morning by the subcommittee." Further, Senator Townsend said, "The reason this is on the agenda, and I do support it, is to accelerate the pace with which we can actually receive an RFP and actually pay individuals but this morning's meeting in reading the RFP if you look at it very closely and having sat through a bunch of these like many of us have, it is an extremely broad request because it marries up not only the current tax structure to be analyzed but it looks at additional revenue opportunities and whether they are fair and balanced and stable, etc. and then it marries it with an additional component that is in the bill and subsequently in the RFP which has to do with where we rank in quality of life issues which broadens it even further. Which becomes problematic for the vendor who would bid on this because that study under the law is required to be back in front of IFC in six months. That's a big chunk. We've never done it that broadly to my recollection, meaning that to put a number on this and I believe Senator Cegavske and others have articulated this, gives concern. But, it is not too far fetched to speculate that an open ended RFP, you are going to get numbers that are going to be very significant because otherwise they are not going to want to take the time and the manpower to do this in a short period of time. So having said that, I don't know what the chair's recommendation would be to leave it kind of open-ended but I think it's really important for everyone to understand, this is such a unique proposal that the range of those who respond to the RFP it would be fair to say could be significant. If anyone thinks that you're going to get three people around the \$250,000 to \$500,000 range, I'm not sure they've read the RFP. This thing is significant and is going to require a great deal of manpower and intellect to get their arms around the two separate components that are in the RFP because they are substantially different from one another – one is our tax analysis and the other is a quality of life thing. I don't know where, Mr. Chairman, you

would like to go. I just offer those remarks to help all of us try to understand the breadth of this issue with regard to what we're asking people to respond to."

Chair Ocegüera thanked the senator for his remarks. He said that the direction he would like to go is, he is fairly certain that the folks on both of those committees are not going to vote to approve over a certain amount of money. He said he would hate to venture a guess on what that amount of money is but he knows there is a limit. He said he guessed that a motion could be made with a cap on it up to a certain amount of money and then it would have to return to the commission or something like that. He would like to help move the process along.

Senator Cegavske said she thinks that is the concern as Senator Townsend brought up, if you put a number out there, they will go to that number. She said, "I think it's much better that they bring to us what they estimate it's going to cost and then we look at that. I don't want to say we're willing to spend this amount because they will go to that so I think it's much better that somebody brings to us what they believe it would cost." Chair Ocegüera commented, "Right. I was going to make that point earlier but what I was saying is we could give Lorne the authority to go forward with this to a certain amount if that would bring people up to that amount, then let's not do that. I mean I think that was the original point. I get it." Senator Cegavske said that she would not support putting in a dollar amount and would recommend it come back to the commission. She said that she knows it is cumbersome but sometimes they have to do the "checks and balances."

Chair Ocegüera indicated if that is the case then he thought that the motion would be appropriate that the Director be given permission to request an allocation from the Contingency Fund in an amount to be determined by the subcommittee based on what is the RFP.

Senator Townsend said, "I would make that motion based on your articulation of it on the premise, this is not a caveat, but a lot of times you have to figure out those people are likely to bid on this would have to look at this RFP and come back, and there will be a wide range and then the subcommittee could in fact review their qualifications. Obviously, we are hoping the people who bid are, in fact, qualified but there are those that will attempt to bid on it that might not be, and then review those and find out if, in fact, two things occur. Number one, have they met the premise of the RFP and number two, are they the company that we think are the right ones based on their history, their knowledge, their expertise and is their bid rational. I would make the motion based on what you originally articulated."

SENATOR TOWNSEND MOVED APPROVAL OF THE REQUEST BY THE DIRECTOR TO REQUEST AN ALLOCATION FROM THE CONTINGENCY FUND IN AN AMOUNT TO BE DETERMINED BY THE SUBCOMMITTEE. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED UNANIMOUSLY.

D. Resolution recognizing 98th Anniversary of the Founding of the Republic of China – Lorne J. Malkiewich, Director.

Mr. Malkiewich called attention to a handout of a resolution recognizing the 98th Anniversary of the Founding of the Republic of China on Taiwan (copy attached as Exhibit D). He said that this is a resolution that is approved every year due to the sister state relationship with Taiwan going back a long time. He said that “Double Tenth Day” is coming up so when the Legislative Commission meets every fall, the resolution is proposed.

ASSEMBLYMAN CONKLIN MOVED APPROVAL OF THE RESOLUTION. MOTION SECONDED BY ASSEMBLYMAN STEWART AND CARRIED UNANIMOUSLY.

E. Presentation on Nevada’s Legislators Back to School Program – Kay Graves, Research Analyst-Constituent Services Unit.

Kay Graves, Research Analyst-Constituent Services Unit, Research Division of the LCB appeared before members in Las Vegas. She said she was recently designated as coordinator for Nevada’s Legislators Back to School Program. She noted that the program is a nonpartisan civic education initiative that encourages Nevada legislators to visit elementary, middle and high school classrooms to talk to students about the legislative process, to hear the concerns and ideas of young citizens and also to promote civic education and participation. The Back to School Program is sponsored by the National Conference of State Legislatures (NCSL) which creates and provides the program materials at no cost to the Nevada Legislature. The program was founded in 1999 and is celebrating its Tenth Anniversary this year. The program is designed to teach young people about the different components that make up the representative democracy, the processes, negotiation, debate and compromise. The program is also aimed at teaching young people about what it is like to be a state legislator. The program officially “kicks off” the third week of September but it is a year round program and legislator classroom visits can be scheduled at any time throughout the school year.

She referred to a handout (copy attached as Exhibit E) entitled “America’s Legislators Back to School Program Legislator Participation 2008 - 2009.” It is ranking from NCSL that shows Nevada was among the top ten Legislatures for legislator participation for the past school year. Twenty-five Nevada legislators participated in the program and together they visited approximately 9,800 students. She noted that the Nevada Legislature has its own Back to School Website accessible from the home page of the Nevada Legislature’s Website. It is a great resource for legislators, teachers and students to learn about the program and how to schedule classroom visits. It also includes other related links concerning civic education. Back to School Program materials were available to members in Las Vegas and Carson City.

Chair Ocegüera commented that it sounds like Nevada is moving up in the ranks in participation and thanked Ms. Graves for the presentation and all the hard work on the program. The chair returned to agenda Item III. C.

IV. Appointments of Members to Committees and Approval of Budgets:

Mr. Malkiewich referred to material in the meeting packet for this agenda item. He said he would briefly outline what the commission has to do on each committee and then potential names could be discussed.

A. Appointments to various Ongoing Statutory Committees:

1. Commission on Special License Plates (NRS 482.367004)

Mr. Malkiewich said the Commission on Special License Plates has five legislative members including the former chairs of the Transportation committees, Mr. Atkinson and Senator Schneider. The Legislative Commission appointed the chair and vice chair for the previous interim. In addition to Mr. Atkinson and Senator Schneider, the commission needs to appoint three other members and designate the chair and vice chair.

Mr. Ocegüera nominated Mr. Atkinson and designate him as the chair and Mr. Manendo and the Assembly Minority Leader designated Mr. Christensen. Senator Horsford nominated Senators Schneider, Carlton and Nolan with Senator Carlton as chair. It was determined that since the commission has only five members and the Assembly had three members last interim three members should be from the Senate this interim. Chair Ocegüera withdrew Mr. Manendo's name. Senator Horsford said that Senator Schneider recommended Senator Breeden in place of him.

Mr. Malkiewich clarified that the statute says the chairs of the Transportation committees unless they designate another member of the committee to serve in their place. He restated the nominations as Senators Carlton, Breeden and Nolan and Assemblymen Atkinson and Christensen with Senator Carlton as Chair. Chair Ocegüera recommended Mr. Atkinson as Vice Chair.

ASSEMBLYMAN CONKLIN MOVED TO APPROVE THE APPOINTMENT OF SENATORS CARLTON, BREEDEN AND NOLAN AND ASSEMBLYMEN ATKINSON AND CHRISTENSEN WITH SENATOR CARLTON AS CHAIR AND ASSEMBLYMAN ATKINSON AS VICE CHAIR. MOTION SECONDED BY ASSEMBLYWOMAN KIRKPATRICK AND CARRIED UNANIMOUSLY.

2. Committee to Consult with the Director (NRS 218.6828)

Mr. Malkiewich said that there is no set composition of the Committee to Consult with the Director and noted that historically the Chair of the Legislative Commission has served as Chair of the committee. The committee works on preparation for the upcoming session of the Legislature and considers things like the 120-Day Calendar and other issues for the session. In addition, when renovation is anticipated, the committee

acts as the Building Subcommittee as well. Generally, an attempt is made to have leadership from both parties and both houses so everyone is "on board."

Chair Oceguera recommended Assembly Members Conklin, Oceguera, Segerblom, Smith and Gansert. Senator Horsford recommended Senators Lee, Woodhouse, Raggio, Townsend and Horsford. It was agreed that Assemblyman Oceguera would be the Chair.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO APPOINT ASSEMBLY MEMBERS CONKLIN, OCEGUERA, SEGERBLOM, SMITH AND GANSERT AND SENATORS LEE, WOODHOUSE, RAGGIO, TOWNSEND AND HORSFORD WITH ASSEMBLYMAN OCEGUERA AS CHAIR. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

3. Legislative Commission's Subcommittee to Review Regulations (NRS 233B.067)

Mr. Malkiewich said that this subcommittee has increased in importance over the last few interims because it is now required that every regulation be approved either by the commission or the subcommittee. It must consist of three or more members of the commission and only members of the commission are eligible for appointment. Those who have expressed interest and the former members are shown on the list in the meeting packet. Those who have expressed interest are either regular or alternate members of the commission and last interim an alternate was appointed so if that precedent is observed all those expressing interest are eligible for appointment.

Chair Oceguera nominated Assembly Members Conklin, Kirkpatrick, Carpenter, and Settelmeyer being the alternate for Carpenter. Senator Horsford nominated Senators Carlton, Woodhouse, Townsend, Washington and Horsford. It was agreed that Mr. Conklin would serve as chair. Chair Oceguera confirmed for Ms. Smith that there would be five Senators and three Assembly Members on the subcommittee.

ASSEMBLYMAN CONKLIN MOVED TO APPOINT SENATORS CARLTON, WOODHOUSE, TOWNSEND, WASHINGTON AND HORSFORD AND ASSEMBLY MEMBERS CONKLIN, KIRKPATRICK AND CARPENTER WITH ASSEMBLYMAN CONKLIN AS CHAIR AND ASSEMBLYMAN SETTELMEYER AS AN ALTERNATE FOR ASSEMBLYMAN CARPENTER. MOTION SECONDED BY ASSEMBLYWOMAN KIRKPATRICK AND CARRIED UNANIMOUSLY.

4. Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System (NRS 218.53871)

Mr. Malkiewich explained that the statute specifies that three members of each house are appointed and the members elect a chair and vice chair so the commission does not

need to appoint those.

Chair Oceguera nominated Assembly Members Arberry, Pierce and Settelmeyer.
Senator Horsford nominated Senators Lee, Parks and Amodei.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO APPOINT ASSEMBLY MEMBERS ARBERRY, PIERCE AND SETTELMEYER AND SENATORS LEE, PARKS AND AMODEI. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

5. Legislative Committee on Child Welfare and Juvenile Justice (S.B. 3)

Mr. Malkiewich said that the Legislative Committee on Child Welfare and Juvenile Justice is one of the two new committees. This committee consists of three members from each house and the commission selects the chair and vice chair from among the members of the committee. The chairmanship will rotate between houses in the future.

Chair Oceguera nominated Assembly Members Leslie, Mastroluca and Hambrick with Ms. Leslie being the chair. Senator Horsford nominated Senators Copening, Wiener and Washington with Senator Wiener being the vice chair.

Senator Cegavske said that this committee is one of her number one requests to be appointed to serve on and asked for consideration to be put on the committee. Senator Townsend commented that he sees in the material that it was one of Senator Cegavske's first choices and asked if Senator Horsford would consider replacing Senator Washington with Senator Cegavske. Senator Cegavske said that if the senator wants to serve on the committee she did not want to replace him. Senator Washington said that he would be happy to relinquish the nomination to Senator Cegavske. Senator Horsford said that he was following the recommendations from the Senate Minority Leader but would defer to the request and nominate Senators Copening, Wiener and Cegavske with Senator Wiener as the vice chair.

SENATOR WOODHOUSE MOVED TO APPOINT ASSEMBLY MEMBERS LESLIE, MASTROLUCA AND HAMBRICK AND SENATORS COPENING, WEINER AND CEGAVSKE TO THE COMMITTEE WITH ASSEMBLYWOMAN LESLIE AS CHAIR AND SENATOR WIENER AS VICE CHAIR. MOTION SECONDED BY ASSEMBLYMAN STEWART AND CARRIED UNANIMOUSLY.

6. Legislative Committee on Health Care (NRS 439B.200)

Mr. Malkiewich explained that the Legislative Committee on Health Care included three members of the Senate and three members of the Assembly appointed by the Legislative Commission. The commission selects a chair and vice chair and the chairmanship rotates between the houses and is in the Senate this coming interim.

Chair Oceguera nominated Assembly Members Pierce, Spiegel and Hardy. Senator Horsford nominated Senators Wiener, Copening and Washington with Senator Wiener as the Chair. Chair Oceguera nominated Assemblywoman Pierce as the Vice Chair.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO APPOINT ASSEMBLY MEMBERS PIERCE, SPIEGEL AND HARDY AND SENATORS WIENER, COPENING AND WASHINGTON WITH SENATOR WIENER AS CHAIR AND ASSEMBLYWOMAN PIERCE AS VICE CHAIR. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

7. Legislative Committee on Public Lands (NRS 218.5363)

Mr. Malkiewich referred to the meeting packet and also to a handout of a letter from Senator Rhoads with his recommendations (copy attached as Exhibit F). He said that this committee has been expanded from three to four members per house and it has always been a very popular committee. Also to be appointed is an elected officer representing the governing body of a local political subdivision. The commission is also allowed to appoint alternates for the members and is something that became a practice a few sessions ago but a reviser's bill was put in for specific authority for that and a specific procedure for alternates. The commission does not need to select a chair as that is done by the members.

Chair Oceguera nominated Assemblymen Aizley, Bobzien, Claborn and Carpenter as members with Assemblywoman Spiegel and Assemblyman Goicoechea as alternates. Senator Horsford nominated Senators Rhoads, Lee, Care and Parks with Senators McGinness and Schneider as alternates. Additionally, Senator Horsford recommended Clark County Commissioner Tom Collins as the local elected official.

SENATOR HORSFORD MOVED THE APPOINTMENT OF ASSEMBLYMEN AIZLEY, BOBZIEN, CLABORN AND CARPENTER AND SENATORS RHOADS, LEE, CARE AND PARKS AS MEMBERS WITH ASSEMBLY MEMBERS SPIEGEL AND GOICOECHEA AND SENATORS MCGINNESS AND SCHNEIDER AS ALTERNATES AND CLARK COUNTY COMMISSIONER TOM COLLINS AS THE LOCAL ELECTED OFFICIAL. MOTION SECONDED BY ASSEMBLYWOMAN KIRKPATRICK AND CARRIED UNANIMOUSLY.

B. Appointments to Legislative Commission Subcommittees:

1. Information Technology Subcommittee

Mr. Malkiewich said that there is nothing in the statutes on the subcommittee but historically the commission has appointed an Information Technology Subcommittee and if it desires to do so the members are free to choose whatever size and composition they wish. The current members and those legislators expressing interest are shown in the meeting packet.

Chair Oceguera stated that his direction to Mr. Malkiewich would be if the commission has a question on information technology there are a couple of very experienced legislators within the membership and could consult with them. He suggested saving some dollars and not form the committee and not have them meet. He commented that in the Assembly, Mr. Bobzien and Mr. Denis are very knowledgeable and he assumes it would be the same in the other house. Mr. Malkiewich said that given the state of the budget, the LCB has virtually no money for new projects so there probably would not be a lot for this subcommittee to do. The Chair proceeded to the next item.

C. Appointments to Interim Studies:

1. Development and Promotion of Logistics and Distribution Centers and Issues Concerning Infrastructure and Transportation (A.C.R. 30)

Mr. Malkiewich stated that no composition of this committee is specified although as a general rule when the Legislative Commission creates a committee it also designates the chair. He has conferred with the Legislative Counsel on that issue. The commission should appoint a committee of whatever size it chooses and a chair and if it so desires, a vice chair.

Chair Oceguera said that from the Assembly, he would nominate Assemblyman Atkinson and Assemblywomen Buckley and Gansert with Mr. Atkinson acting as chair.

Senator Horsford said that from the Senate, he would nominate Senators Breeden, Parks, Coffin and Nolan with Senator Breeden serving as vice chair.

Senator Washington said that since the portal is going to be in part of his district – he believed Storey County – he would prefer to serve on this committee if at all possible.

Senator Townsend said that he would recommend it for two reasons, he believed the Senate Minority Leader recommended Senator Washington for the reasons previously expressed. He said that he does sit on the Transportation Committee but the facility located in his district, commonly known as the Tahoe-Reno Industrial Center, is the largest one in the world and it happens to be located there. Their logistical and distribution issues are significant and it probably would be best served if Senator Washington was on the committee if that would be acceptable.

Senator Horsford said that he would then recommend five members: Senators Breeden, Parks, Coffin, Washington and Nolan with Senator Breeden as the vice chair. He said beyond the focus in the Tahoe-Reno Industrial Center, with which he is familiar, the scope of the study is statewide and focuses on mass transit, light rail and other aspects in which they need to have other members participate. He agreed to add Senator Washington but would also like to keep the other members.

Chair Oceguera commented to add to that the Apex area is developing along the same lines as the Reno-Sparks area so he said that works for him. Senator Washington thanked the chair and noted that the portal is probably going to be the largest site for industrial development and infrastructure within the north and it is important that some representation is there at least to work with Lance Gilman and his associates to make sure that this portal "comes off the way it should come off."

Senator Townsend said to underscore the Majority Leader's point, for those legislators who are going to serve on the committee, they should take an immediate tour of the Apex area. He said that he has been fortunate enough to have been out there and the potential in that area is significant starting with transmission and energy production, let alone transportation. He thought it would really help the committee if the first thing they did was to get people out there to understand its critical importance to southern Nevada relative to the corridors between the Rocky Mountain states and the highest population centers in Arizona and California. It is significant and he thought the Majority Leader's point is well taken and should be underscored.

Senator Carlton said that she did not mention it earlier but this is the second time there will be a committee of even numbers of eight and could end up with a tie-tie vote. She said she just thought that needed to be put on the record.

Mr. Malkiewich clarified that the legislators nominated are Mr. Atkinson as chair, Senator Breeden as vice chair and the other members are Speaker Buckley, Ms. Gansert, Senator Parks, Senator Coffin, Senator Nolan and Senator Washington.

SENATOR HORSFORD MOVED THE APPOINTMENT OF ASSEMBLYMAN ATKINSON AS CHAIR, SENATOR BREEDEN AS VICE CHAIR, ASSEMBLYWOMEN BUCKLEY AND GANSERT AND SENATORS PARKS, COFFIN, NOLAN AND WASHINGTON. MOTION SECONDED BY SENATOR WOODHOUSE AND CARRIED UNANIMOUSLY.

2. Employee Misclassification (S.C.R. 26)

Mr. Malkiewich referred to the meeting packet and noted that the interim committee consists of five members but only two legislators, one member of the Senate and one of the Assembly, and one representative of management who works for an entity in the construction industry that has not signed an agreement with the labor union, one representative from the construction industry who is a member of the labor union and one representative of the general public. A chair and vice chair need to be designated.

Chair Oceguera said that on behalf of the Assembly, he nominates Assemblywoman Parnell. He said he would also, in a bi-partisan manner, put forward the name of Warren Hardy with the Associated Building Contractors as the representative of management who works for an entity in the construction industry that has not signed an agreement with the labor union.

Senator Horsford said he would recommend Senator Breeden and ask that she serve as chair. He also recommended Fran Almarez as the representative from the construction industry who is a member of the labor union, noting that she is a member of Teamsters Nevada 631. For the at large member of the general public, he recommended Yindra Dixon.

Chair Ocegüera said that Ms. Parnell would be the vice chair.

SENATOR HORSFORD MOVED THE APPOINTMENT OF SENATOR BREEDEN AS CHAIR, ASSEMBLYWOMAN PARNELL AS VICE CHAIR AND WARREN HARDY, FRAN ALMAREZ AND YINDRA DIXON AS THE REPRESENTATIVES DESIGNATED IN THE NOMINATIONS. MOTION SECONDED BY SENATOR WOODHOUSE AND CARRIED UNANIMOUSLY.

3. Governance and Oversight of the System of K-12 Public Education
(A.C.R. 2)

Mr. Malkiewich explained that the commission needs to appoint three members of the Senate and three members of the Assembly and one of whom is appointed as chair. He noted that although the resolution only mentions chair, it is recommended that a vice chair also be appointed.

Chair Ocegüera said that on behalf of the Assembly, he would recommend Assemblyman Aizley, Assemblywoman Parnell and Assemblyman Stewart. He recommended Ms. Parnell serve as chair.

Senator Horsford said that from the Senate he would recommend Senator Cegavske, Senator Woodhouse and Senator Horsford, with Senator Woodhouse serving as vice chair.

ASSEMBLYMAN CONKLIN MOVED TO APPOINT ASSEMBLYWOMAN PARNELL AS CHAIR, SENATOR WOODHOUSE AS VICE CHAIR, ASSEMBLYMEN AIZLEY AND STEWART AND SENATORS CEGAVSKE AND HORSFORD. MOTION SECONDED BY ASSEMBLYWOMAN KIRKPATRICK AND CARRIED UNANIMOUSLY.

4. Powers Delegated to Local Governments, Interim Technical Advisory Committee for Intergovernmental Relations (S.B. 264, sec. 9)

Mr. Malkiewich explained that later in the meeting the commission would be appointing the chair of the interim committee itself and noted that the members of that committee are appointed by leadership of the houses. This item is for the Technical Advisory Committee for Intergovernmental Relations consisting of six representatives of local governments in the state and three representatives of state agencies. He said he would hold the Nevada Association of Counties and the Nevada League of Cities and

Municipalities to their promise to provide administrative support for the committee. He said that the only names that were submitted were Mary Henderson, Steve Sisolak and Rob Joiner. He reiterated that six representatives of local government and three representatives of the state are needed. He said that the original bill was from Senator Lee and he thought it was intended to have three county and three city representatives but the bill does not limit it that way.

Wes Henderson, Government Affairs Coordinator for Nevada Association of Counties (NACO) appeared before members in Carson City. He said that the genesis of the committee was a part of Senate Bill 375 which was introduced by the Senate Government Affairs Committee on NACO's behalf. He said that Mr. Malkiewich was correct that the intent was for three county and three city representatives to be elected officials and to be appointed respectively by NACO and the League of Cities. It was also the intent to have from each of those groups, one from the north, one from the south and one from rural Nevada. He said that NACO would be more than happy to submit nominations to fill those positions.

Chair Ocegüera asked if Mr. Henderson had those names with him now. Mr. Henderson responded that he did not and there would be a Board of Directors meeting scheduled for September 16th so he could have names immediately after that date. The chair said that would be fine with him unless someone on the commission has an objection.

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities appeared before members in Carson City. He said he wished to "echo" what Mr. Henderson said in that the original language of the bill did indicate that it would be three each from cities and counties – elected officials from those. He said that his Board is not scheduled to meet until October 16th, but if it is more pressing than that time he would be willing to call a special meeting to get some appointees designated by the Board of Directors. He said it would be the League's desire to have the opportunity to do that.

Chair Ocegüera said that the commission would hold off on the appointment of the Technical Advisory Committee.

Chair Ocegüera announced that appointments to the interim study committee on Powers Delegated to Local Governments were Assembly Members Kirkpatrick, Segerblom and Goicoechea. Senator Horsford announced that the Senate members were Senators Lee, Care and McGinness. He recommended Senator Lee as chair.

Mr. Malkiewich clarified for the record that the appointments mentioned are leadership appointments so they do not require a vote of the Legislative Commission and there is an item later in the agenda to appoint the chair and vice chair. Chair Ocegüera proceeded to agenda Item IV. E. 4. before returning to the next item.

5. Production and Use of Energy (S.C.R. 19)

Mr. Malkiewich explained that the commission is required to appoint a committee consisting of three members of the Assembly and three members of the Senate and designate a chair. He recommended designating a vice chair also.

Chair Oceguera said that on behalf of the Assembly he recommends Assemblyman Conklin and Assemblywomen Kirkpatrick and Gansert. Senator Horsford said from the Senate he would recommend Senators Schneider, Lee and Townsend with Senator Schneider serving as chair. Chair Oceguera recommended Assemblywoman Kirkpatrick as vice chair.

SENATOR HORSFORD MOVED TO APPOINT SENATORS SCHNEIDER, LEE AND TOWNSEND AND ASSEMBLY MEMBERS CONKLIN, KIRKPATRICK AND GANSERT WITH SENATOR LEE SERVING AS CHAIR AND ASSEMBLYWOMAN KIRKPATRICK SERVING AS VICE CHAIR. MOTION SECONDED BY SENATOR WOODHOUSE AND CARRIED UNANIMOUSLY.

6. Requirements for Reapportionment and Redistricting (A.C.R. 19)

Mr. Malkiewich said that no membership is specified in the resolution so the commission needs to appoint members of any number and a chair and vice chair.

Chair Oceguera said that on behalf of the Assembly he recommended Assembly Members Oceguera, Segerblom, Smith and Gansert with Mr. Segerblom serving as the chair. Senator Horsford indicated that from the Senate he would recommend Senators Woodhouse, Lee, Raggio, McGinness and Horsford with Senator Horsford serving as vice chair.

ASSEMBLYMAN CONKLIN MOVED TO APPOINT ASSEMBLYMAN SEGERBLOM AS CHAIR, SENATOR HORSFORD AS VICE CHAIR, ASSEMBLY MEMBERS OCEGUERA, SMITH AND GANSERT AND SENATORS WOODHOUSE, LEE, RAGGIO AND MCGINNESS. MOTION SECONDED BY ASSEMBLYWOMAN KIRKPATRICK AND CARRIED UNANIMOUSLY.

Senator Cegavske expressed her concern because she knew they were looking into cutting down on committees during the interim due to costs and inquired of Mr. Malkiewich if the commission is doing okay on the budget with the added members.

Mr. Malkiewich said that the commission will be establishing tentative budgets and approval of interim and statutory committee budgets under agenda Item IV. F. He said that legislation passed during last session does give the commission control over the budgets and money can be allocated around. He said that he is pleased to say that the draft budget members have in their meeting packet for that item anticipated ten members for logistics and distribution centers and there are only eight and anticipated

ten members for reapportionment and redistricting and nine were just approved so the commission is a little bit ahead of the budget on projected salary.

D. Appointments to Nonlegislative Committees:

Mr. Malkiewich explained that the nonlegislative committees, in general, are ones that include a mix of people from the Executive Branch and the private sector and have a legislator or two on them and generally are staffed by the Executive Branch.

1. Advisory Council on the State Program for Fitness and Wellness
(NRS 439.518)

Mr. Malkiewich said that although this is an existing committee, it was amended during the recent legislative session to add new positions and the Legislative Commission now appoints one member of the Senate and one member of the Assembly to the council.

Chair Ocegüera said that on behalf of the Assembly he would recommend Assemblywoman Mastroluca.

Senator Horsford said that from the Senate he would recommend Senator Wiener.

SENATOR WOODHOUSE MOVED TO APPOINT SENATOR WIENER AND ASSEMBLYWOMAN MASTROLUCA TO THE ADVISORY COUNCIL. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

2. National Conference of Commissioners on Uniform State Laws
(NRS 219.020)

Mr. Malkiewich stated that he would have to check with Legislative Counsel on this committee as there is authority in the statutes for the commission to appoint one of her attorneys as well. He said that the commission appoints four attorneys who are members of the Legislature. He said there are five legislators who have expressed interest as shown in the meeting packet along with the names of the current members.

Chair Ocegüera said that on behalf of the Assembly he would recommend Assemblymen Horne and Segerblom.

Senator Horsford said that from the Senate he would recommend Senators Care and Amodei.

ASSEMBLYMAN CONKLIN MOVED TO APPOINT ASSEMBLYMEN HORNE AND SEGERBLOM AND SENATORS CARE AND AMODEI TO THE COMMISSION. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED UNANIMOUSLY.

3. Nevada AIDS Advisory Task Force

Mr. Malkiewich said he had left the language in the materials saying that it typically has one legislator and then he noticed that two people were appointed last time. He said it is not statutory and traditionally one has been appointed but he did not think there is any problem appointing two if the commission chose to do so.

Chair Ocegüera said on behalf of the Assembly he would recommend Assemblyman Ohrensfall. Senator Horsford recommended Senator Breeden from the Senate.

ASSEMBLYMAN CONKLIN MOVED APPROVAL OF SENATOR BREEDEN AND ASSEMBLYMAN OHRENSCHALL. MOTION SECONDED BY ASSEMBLYWOMAN KIRKPATRICK AND CARRIED UNANIMOUSLY.

4. Nevada Commission on Aging (NRS 427A.032)

Mr. Malkiewich said that the Legislative Commission is to appoint one member of the Senate and one member of the Assembly as non-voting members.

Chair Ocegüera on behalf of the Assembly nominated Assemblywoman Dondero Loop. Senator Horsford nominated Senator Copening as the Senate member.

SENATOR HORSFORD MOVED TO APPOINT SENATOR COPENING AND ASSEMBLYWOMAN DONDERO LOOP. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

5. Southern Nevada Enterprise Community Board (S.B. 352, 2007 Session)

Mr. Malkiewich explained that the Southern Nevada Enterprise Community Board is an entity that was in existence but legislation during the past session added a member of the Senate and a member of the Assembly appointed by the Legislative Commission.

Chair Ocegüera recommended Assemblyman Munford as the Assembly member. Senator Horsford recommended himself as the senator who represents the area in the enterprise community to serve as the Senate member.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO APPOINT SENATOR HORSFORD AND ASSEMBLYMAN MUNFORD TO THE BOARD. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

6. State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children (S.B. 303, sec. 2)

Mr. Malkiewich said this council was created by legislation during the past session. The commission designates one legislator or another person to represent the interests of the Legislature.

Chair Ocegüera recommended Assemblyman Manendo for the position.

ASSEMBLYWOMAN KIRKPATRICK MOVED TO APPOINT ASSEMBLYMAN MANENDO TO THE STATE COUNCIL. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

7. Western Interstate Commission for Higher Education (WICHE) Legislative Advisory Committee

Mr. Malkiewich explained that apparently WICHE has already been in contact with members on this appointment and have contacted Assemblywoman Parnell and Senator Horsford and requested that they serve. Since the Legislative Commission has made these appointments in the past, he thought it would be a good practice for the commission to approve those appointments. Responding to Ms. Kirkpatrick, Mr. Malkiewich said that he was not aware that WICHE was doing this. In the past, WICHE is the one who had contacted the LCB asking for the legislator appointments. They had initiated this in the past and it is not something that is required by statute. He guessed they have now gotten to the point of even contacting legislators. Ms. Kirkpatrick said she would have to look at that part of the statute.

SENATOR WOODHOUSE MOVED TO APPOINT SENATOR HORSFORD AND ASSEMBLYWOMAN PARNELL TO THE WICHE LEGISLATIVE ADVISORY COMMITTEE. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

8. Commission on Ethics (NRS 281A.200)

Mr. Malkiewich recalled that about a year ago there was a vacancy on the Commission on Ethics and former Assemblyman John Marvel was appointed to it. The thought was that with one year remaining in the term if everything worked out alright, he could be considered for reappointment and if it did not, the commission could appoint a new member. He said that Mr. Marvel is interested in being reappointed so before the LCB goes out and seeks someone else who meets the various qualifications – a former public officer who resides in a particular county, a particular political party and so forth – if the Legislative Commission would like to reappoint Mr. Marvel otherwise he will solicit other names of individuals who might want to be appointed.

ASSEMBLYMAN STEWART MOVED TO REAPPOINT JOHN MARVEL TO THE COMMISSION ON ETHICS. MOTION SECONDED BY SENATOR CEGAVSKE AND CARRIED UNANIMOUSLY.

9. Nevada Silver Haired Legislative Forum (NRS 427A.320)

Mr. Malkiewich said that he did not believe there are any appointments to the Forum. The item was put on the agenda in case there was a nominee to fill one of the vacancies. He said that about one-half of the members have to be reappointed by December so there will be a lot of appointments to be made at the next meeting or the one after. The terms of the existing members continue until December.

E. Appointment of Chair and Vice Chair of Certain Committees:

Mr. Malkiewich explained that the next few items are ones where the members are appointed by leadership, generally the Speaker of the Assembly and the Senate Majority Leader, but the Legislative Commission appoints the chair or the chair and the vice chair.

1. Committee on High-Level Radioactive Waste (NRS 459.0085)

Mr. Malkiewich said that the current chair of this committee is Senator McGinness and the current vice chair is Assemblyman Mortenson. A chair and a vice chair need to be appointed.

Chair Oceguera advised that the Assembly members are Assemblymen Mortenson, Hogan, Claborn and Gustavson. Senator Horsford advised that the Senate members are Senators Lee, Parks, McGinness and Rhoads. Senator Horsford recommended Assemblyman Mortenson as chair and Senator Parks as vice chair.

SENATOR HORSFORD MOVED TO APPOINT ASSEMBLYMAN MORTENSON AS CHAIR AND SENATOR PARKS AS VICE CHAIR. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

2. Legislative Committee on Education (NRS 218.5352)

Mr. Malkiewich said that this committee is also appointed by leadership and there are four members of each house. The chair rotates between the two houses and the commission selects the chair and vice chair. Assemblywoman Parnell was the chair last interim and Senator Raggio was the vice chair.

Chair Oceguera advised the Assembly members are Assembly Members Dondero Loop, Mastroluca, Munford and Stewart and he would recommend Ms. Mastroluca to serve as vice chair. Senator Horsford advised the Senate members are Senators Woodhouse, Breeden, Mathews and Raggio and he would recommend Senator Woodhouse as chair.

ASSEMBLYMAN CONKLIN MOVED TO APPOINT SENATOR WOODHOUSE AS CHAIR AND ASSEMBLYWOMAN MASTROLUCA AS VICE CHAIR. MOTION SECONDED BY ASSEMBLYWOMAN KIRKPATRICK AND CARRIED UNANIMOUSLY.

3. Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs (A.B. 9)

Mr. Malkiewich said this is a new committee and the commission selects the chair and vice chair from among the members.

Chair Ocegüera advised that the Assembly appointees are Assembly Members McClain, Spiegel and Stewart and he would recommend Assemblywoman McClain as chair. Senator Horsford advised that the Senate appointees are Senators Woodhouse, Breeden and Nolan and he would recommend Senator Breeden as vice chair.

SENATOR HORSFORD MOVED TO APPOINT ASSEMBLYWOMAN MCCLAIN AS CHAIR AND SENATOR BREEDEN AS VICE CHAIR. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

4. Powers Delegated to Local Governments (S.B. 264, sec. 8)

This item was addressed earlier in the meeting after discussion of agenda Item IV. C. 4.

Chair Ocegüera said that Senator Lee is recommended as chair and Assemblywoman Kirkpatrick as vice chair.

SENATOR HORSFORD MOVED TO APPOINT SENATOR LEE AS CHAIR AND ASSEMBLYWOMAN KIRKPATRICK AS VICE CHAIR OF THE COMMITTEE. MOTION SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

The chair returned to agenda Item IV. C. 5.

F. Approval of Budgets for Interim Studies and Statutory Committees – Lorne J. Malkiewich, Director.

Mr. Malkiewich referred to material in the meeting packet containing an initial proposed budget for all committees and the number of meetings. He said he wished to remind all the members that the duration of the committees has generally been limited and there is a request for the Energy Committee to begin earlier but both interim studies and statutory committees have been limited in when they can meet. This issue plus the budget situation have led to the reduction in the number of proposed meetings. Mr. Malkiewich said, "Even with that with the two new committees and taking over the Administration of Justice, the statutory committees we're about \$17,000 more than

appropriated for that; however, the budgets for the interim studies are about \$20,000 below what's appropriated for that and as I mentioned in response to Senator Cegavske's question a minute ago we're actually a couple fewer people than we had assumed for logistics and distribution centers and reapportionment and redistricting when putting these together. The commission would have the ability to adjust these budgets during the interim, the committees can come back and ask to move money around but at this point this would be recommended initial budgets for the committees to get started. I would be glad to answer any questions."

Chair Ocegüera explained, "Just for the committee, we expedited this process this time so that we could get going on a couple of those committees and so on short notice Lorne put together these budgets that would normally not go until September and came in fairly well working with us in conjunction so that we were meeting our budget needs there, so with the elimination of some folks on some committees and elimination, if you will, of some committees from even meeting, hopefully everyone will keep in mind that we are on a tight budget when having their meetings and they are limited to a certain amount. There are two committees that are going to meet outside, I believe, the Energy and Reapportionment, other than that the other committees don't start for a little while and go January to." Mr. Malkiewich interjected an explanation that the statutory committees in general start in November and can meet through August and the interim studies start in January and meet through June. He said these are tied to their deadlines for submitting legislation. The proposal under agenda Item IV. G. will be to allow Energy to start meeting right away and to allow Reapportionment to meet past June 30th because that would probably go right into next session.

Chair Ocegüera reiterated that if a legislator is a chair of one of the committees just because the committees have been appointed earlier does not mean that the committee will start early as there are still statutory requirements.

Senator Townsend said that perhaps Mr. Malkiewich could articulate this more clearly but under proposed number of meetings, members will see where it says all Carson City and Las Vegas and it is important to understand that once the budget is set for someone to take a trip north to south or south to north, I don't think the budget for travel allows for that and wherever the member is from in the state, that is the location where the member should attend. He thought it puts some of the budgets "out of whack" if somebody decides they need to be at the location close to the chair. He thought members need to be very cognizant of that because with three or four trips all of a sudden the committee is \$750 or \$800 "out of whack" in the budget real quick. He said members need to be very sensitive to that and asked Mr. Malkiewich if he is articulating that correctly.

Mr. Malkiewich responded to Senator Townsend and said, "That's exactly correct. You will see that there are a couple of committees that we knew would have outside meetings. Public Lands Committee has some rural meetings. The Washoe Regional Water Commission has a couple in Reno and then the Logistics and Distribution Center

has a couple of rural meetings but you will also note that those committees' budgets are substantially increased as a result of that. But, you are correct – one of the ways that we have cut down on the overall cost of these committees is to require videoconferencing whenever possible to keep down costs. Now, if the chairs of these committees can keep their travel costs down and stay within the budget, they might be able to squeeze out one more but as you indicate, if there is more traveling than anticipated that budget will get used up."

Senator Horsford commented, "To the chairs of these committees, because in most cases they are meeting less frequently than in the past but there is probably more work to be done, the chairs are going to have to plan accordingly and really utilize their time effectively and that members are going to need to also be in attendance and plan to probably have a whole day meeting on some of these things simply because there is so much work that has to be covered and these are important interim committees. We have a lot of policy that needs to get worked out now, recognizing the limited scope that we have available to us during the session. I would just encourage all the chairs and members that are appointed to plan their time accordingly."

SENATOR HORSFORD MOVED APPROVAL OF THE BUDGETS. MOTION
SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

Chair Ocegüera announced that the leadership appointments are complete and they are in the process of notifying folks. He indicated that there are quite a number of other appointments but they are leadership appointments and not Legislative Commission appointments and they will happen shortly.

Mr. Malkiewich said to follow up on the Chair's point, he will compile those appointments and give them to leadership to make sure. Sometimes there are a couple of adjustments made during the commission meeting and that "throws something else out of whack" so before the rest of those are released he will make sure they get one last look at them.

G. Approval for Certain Committees to Meet before or after Statutory Period for Meetings of Interim Committees – Lorne J. Malkiewich, Director.

Mr. Malkiewich explained that the committees which members may like to approve to meet more, based upon the budgets as approved, are the Production and Use of Energy subcommittee that needs to begin working right away and would like to be able to meet before January and the Requirements for Reapportionment and Redistricting subcommittee would be meeting after June 30th unless there are others that members would recommend.

SENATOR TOWNSEND MOVED APPROVAL TO ALLOW THE PRODUCTION AND USE OF ENERGY SUBCOMMITTEE TO MEET EARLY AND THE REQUIREMENTS FOR REAPPORTIONMENT AND REDISTRICTING SUBCOMMITTEE TO MEET LATE. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED UNANIMOUSLY.

Item V – Informational Items:

A. Quarterly Reports on Disciplinary Action from the following Boards or Agencies:

1. Board of Dental Examiners of Nevada.
2. Board of Examiners for Alcohol, Drug and Gambling Counselors.
3. Board of Examiners for Social Workers.
4. Board of Medical Examiners.
5. Board of Occupational Therapy.
6. Board of Psychological Examiners.
7. Board of Registered Environmental Health Specialists.
8. Commissioner of Financial Institutions.
9. Nevada State Board of Examiners for Long Term Care Administrators.
10. Nevada State Board of Optometry.
11. Nevada State Board of Veterinary Medical Examiners.
12. Real Estate Division of the Department of Business and Industry.
13. State Board of Architecture, Interior Design and Residential Design.
14. State Board of Athletic Trainers.
15. State Board of Massage Therapists.
16. State Board of Nursing.
17. State Board of Osteopathic Medicine.
18. State Board of Pharmacy.
19. State Board of Professional Engineers and Land Surveyors.
20. State Contractors' Board.

B. Miscellaneous Reports from State Agencies and Others:

1. Annual Report for 2008 from Nevada State Board of Medical Examiners.
2. 2008 Annual Report on Loss Prevention and Control Programs of Professional Liability Insurers from the Division of Insurance, Department of Business and Industry.
3. Nevada Fund for Energy Assistance and Conservation State Plan - FY 2010 from Department of Business and Industry and Department of Health and Human Services.
4. Annual Reports - Legislative Bureau of Educational Accountability and Program Evaluation for FY 2005-06 and FY 2006-07.

5. Reports concerning Industrial Insurance Miscellaneous Changes submitted pursuant to NRS 686B.177 from the Division of Insurance, Department of Business and Industry (reports previously provided to members).

The Chair noted that no members requested any testimony on the informational items. There were no questions on the informational items and the chair proceeded to public comment.

Item VI – Public Comment:

There were no comments from the public either in Las Vegas or Carson City.

Ms. Kirkpatrick said she was curious and wanted to know what the statutes say about bill draft requests and submitting information in a timely frame. She said that she is concerned that there will be a lot of bill drafting going on and not a lot of language until the end. She wondered if there were statutes in place and asked if staff could provide that information at the next meeting. She said that what she does not want to see is 116 bill drafts sent in without any information until February 5th. She wants to know how the process works and how legislators can do a better job of sticking to it.

Mr. Malkiewich said if Ms. Kirkpatrick would like, the issue can be discussed at the next meeting of the commission. He said this is the sort of issue the Committee to Consult with the Director will look at in preparation for the next legislative session – bill drafts and how to work on that process – so that is another option. However, it could be put on the agenda for the next commission meeting.

Chair Ocegüera said that he and Senator Horsford are working with internal committees on how things could be done better outside of the official process and they are discussing how things could be run more efficiently.

Ms. Kirkpatrick said she does not need to have the information at the next meeting but she does not want it to be forgotten until January and have a situation where a lot of bill drafts are in place and no language. She does not think it is fair to staff and thinks it makes for much better legislators. She said, "I'll use myself as an example. Last time I wanted to look at some water studies and I got so busy with a million other things that I never put in the language and it was too late and I think it will make me a much better legislator if I have to be responsible and turn in my information. Usually when we have an idea we have a thought on where we're going and I just think we need to be more efficient so if you can assure me your committee is going to look at it, Mr. Malkiewich, I'm fine with that but I will probably ask on followup to see where we're at."

The chair commented he would be willing to assign Ms. Kirkpatrick as a subcommittee right now if she would like. He noted that Mr. Malkiewich was making a note to discuss the matter at the next meeting as well.

There being no further comments, the meeting was adjourned.

Respectfully submitted,

Marilyn K. White
Assistant to Director

Assemblyman John Ocegüera, Chair
Nevada Legislative Commission