

Minutes of the  
**LEGISLATIVE COMMISSION**  
Nevada Legislative Counsel Bureau (LCB)  
**September 7, 2005**

The second meeting in 2005 of the Legislative Commission, created pursuant to Nevada Revised Statutes (NRS) 218.660, was held on Wednesday, September 7, 2005, commencing at 9:15 a.m., in Room 4100 of the Legislative Building, Carson City, Nevada with a simultaneous video conference to Room 4401 of the Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada.

**COMMISSION MEMBERS PRESENT:**

Assemblywoman Barbara E. Buckley, Chair (in Carson City)  
Assemblyman John Ocegüera, Vice Chair (in Carson City)  
Senator Mark Amodei (in Carson City)  
Senator Steven Horsford (in Carson City)  
Senator Sandra Tiffany (in Carson City)  
Senator Dina Titus (in Carson City)  
Senator Randolph J. Townsend (in Carson City)  
Senator Valerie Wiener (in Las Vegas)  
Assemblyman Bernie Anderson (in Carson City)  
Assemblyman Pete Goicoechea (in Carson City),  
    alternate for Assemblywoman Sharron Angle  
Assemblyman Tom Grady (in Carson City),  
    alternate for Assemblyman John C. Carpenter  
Assemblyman Garn Mabey (in Carson City)

**COMMISSION MEMBERS ABSENT:**

Assemblywoman Sharron Angle  
Assemblyman John C. Carpenter

**OTHER LEGISLATORS PRESENT:**

Assemblyman John W. Marvel (in Carson City)  
Assemblyman David R. Parks (in Las Vegas)

**LCB STAFF PRESENT IN CARSON CITY:**

Lorne J. Malkiewich, Director  
Brenda J. Erdoes, Legislative Counsel  
Gary L. Ghiggeri, Fiscal Analyst  
Mark W. Stevens, Fiscal Analyst  
Paul V. Townsend, Legislative Auditor  
Donald O. Williams, Research Director  
Risa B. Lang, Chief Deputy Legislative Counsel  
Michael J. Stewart, Principal Research Analyst  
Marilyn K. White, Executive Assistant

The agenda is attached as Exhibit A. A packet containing materials for the meeting was provided to commission members and available to the public in attendance. Attendance rosters are attached as Exhibit B. The meeting was called to order by Chair Buckley.

**Item I--Approval of Minutes of Meeting Held June 3, 2005**--Assemblywoman

Barbara E. Buckley, Chair.

ASSEMBLYMAN OCEGUERA MOVED APPROVAL OF THE MINUTES OF THE MEETING HELD JUNE 3, 2005. MOTION SECONDED BY ASSEMBLYMAN ANDERSON AND CARRIED.

**Item II--Legislative Auditor.**

**A. Update on contract for Child Support Enforcement Program performance audit (A.B. 580, sec. 2)**--Paul V. Townsend, Legislative Auditor.

Mr. Townsend called attention to materials for this item contained in the meeting packet. The material included a memorandum regarding an update on the contract for the Child Support Enforcement Program Performance Audit. He recalled that Assembly Bill 580 appropriated \$150,000 to the Legislative Commission to contract with a qualified consultant to conduct a performance audit of the Child Support Enforcement Program at the Welfare Division and the district attorneys of the state. In addition to the \$150,000, there will be additional matching federal funds available. Progress has been made toward awarding the contract. Prior child enforcement program audits and studies have been reviewed. Auditors have met with Department of Health and Human Services staff to discuss the performance audit and the method of obtaining federal funds and have participated in a conference call with the Welfare Division, the Clark County District Attorney's Office and the Washoe County District Attorney's Office. Auditors have identified potential contractors and requested those contractors to submit statements of qualifications and have begun development of a Request for Proposal (RFP). Work on the contract is continuing and confirmation has been received from the Welfare Division on the total amount of federal funds available. There should be an additional \$291,000 in matching funds available from the federal government, bringing the total to over \$440,000 available for the contract. The RFP will soon be completed and provided to the Legislative Counsel for review and then sent to contractors who have submitted appropriate responses to the request for qualifications. The proposals will then be evaluated and submitted to the Legislative Commission for awarding of the contract. He anticipated that the proposals and evaluations should be ready for a December meeting.

**B. School Districts Selected for Review During the 2005-2006 Interim (A.B. 580, sec. 38)**--Paul V. Townsend, Legislative Auditor.

Mr. Townsend referred to the meeting packet for information on this agenda item. He mentioned that Assembly Bill 580 requires the Legislative Auditor to issue an RFP for reviews of school districts selected by the Legislative Auditor after consultation with the Legislative Commission which is being done today. The districts selected will then undergo reviews during the upcoming interim to determine if they are carrying out specific financial management principles. Most of the language in the legislation was originally contained in Assembly Bill 222. This bill specified that in addition to the Clark County School District, the following four districts be reviewed during this interim period. The school districts are Esmeralda, Lincoln, Mineral and Nye county school districts. Assembly Bill 580 appropriated \$300,000 for reviews during the 2005-2006 Interim and was based upon estimates of cost reviews for the four rural districts. He suggested that RFP's be issued for reviews of the districts. He said that the selection will also address the requirement that each school district must undergo a review every six years to the extent that the money is made available by the Legislature. Mr. Townsend said that upon final selection of the districts, his office will issue the RFP's, evaluate the proposals received and prepare a list of applicants it believes are most qualified and capable of performing the requirements of the legislation. He said that this procedure is a little different pursuant to section 30 of the act, in that once the list of rankings and applicants is prepared, it will be submitted to the State Board of Education which will then select a consultant from the list provided and the reviews shall commence no later than February 1, 2006. He welcomed any questions and requested the commission's approval to issue RFP's for reviews of the

Esmeralda, Lincoln, Mineral and Nye county school districts.

Senator Tiffany inquired when the last review of White Pine County was done.

Mr. Townsend responded that the reviews are somewhat new so White Pine County has never been subject to this type of review. He said that White Pine County School District would have an annual financial audit prepared in accordance with statutes and that audit would be provided by law to the State Department of Education and the Department of Taxation. Senator Tiffany mentioned that she was having a conversation with local people in the Ely area a few days ago and was told that Clark County offered White Pine County two vehicles and White Pine County declined and then turned around and purchased two new vehicles. She said that she has a problem with that kind of thing. She wondered if an auditor would look at that type of thing. She asked if the audit could be expanded or if the schedule is fixed. Chair Buckley said that perhaps

Mr. Townsend could address that after other members ask their questions.

Mr. Anderson said that he was under the impression that White Pine County had been "taken over" because of other kinds of problems and the management of the county itself. He said he presumed that the school district was part of the takeover.

Mr. Goicoechea said that it is the county and not the school district that is truly being overseen by the state; however, the school district was taken over by the state and most of the people in White Pine County feel that there was some real benefit with the state managing the school district. He said, "They managed to get a new school out of it as well as get back in the black." He commented that he does not understand why the school district would refuse any vehicles from Clark County and it does not make sense. While he represents White Pine County, he is not aware of and has not heard that they refused to accept any vehicles from the Clark County School District. He suggested a contact could be Paul Johnson, a former county commissioner and current controller for the school district.

Senator Titus said that she believes that the water district offered the vehicles to the county and it was not the school district offering to the school district. She thought that the county did not want to take the water district's vehicles because of the "water fights" that are going on in that area.

Senator Tiffany said that she was just going by what she was told. She said that she did not want "the dog in this fight" to be that tiny of an issue as much as it is about when was the last time that White Pine was looked at. She said that she knows they are always having problems and was just wondering if they could be put on the schedule.

Chair Buckley said that she would love to see the Clark County School District receive a performance audit as it is the largest school district in the state. She stated, "I don't think there is a Republican or Democrat that wouldn't like to see more out of the Clark County School District in terms of positive change. I understand that they were not selected because it was felt that there was not sufficient funds in order to conduct a performance audit because of the size of the Clark County School District. I suggested that perhaps we might want to combine the performance audit money as well as the breakup of the school district money to see if we could do a comprehensive look at what improvements could be made in Clark County in performance, including but not limited to having the consultant look at the breakup since the money was already allocated but Senator Tiffany thought that would not be possible because the missions are so different."

Chair Buckley asked if Mr. Townsend could tell the members how much money it would have required to audit the Clark County School District. Mr. Townsend explained, "These audits are based on a model that's been performed largely in Florida and Texas and we use that as a basis in developing estimates. Based on that, looking at a similar sized school district, we estimated the cost would be around \$500,000 to \$600,000 to do a comparable audit in the Clark County School District." Chair Buckley asked in what way the performance audit is different from a financial audit. Mr. Townsend said that financial audits are performed annually and they are important audits but they focus mainly on whether financial information is reported accurately. The performance audits examine best practices that are

used in other districts and look at specific areas such as transportation, facilities and personnel management. He said that during the last interim, his division did an audit where it looked at some of the best practices as well. He said that is the primary difference between a financial and a performance audit.

SENATOR TOWNSEND MOVED TO ACCEPT THE RECOMMENDATIONS OF THE LEGISLATIVE AUDITOR FOR THE SCHOOL DISTRICTS TO BE SELECTED FOR REVIEW. MOTION SECONDED BY SENATOR TITUS.

Under discussion of the motion, Senator Tiffany said that it is important to see the rural counties and the operations. She wondered if there is a way, perhaps through the Interim Finance Committee, that a supplemental appropriation could be obtained and look at the Clark County School District. Gary Ghiggeri, Fiscal Analyst, explained that the method to access funds in the Interim Finance contingency account would be predicated on current statutes which limits the access to unforeseen emergencies or shortfalls from money previously appropriated by the Legislature. Any allocation from the contingency fund would have to be recommended and approved by the Board of Examiners before the Interim Finance Committee could take action on it.

There was a brief discussion on previous legislation that had been considered and did not pass. The chair asked Mr. Townsend for clarification. Mr. Townsend said that the bill is to set up a program to audit all school districts in the state on a six-year cycle. Clark County was included in the original bill but a key line in the bill is "to the extent that funding is provided by the Legislature" and the funding provided by the Legislature was geared towards the four rural districts.

Chair Buckley said, "That's why I suggested if we combined the breakup of the school district money with this money, we could tackle Clark County this interim and I think that many people in Clark County would thank us if we did that. We certainly have to make sure that we could find someone to do both but to me it makes sense to explore and that's why I threw out that idea."

Senator Titus asked to be reminded about how much money was set aside for a study of the "deconsolidation" effort. Chair Buckley said that the "deconsolidation" was \$250,000 and the performance audit was \$300,000 for a combined amount of \$550,000. Senator Titus asked if that would pay for Clark County and the rurals.

Chair Buckley responded that it would just pay for Clark County.

Senator Tiffany said that she would be very concerned that in combining the two amounts, the \$250,000 for the deconsolidation would be overshadowed by the audit, given the Legislative Auditor's estimate that it would cost \$500,000 to \$600,000.

Chair Buckley asked if Senator Tiffany would be willing to hold the item for approximately 30 days and allow the Legislative Auditor and staff to see if it is possible and then, if it is not, "we would let it go." Senator Tiffany responded, "I absolutely

would be willing to do that for 30 days. I just do not want the long-standing issue of the size of that school district to pale in comparison to what I think it could be diluted to. That's where I'm coming from. I think it is a very large outstanding issue."

Chair Buckley said that she thought the staff could very quickly decide, in consultation with the consultants or experts to see if they could be combined and then report back. Senator Tiffany stated she would be happy to work with anybody to do that.

Senator Townsend said that he thinks the point under consideration "needs a few weeks of breathing." Since the members from Clark County have questions, it would give staff an opportunity to get questions answered so that there is a greater comfort level. He suggested that members get any questions submitted to staff as quickly as possible.

SENATOR TOWNSEND WITHDREW HIS MOTION AND SENATOR TITUS WITHDREW HER SECOND.

Chair Buckley requested Mr. Townsend to explore the area further and see whether the two items could be combined, what expertise would be required, if one would overshadow the other and if it would even be possible. She asked that staff report back to members at the next meeting and, perhaps, before that time to Senator Tiffany and herself.

### **Item III--Progress Reports:**

#### **A. Litigation currently in progress--Brenda J. Erdoes, Legislative Counsel.**

Ms. Erdoes said that there are no new cases since the last Legislative Commission meeting. Her office filed a 90-page brief on July 29, 2005, in the case of State of Nevada ex rel. John O'Connor v. Heller which is the term limits case. She is still waiting for oral arguments to be scheduled in PAC v. Peri, PAC v. Hadlock, Potter v. Potter and the other cases her office is monitoring for the Legislature.

#### **B. Progress Report from Public Employees' Benefits Program--P. Forrest Thorne, Executive Officer.**

Mr. Thorne provided a handout dated September 7, 2005, and identified as a "PEBP Status" report (copy attached as Exhibit C). He proceeded to give an overview of the report calling attention to the self-funded plan claims comparing Plan Year 2004 and Plan Year 2005. He said that Plan Year 2004 was a below normal utilization period and it did not experience a high rate of large cost claims. In comparing the two years, a normalization is seen in Plan Year 2005 which resulted in a self-funded plan which experienced a 17 percent growth in the number of claims per participant and the paid claims per participant increased 16.6 percent to \$445 per month. The claims in excess of \$100,000 increased 22 percent. The numbers are not as bad as they were during the 2002-2003 time period when much higher than normal claims were experienced. In Plan Year 2004, 0.179 percent, or 79 participants incurred 13.74 percent of the medical claims, each of which was over \$100,000. By comparison, in Plan Year 2005, 0.229 percent, or 96 of the covered members incurred 15.5 percent of the medical claims, each over \$100,000. The overall cost of the plan including out-of-pocket expenses for the participants was split as follows: the employer cost in Plan Year 2004 was 50.4 percent and increased to 58.4 percent in Plan Year 2005; and the participant cost was 49.6 percent in Plan Year 2004 and 41.6 percent in Plan Year 2005. The non-state active and retirees experienced a 39 percent increase in the number of claims per participant, with a 318 percent increase in the total claims over \$100,000. The large claims contributed to the overall claims paid per non-state participant increasing 39.5 percent to \$427 per month. He said that PEBP is dealing with a much smaller group with the non-state so even a relatively small fluctuation in the numbers generates a high percentage change.

Continuing, Mr. Thorne discussed the financial report noting that the PEBP has realized cash funding available and at the end of Fiscal Year 2004 was \$46.8 million and it increased to \$72.2 million at the end of Fiscal Year 2005. Of the \$72 million, \$23.9 million is reserved for incurred but not reported liabilities and \$24.1 million is reserved for rate stabilization and catastrophic reserve. Therefore, the funding available in excess of recommended reserves is \$24.2 million. The excess reserves are expected to be used during the current biennium to offset some of the contribution increases for Medicare retirees, plan design changes and to slow the impact of rising benefit costs on participant rates. Staff is also in discussions with the Department of Administration on the disposition of the additional funds and steps necessary to maintain compliance with federal regulations. Financial statements for 2005 are in the final stages of preparation for an audit by KBCA, LLC and are expected to be presented to the PEBP Board at its October meeting.

Mr. Thorne said that with regard to enrollment in 2005, approximately 6 percent of the participants in the self-funded plan selected the medium or high deductible options. For Plan Year 2006, the high

deductible plan was designated as the basic plan and the enrollment remained at 6 percent. The split between self-funded and HMO plans remained consistent between the two plan years at 74 percent self-funded and 26 percent HMO.

In preparation for Plan Year 2007, Mr. Thorne stated, the Board will be presented with the results of several informational items at its November 2005 meeting. The information will serve as a basis for future plan design priorities and includes results from wellness fairs conducted during the fall of 2004, results of a customer service satisfaction survey that will be conducted during September 2005, results from focus group meetings that are scheduled for the first half of October 2005, wellness benefit utilization data for the first quarter of Plan Year 2006 where the wellness benefit was substantially increased in both the dollar amount and services covered and results of a new disease management program which was put into place in Plan Year 2005.

The Board will be asked to consider plan design and rating methodologies at its

February 2006 meeting and adoption of the final plan design and rates is scheduled for the March 2006 meeting.

Mr. Thorne referenced page three of the handout which contains a table showing the participant monthly contribution levels for the current plan year as well as the two previous plan years. Retiree contributions are based upon 15-years-of-service subsidy level which is the same as the pre-1994 retiree subsidy level. In setting up the comparison since the high deductible plan has been designated the base plan for the current year, PEBP compared it to the comparable plans in the two prior years. The contributions dip substantially in Plan Year 2005. The PEBP was projecting surplus for that plan year and the surplus was utilized to reduce overall participant contributions on a one-time use of surplus funds as opposed to an ongoing change in the distribution. He said that a good comparison for what is more normal is the Plan Year 2004 to Plan Year 2006. The change over 2004 and 2006 is relatively modest and as a result of the predictive modeling, it is seen that the cost for participants with children and family actually decreasing substantially. The modeling showed that claims cost the highest for participant and spouse category. It is reflective of the demographics, the population and the country as a whole with an aging "baby boomer" population where there are much higher levels of chronic disease which translates into higher medical costs. In reviewing the state retiree Medicare, it shows a substantial increase but what is not reflected is the out-of-pocket costs that Medicare retirees have for the premium for Medicare Part B which must be paid out of their own pockets. In looking at a single Medicare retiree participant with a \$66.60 Medicare Part B premium in Plan Year 2004, their total cost was \$71.06. With the increase in the Part B premium to \$78.20 per month and the reimbursement of 80 percent of that as a covered claim expense reducing the out-of-pocket cost to \$15.64, the combined cost in Plan Year 2006 is \$114.60. Similarly, for participant and spouse, there is two times Medicare Part B so in Plan Year 2004 it was \$293.19 combined costs and the combined cost in Plan Year 2006, taking into account the supplemental subsidy that was approved as part of the PEBP budget, is \$289.80. There is the same comparable for the non-state participants both active and retiree. The table does not reflect any contribution by non-state employers toward the cost so the full rate is shown for those participants.

Mr. Thorne then directed attention to the plan enrollment on page four which shows the most recent three-year period. The enrollment has been relatively stable in both actives and retirees over that time period. He said that the big jump was in the number of retirees during Plan Year 2004. When PEBP had the biennial open enrollment and the subsidies for the non-state retirees went into effect, there was an increase of about 1,000 non-state retirees as a result but it has been stable since that time.

Continuing, Mr. Thorne said a regulations workshop was held on August 2, 2005, and the PEBP Board has asked that a second workshop be conducted prior to the adoption hearing and that is scheduled for October 6, 2005. Among the items proposed is the addition of a definition in the regulations for "commingling" and the proposal shown on page five was included in the public notice for the October 6, 2005, workshop. The definition is consistent with the NRS requirement to commingle claims experience that was used in adopting rates for Plan Year 2006 and for the 2005-2007 biennial budget

approved by the Legislature. He said as used in NRS 287.043, 287.0434 and 287.0475, the Board interprets the term "commingle" to mean the aggregation of claims experience of the program into risk pools where all participants in a particular tier of coverage have the same rates and benefits and pay the same contributions under the program.

Mr. Thorne said that one of the big items facing everyone is the upcoming Medicare Part D which becomes effective January 1, 2006. The media blitz has already begun and is something on which PEBP itself is going to have to do a lot of communication to make sure that its participants are educated on what they should or should not do relative to the coverage. Because the Medicare Part D prescription drug program will be independent of the PEBP program, the Board basically has four options to consider:

(1) continue PEBP's current prescription drug program which qualifies for a 28 percent subsidy from the federal government and would serve as a substitute to the Medicare Part D program; (2) provide a "wraparound" or secondary coverage for prescription drugs in addition to the Medicare Part D benefit; (3) discontinue the PEBP prescription drug program altogether and potentially subsidize the retiree's cost of Medicare Part D premium; or (4) set up a PEBP-specific "prescription drug plan." There are a lot of "unknowns" with each of the options and the timeline to implement any changes before January 2006 is very short. The application for the 28 percent subsidy is due September 30<sup>th</sup>. The Board decided at its September 1, 2005, meeting to continue PEBP's current prescription drug program and apply for the subsidy funding. The decision was for the last six months of Plan Year 2006 which is January through June of next year. He said a lot of the rules and the service areas—the Medicare advantage plans, the prescription drug plans—are still not finalized and PEBP does not even know what the formulary is going to be for those programs. He opined that it will probably be into Plan Year 2008 before PEBP sees a shift away from or even an understanding of what are the ramifications of all the options. Retirees will see no change in their prescription drug benefits or premium costs for Plan Year 2006, however, any retirees who enroll in Medicare Part D will not be eligible for PEBP prescription drug benefits in accordance with Medicare rules. He concluded that PEBP staff and the Board will be re-evaluating each of the options again in the coming months for Plan Year 2007 which starts in July 2006. Hopefully, during that time more will be known about each option and more of the federal rules will have been finalized so PEBP can properly evaluate them. Mr. Thorne offered to answer any questions of the commission members.

Mr. Goicoechea asked if Mr. Thorne could explain why there is a difference in the rates shown on the handout and what went out to the public. He observed that as of July 1, 2005, many non-state retirees really "got hit with this" and their pension checks will not cover the premiums. He also asked for clarification about the 2006 rates becoming effective until January. Mr. Thorne responded that the 2006 rates became effective on July 1, 2005, the start of the fiscal year. Further, he explained that the difference in rates is between the high deductible plan and the low deductible plan. Mr. Goicoechea said that even on the high deductible plan the number is not \$468 in the information that went out to the participants. Mr. Thorne replied that it is his understanding that the information on the handout was taken directly from the rate charts so he will have to take a look at the rate charts to see if he can determine what the discrepancy might be. Mr. Goicoechea asked what is the low deductible rate for non-state retiree participants with Medicare and Mr. Thorne said that he did not have that information with him. He was joined by another PEBP representative identified as Leslie A. Johnstone, Chief Operating Officer. Mr. Thorne then clarified that in looking at the rate charts for the statewide PPO for non-state retiree in the high deductible plan it shows \$468.68 and is \$512.44 for the low deductible plan. Mr. Goicoechea reiterated that while he did not have a copy with him, he knows that it is not a big discrepancy but there is a difference.

Further, Mr. Goicoechea said that there are six counties that are presently under Senior Dimensions or Seniors Plus. If someone lives in those counties and can qualify for Seniors Dimensions, they go from \$512 to \$89 and yet there are 11 other counties that do not have that available to them. Mr. Thorne replied, "And that's what is going to be known under the Medicare Modernization Act as a Medicare Advantage Plan and that is not available in all areas of the state. Unfortunately, we do not have that option beyond, I think, three counties." Mr. Goicoechea said his information indicates six counties and Mr. Thorne replied, "Is it up to six now?" Mr. Goicoechea emphasized his concern about the high cost

for the dental, vision and prescription coverage even with Medicare A and B and that it is taking the whole retirement check of many of the people.

Senator Amodei asked for any thoughts on what Mr. Goicoechea just said about the cost of dental, vision and prescription insurance for about \$500 a month and that it is forcing people out of the plan. He asked if there is any intent to get people out of the plan under those circumstances. Mr. Thorne responded, "There is no intent to get people out of the plan under those circumstances. What we are talking about by comparison is a Medicare Advantage HMO which is subsidized by the federal government and provides a complete replacement for both our plan and Medicare. So, it is an entirely different animal. There are far greater restrictions on what doctors you see, what is covered and what is not under an HMO than there are under the PPO Plan. In the figures that I spoke to you of earlier on the number of large claims, the insurance is or the concept of this program or any group insurance program is that the many pay for the few and there are a few of us who are unfortunate enough to have catastrophic events which cost in the hundreds of thousands of dollars. It is the first guiding principle of the program to provide that catastrophic coverage. In looking at the rates, the individual who is an active, the individual who is an early non-Medicare retiree, the individual who is a Medicare retiree is paying exactly the same rate, they are receiving exactly the same total benefit and that was the intent of the Board in attempting to comply with the 'commingling' requirements of the statutes. If there is a change in the statutes, the Board will adjust the plan accordingly. All of this has an impact on the cost of the plan. As you spread out both the costs and the savings of various elements to all of the participants, you equalize the impact on all of the participants. That's what we've attempted to do."

Senator Amodei asked, "Are you telling me that the vision, dental and prescription rates are based in part to cover costs for other types of coverage in the plan because I'm having a hard time from a lay-perspective coming to grips with \$500 a month for vision, dental and prescription for these retiree folks." Mr. Thorne replied, "Medicare coverage does not provide catastrophic protection. There is no limit on the out-of-pocket costs for an individual covered by Medicare. We have Medicare retirees with catastrophic claims that we have paid upwards of \$1 million on. I am talking for hospital, I'm talking for physician, I'm talking for surgery." Senator Amodei interrupted saying, "I'm only receiving calls, Woody, from people who have vision, dental and prescription so I'm assuming that if they get catastrophic cancer that unless it is somehow related to vision, dental or prescription drugs, you don't have to cover them on that." Mr. Thorne responded that the statement was incorrect. Senator Amodei asked why and

Mr. Thorne replied, "Because we cover to the same extent that we cover any other employee. When the out-of-pocket cost for an individual who has no Medicare coverage or Medicare coverage reaches \$3,500 in a given plan year, the plan pays 100 percent. So, if there is a difference between, say there is some continuing partial payment by Medicare, between the Medicare plan and our plan at that point there is 100 percent coverage."

Senator Amodei asked Mr. Thorne to describe the communication assets that are in his organization at the present time because he received a "ton of phone calls" from people who think PEBP only covers them for vision, dental and prescription and it is charging them approximately \$500 a month up a significant amount of money from what they used to pay and they think they are not getting any backup catastrophic care coverage for anything else. He specifically asked about the communications assets, programs that they are currently operating, how many employees, names of any programs and how it goes about communicating with folks in the plan when there is a change in the plan. Mr. Thorne responded, "Certainly. We have a public information officer and two individuals that work with that individual. They provide ongoing meetings through open enrollment meetings, through employee benefit orientation meetings for new employees, for retirees through the retiree benefit orientation meetings. We provide regular presentations to various RPEN chapters across the state. We provide a quarterly newsletter that goes out to all participants and during the open enrollment, we had open enrollment meetings that were geared specifically to the retirees. Plus, on top of that we have all of the information about the plan and how it works on our website as well."

Continuing, Senator Amodei asked if there are any procedures that are utilized to try to contact members of the plan that are going to be affected by rate increases prior to those increases showing



up. Is there any policy? He explained the context within which he is asking the question. Many of the phone calls he receives are from people who had gotten their new statements or invoices and he does not know whether the people are not reading their mail or there is no mail to read. Many of those people, when they checked the deposit of their retirement check, found that it was significantly less than what they had assumed it would be and it was because there was an additional deduction to cover their health insurance. Mr. Thorne said that PEBP attempts to contact all the participants through its open enrollment materials. The senator asked for a description of open enrollment and what are the materials and how are they distributed, are they newsletters, does PEBP identify a specific class of participants that will be affected and are there special notices. Mr. Thorne replied that open enrollment materials go out at the same time every year before the beginning of the next plan year. Open enrollment happens in May of each year. The packet includes a description first highlighting all the changes that occur and any planned design changes that go into place July 1. The packet provides information on the rates, how to calculate the subsidy if it is different from the 15-year subsidy level, and they can tell if they read the open enrollment materials exactly what the changes are. In addition to that, PEBP schedules and publishes open enrollment meetings all across the state that are open to all participants. They all receive notices of those meetings and are welcome to attend.

Senator Amodei asked if there is a procedure whereby when someone has a payroll deduction to pay their premium to PEBP and it is going to be changed to notify the person of the date and the amount by which the direct deposit is going to be affected. Mr. Thorne replied that individuals are notified of the effective date of the change through the open enrollment materials and they know that will affect their July check. It will vary depending whether it is an active or a retiree, whether they get PERS or whether they get DIA pref through the university system and all of them are different schedules. The payment of those schedules is different during the month but the month that it is effective, they are notified well before the fact through the open enrollment materials sent out in April for the open enrollment period in May for changes that are effective July 1. He confirmed that special notification is not sent prior to impacting someone's deposit other than the open enrollment materials because people can make choices on their selection of plans which will also impact the amount of the change.

Senator Amodei asked how long it has been since PEBP reviewed its policies in the area regarding communications with plan members in terms of affecting their direct deposits of what their check is going to be when they have authorization. Mr. Thorne responded that PEBP is in the process of doing a customer satisfaction survey and focus groups were conducted last year as well as a customer satisfaction survey at that time. The PEBP continually reviews and attempts to update and improve on its communication efforts. He thinks they are substantially better than they have been in the past and they are looking to continually improve them.

Senator Amodei said that when the last round of increases went into effect for retirees, he received information that the Public Employees Retirement System (PERS) switchboard was "jammed up" to the point that it had to go outside of information technology assets within the state to bring in outside people to handle the "meltdown" of calls from retirees wanting to know what was going on with their check. He said that he was further told that the reason that they had to go outside state resources was because all the state information technology people were tasked to PEBP to handle the onslaught of inquiries to PEBP regarding what was going on. He asked if that information is "anywhere in the neighborhood" of accurate with the experience at PEBP when the latest round of retiree increases took place. Mr. Thorne replied that PEBP did have a lot of inquiries and most of those occurred during the May-June time frame resulting in an increase of call traffic at that office. He said the office is "pretty much self-sufficient" from an information technology standpoint and did not use outside resources for that. There was also an increase in calls in July because that is when the Medicare retirees first started receiving the reimbursement checks for the 80 percent of the Medicare Part B premium and there was a lot of confusion about what the check was for. Most of the time, the Part B premium was withheld from their social security checks so many of them did not even realize they were paying it.

Senator Amodei inquired if Mr. Thorne thought that the increase in calls has any reflection on the PEBP present information policies. Mr. Thorne replied, "I think that any time you have a significant change, you will see an increase in the calls. We can provide as much information as possible for the participant

but we cannot force them to read it or pay attention to it.”

Further, Senator Amodei asked, “What are your feelings with respect to your current information practices with respect to plan members benefit and premium changes? Do you think you’re doing fine?” Mr. Thorne replied, “I think we did an admirable job on it and we made every effort to get that message out.” The senator thanked Mr. Thorne for his answer on the record.

Chair Buckley stated that she thinks it is pretty clear that the Legislature is not satisfied with the progress of the PEBP and she thought it was reflected in the questions from Senator Amodei and Mr. Goicoechea and a question that Mr. Grady will be asking shortly. She noted that she had also received a list of questions from Assemblywoman Bonnie Parnell. The chair commented that legislators are continuing to get “flooded” with concerns about operations and communications. In the last couple of sessions, the problems do not seem to be getting any better. She stated, “It doesn’t get better from the groups that we have contact with and many of them are in the audience and it’s got to get better. The status quo is not acceptable and if you think you’re doing an admirable job, we’re in trouble because we shouldn’t have this great state of confusion out there and we shouldn’t have this great level of dissatisfaction and we need a turnaround. Senator Amodei, I don’t mean to jump in and steal your thunder here but that is the bottom line and we all need to be responsive. It’s our job and we don’t make this stuff up. Our members get calls, we get inquiries and this is like the top five big unresolved issues we keep getting hit with during the sessions and in the interim. This is one and we need to take it off our list of major concerns. That’s the message.”

Senator Amodei thanked the chair for her indulgence and noted that he is mindful of the agenda. He said that he would like to put four issues on the record for a later report. He said, “I would like to ask that at the next commission meeting we get updates on these four items and if you have concerns about it we can talk afterward or whatever. Those would be: The definition and the source of the definition of excess reserves as that term is used for purposes of PEBP; a history of the budget amendments regarding excess reserves for the last three budget cycles; I would like to know the source of the advice regarding the proposed regulation changes for interpretation of commingling and who that was coordinated with that that interpretation complies with what the Legislature has done to date; and, finally, I would like an update on the study that the executive branch had indicated towards the end of the last session of the Legislature, what the status of that study is, who is involved in it, what the purview of it is, so that both the interim committee that deals with these issues knows and the members of the commission know what we’re talking about. I see a statement recently from the Governor saying this is one of the three big issues that he’s working on for his successor so I think that’s something that this commission and the Legislature in general would be well informed of on what he’s thinking in terms of dealing with that issue and that problem. With that, I will yield the floor and thank you, Madame Chair, for your indulgence and Mr. Thorne and Leslie thank you for responding as you have.”

Mr. Grady said that perhaps it is the area that he and Senator Amodei represent but the subject of the majority of his calls also involve the dissatisfaction with what is happening with PEBP. He hopes that the interim study committee really looks at the issue because he thought that last interim the meetings just kind of stopped and he thought that hurt all the legislators. He said, “I would also like to add to Senator Amodei’s list of things. I would like to see the results of the survey when they are finished. I would like you to make those available to this committee if you will. I will tell you from my own personal experience, I dropped your insurance. I don’t think it takes a rocket scientist to take a spreadsheet, find out what you’re charging for fees, take your Medicare A and B, what you’re using for prescriptions, once a year going to the eye doctor, twice a year to the dentist, and my insurance now is less than one-half of what I was paying to the state for a supplemental policy. I think we’ve got some real problems on why it’s so expensive for state employees and non-state employees on your program and you can buy it, not through one company but I think Medicare gave me 132 companies that we could contact to get basically the same insurance. I really do think that for our retirees, we need some answers and we sure haven’t got them.” Mr. Thorne asked to respond, “You are speaking to one particular class of participant in the program which is a Medicare retiree. There is a requirement

to equalize the coverage because of the commingling. We don't believe we have any choice but to do what we have done. When we look at creating, from an insurance standpoint, a specific subgroup be that a Medicare retiree or a young family, I can guarantee you that a young family doesn't cost anywhere near what the active employee my age does or the early retiree that hasn't reached Medicare age yet does—not even close. So, the purpose of insurance is to pool all of those and to provide the best possible rates that you can for all of them. That is going to cause some price dislocation for some groups. Some groups aren't going to be happy with that because they are paying more than they think they should but the same token is that you take out that subgroup and the prices go up for everybody else because what we pay out doesn't change. The only thing that has changed is the revenue side. So, you've got a pool of money that you're paying out all of these claims on. Now when we have large claims and they can come from anywhere, we've had a \$2 million baby on up to a \$1.5 million Medicare retiree. There is a broad range where those large claims can come from and as you saw from the earlier statistics, a very small amount of the participants drive a significant portion of our claims. We have 65 percent of our total claims driven by approximately 15 percent of our total population. That's what insurance is. Now, we can keep separating out subgroups and providing a rate for them which reflects only the experience of that particular group. You're going to see the costs go up substantially for every other group. That is not equitable either and it flies in the face of what group insurance is all about. When we look at the costs of these alternatives for Medicare retirees, and we had a significant discussion on this during the money committee hearings in the last session, I can provide a coverage for a Medicare retiree similar to what you're speaking of which will satisfy 95 to 97 percent of the retirees. Every year we will put 2 to 5 percent of Medicare retirees in the poor house, bankrupt and on Medicaid because there is no catastrophic protection and that's what we provide."

Mr. Anderson acknowledged that Mr. Thorne is in the least desirable position in state government in dealing with this particular issue which has been a large issue for the Legislature over the last four sessions in one form or another. He said that there are a couple of things that he is concerned about and noted that he would like to have received the materials far enough in advance so that he could have developed some meaningful questions. If the handout material could have been included in the meeting packet, some of his issues could have been resolved. He said one of the groups that has been of continuing concern is the non-state public employees—county and local government entities—who come into the system and PEBP is under the impression that they are receiving some supplemental to their medical need program from their local government. He asked if that was Mr. Thorne's belief and, if so, where is the list of those counties and what they are providing for those employees who are at that level. Mr. Thorne responded, "From the employee side, we don't know what the contribution level may be towards the total premium cost. We expect that they are providing some kind of subsidy but that's handled internally through their payroll systems and their benefit negotiations. On the retiree side, there is a requirement for the former employers of any non-state retiree who was in the PEBP plan, to provide the same level of subsidy for that retiree as the state does for its retirees. So, we are receiving subsidies for the non-state retiree participants from multiple—about 73—different local entities that we are receiving payments towards those contributions."

Mr. Anderson asked if the payments are supplemental to PEBP and it puts it as a reduction against their overall medical costs. Mr. Thorne replied, "We bill that out to the employer, the deduction that goes out of their check is the same as it would be for a state retiree who has comparable years of service." He acknowledged that PEBP is tracking that information. Mr. Anderson asked if that information could be provided and noted that some of the counties are having fiscal difficulties and inquired if they are all meeting their responsibilities. Mr. Thorne replied that PEBP is receiving that in "pretty much" a timely manner from all of the participating local entities except two on which legal action is being worked. Further responding to Mr. Anderson, Mr. Thorne said that there is a requirement that state employees and retirees be rated as one group and non-state employees and retirees be rated as a separate group. There is not an increased cost for a local government employee as compared to a state employee at the employee level. The employee level is strictly a decision at the local level as to what it contributes. For a retiree, the local level has to contribute on the same basis as the state is required to in the statutes towards its retiree costs. The cost is the same.

Mr. Anderson concluded by asking Mr. Thorne to provide future materials in time for them to be included in the meeting packet so that members have an opportunity to review them and develop questions prior to the meeting. He believes all legislators have a large percentage of state employees within their constituency groups and there are ongoing concerns. Mr. Thorne indicated PEBP was unable to determine what kind of information it should include in its progress report, so it assembled a collection of information it thought would be helpful and brought it as a handout.

Chair Buckley said that some specific questions have been asked today to include in the next report and asked if any members have additional followup questions to please get them to Mr. Malkiewich so that a comprehensive report could be prepared and included in the packet for the next meeting. Mr. Anderson asked that the same format be used.

The chair commented, "Another thing to include, perhaps, in the next time is maybe one of the things we still grapple with and don't understand is, many of us have private plans where you have a couple of high claims. I have a group with 30 in it at my nonprofit and we had two people with cancer last year. I think all of us in our own lives understand that but how does Mr. Grady end up going out on his own and getting something for half the cost. How does that happen? Maybe, if that could also be addressed in the next packet we would appreciate it." The chair thanked the PEBP representatives for the report.

#### **C. Report on car rental tax in Clark and Washoe counties--Lorne J. Malkiewich, Director.**

Mr. Malkiewich referred to the meeting packet containing a memorandum dated August 16, 2005, from staff in the Fiscal Analysis Division. He recalled that during the last meeting there was a brief discussion of the car rental tax and its use in Washoe County. Staff was asked for an update from Washoe County and to also include information from Clark County and its use of the money for a performing arts center.

Senator Townsend said that the report states that the first four quarters of collection of the two percent option in Washoe County has generated \$1.3 million. Washoe County issued \$1.2 million in bonds for which the revenue stream is pledged. He asked where is the difference of the money going? Mr. Ghiggeri responded that the money is transferred to Washoe County and he would have to contact them to determine for what the money is specifically being utilized. He guessed that it is sitting there or covering some incidental costs that have been incurred but staff would have to contact Washoe County for a report detailing its actual expenditures. Chair Buckley asked Fiscal Analysis Division staff to contact Washoe County at Senator Townsend's request and ask for an explanation.

#### **Item IV--Legislative Commission Policy:**

##### **A. Review of administrative regulations submitted pursuant to NRS 233B.067--Brenda J. Erdoes, Legislative Counsel.**

A revised list of regulations to be reviewed and information statement for regulation R073-05 were provided as handouts and supersede and supplement materials in the meeting packet. The handouts are attached as Exhibit D.

Ms. Erdoes said that there are seven regulations for the commission's review this date. One is from the Division of Industrial Relations of the Department of Business and Industry, two are from the Public Utilities Commission of Nevada (PUCN), one is from the State Contractors' Board, two are from the Department of Transportation and one is from the Board of Homeopathic Medical Examiners. Copies of the regulations were before the members. She said that her office has reviewed the regulations and found them to be within the authority of the agencies to adopt and would recommend approval unless the commission determines that one or more of them fail to carry out legislative intent or conflict with the statutes. She said that she believes representatives of each of the agencies are in the audience and available for questions on the text of the regulations or the reasons for adoption.

Chair Buckley inquired if any member would like to have discussion on any of the regulations being considered.

Mr. Anderson said that he telephoned the Legal Division and was hopeful that the commission could hear from the Division of Industrial Relations on R118-02 and the PUCN on R010-05. The chair requested a representative from the Division of Industrial Relations to appear at the witness table.

Mr. Anderson said with regard to the workers compensation questions, there is an appearance that the division is "dragging their heels" and inquired whether the regulation could result in a minimum fine of \$5,000 as authorized by statute. He asked if there is a belief that the regulations are going to "go away" and that the division believes that there is no immediate benefit and no long-term benefit of carrying out these new regulations. He asked why the regulations are being done if there is no immediate nor long-term benefit to doing them.

John F. Wiles, Counsel, Division of Industrial Relations, inquired if Mr. Anderson was reading from the informational statement and Mr. Anderson confirmed that he was.

Mr. Wiles said that he thinks the area referred to has to do with the economic impact analysis that is required to be put in the informational statement pursuant to statute. In terms of the economic impact, the division did not believe that there were any beneficial changes resulting from the regulations that are proposed or necessarily one that it could chart in terms of any detrimental economic impact. He said, "To elaborate just a little bit, we have revamped our regulations here pertaining to the fine structure. What we have done essentially in a number of areas is repealed regulations that provide for \$100 or \$50 for the first violation, maybe \$150 or \$100 for the second. All those will be gone and what we have replaced that with is essentially a system where we are going to have a 'fix it ticket' and then if there is a pattern or practice, and you will see that definition of intentional in section 36 on page 58 of the regulation, what we do there is come back and impose an intentional violation which is \$1,000 minimum currently on the insurer third party administrator. And, of course, as the members of the commission may know, effective October 1<sup>st</sup> the intentional violations could also result in a benefit penalty to an injured worker. So, we think this is a better system in terms of administratively, it's a better system in terms of deterrents, but in terms of the actual economic impact, it's hard to measure or evaluate and so that's why we put those responses there." Mr. Anderson expressed appreciation for the response noting that he wanted to make sure that something was not being taken away from injured workers.

Mr. Anderson referenced regulation R010-05 from the PUCN. He said that he saw there was a controversy relative to the use of business days or calendar days in determining the timeline of how procedures are going to be operating. He inquired whether the resolution came to be business or calendar days.

Don Lomoljo, Administrative Attorney, PUCN, said that business days was generally adopted in the regulation for use in responses to motions and so forth. Mr. Anderson said a second question deals with the number of staff and wanting to regulate the opportunity to request data for the regulation of utilities and the number of requests that can come in. He asked about the resolution and why would they not want to make sure that PUCN staff had the opportunity to question the utilities to make sure they got the answers to the questions they needed. Mr. Lomoljo responded that the resolution was that a party could file a motion to limit discovery in a particular case—that option is available to them and it is not a blanket restriction that was adopted. It was relayed as a concern that there was a lot of duplication in data requests between the different parties and it was becoming burdensome on applicants or petitioners to reply to duplicate requests. The requests would come from different interveners asking questions that had already been asked by others whether it was the Bureau of Consumer Protection or the regulatory operations staff. Mr. Anderson asked, "Is that not the purpose of your office to make sure that the public issues are well heard and those concerns are raised? Obviously, if somebody leaves important pieces of information out of their initial filings, that becomes necessary for the Consumer's Advocate and your office to know. Wouldn't that be indicative of the fact that they should have included that kind of information initially?" Mr. Lomoljo replied, "You are

correct. We are just trying to get the different parties to work together to get the information they need."

Chair Buckley said, "So just to be clear, if you have a rate case and you have, for example, the Bureau of Consumer Protection and maybe MGM Mirage intervened and the PUCN, what you are trying to do is not have duplicate requests from all of those folks who are engaged in discovery. You can ask the questions--any ones you want--but the party doesn't have to waste time compiling the answers that have already been provided. They just provide a copy of whatever was already provided to the other party to that party. Is that what you are saying?" Mr. Lomoljo responded, "You are correct, yes." Further, the chair said the information itself is not being limited, just ensuring that there is a better process to make sure that people are not supplying the same things over and over. Mr. Lomoljo responded that was correct.

Jan Cohen, representing the PUCN, appeared in Las Vegas and stated that she wanted to add to what Mr. Lomoljo said and commented that all of the concerns were discussed in numerous workshops and the parties came out with all of their problems with discovery and the duplicative nature of much of the discovery and this appeared to be a resolution that helps to streamline the process and yet allows all of the questions to be answered.

SENATOR TOWNSEND MOVED APPROVAL OF ALL OF THE REGULATIONS. MOTION  
SECONDED BY ASSEMBLYMAN OCEGUERA AND CARRIED UNANIMOUSLY.

**B. Amendments to Rule Nos. 19, 22, 25 and 28 and Repeal of Rule No. 21 of the Rules and Policies of the Legislative Counsel Bureau--Lorne J. Malkiewich, Director.**

Mr. Malkiewich referred to material in the meeting packet containing the draft resolution for the commission's consideration. He noted that there were several changes and he will review them one at a time. The amendment to Rule 19 has an impact that affects the other rule changes. Currently, a person with a grade below 20 has a six-month probationary period. All other employees have a probationary period of one year and includes all professional staff such as attorneys, fiscal analysts and research analysts. The concern is that if the one year is between now and next August, there may not be a good "read" on how the person would perform during a legislative session. The proposal is to say that probationary periods end either on that date or July 1<sup>st</sup> following session, whichever is later.

Further, Mr. Malkiewich said that Rule 22 concerns the performance reports due and will relate to the repeal of Rule 21 which he will discuss shortly.

Mr. Malkiewich stated that Rule 25 amendments have several changes, the first one is in subsection 2. Currently, every one of the people listed there--director, deputy director, legislative counsel, research director, legislative auditor and fiscal analysts--cannot be paid for overtime out of session without approval of the commission. He is proposing to allow that approval for all of the persons except himself by him. If he wanted to be paid for overtime out of session, which would not happen, he would go to the commission. He said this is a rare and unusual situation and the money would come out of the division's budget so the division chief would be affected by it. He would like the authority to be able to approve it if they get into a situation where they need to work overtime out of session. He said most of the people have a "ton" of accrued leave and getting compensatory time does not do them much good. The second change in the subsection, from September to July, reflects the fact that LCB staff starts working overtime in preparation for session well before September. This would allow if a person is working overtime for session to be paid for that starting July 1<sup>st</sup> rather than September 1<sup>st</sup> preceding a session; or, in an extremely unusual circumstance, they were working in preparation for session before that, the director could approve it. He called attention to the bottom of page two where there is deleted language "An employee shall use or be paid for all accrued compensatory time before he uses annual leave . . ." Deleting that language allows the employee to take their leave in whatever order they wish. There is no change on how many hours are allowed to carry forward and when it is necessary to have the balances down. It just allows the employees to do it themselves and avoids a

situation of having time sheets changed back and forth. He noted that at the top of page three, the addition of the phrase "regular or special" which is also in subsection 2 and is something that was not caught. With the increased number of special sessions that have occurred during the last six years, it would allow payment for overtime work in preparation for a special session. He said that there was a lot of overtime in preparation for the special session on impeachment. The language also reflects the payment from July 1<sup>st</sup> through the end of the regular session.

Continuing, Mr. Malkiewich said the change to Rule 28 is a very small change on the top of page four taking out the language "on or before October 15" request permission to take leave. This is a situation where a person has more than 240 hours of annual at the end of the year and is not going to get down to 240 hours. The rule requires them to request this before October 15 and as a general rule, it is not known that someone is not going to get down to 240 until right at the very end of the year because they are planning to take time off at the end of the year and then something has come up and they cannot do it. This would just say that they can request to take the annual leave and have it denied, then they are entitled to be paid for the excess over 30 days.

Mr. Malkiewich stated that the final change is the repeal of Rule 21, reports of performance. A six-month probationary employee gets reviewed after the second and fifth month and all others get reviewed at the end of the third, seventh and eleventh months. He said this is not going to work any more with evaluations with probationary periods being extended to follow session. He would like to turn this over to the divisions and have the performance evaluations of probationary employees determined at the division level. During a session, it is impossible for at least the Legal and Fiscal Analysis divisions, if not the Research Division, to keep up with the demands of session as well as keeping up with probationary evaluations. This would allow staff to develop procedures at each division level so that during session those performance evaluations would be less time consuming. Probationary evaluations would continue but there would not be a situation where, because of the demands of session, staff was unable to

complete the ones required in the rule. A second consideration is that this is not going to work very well to say third, seventh and eleventh month if there is a sixteen-month probationary period.

Mr. Anderson said that he spoke to Mr. Malkiewich about his concerns with some of suggested amendments to some of the rules. The nature of his questions revolve around Rule Nos. 19, 21 and 22. He is concerned because recently, the professional staff who are going to be leaving, leave directly after a session and those positions are generally filled shortly thereafter and those people will be on staff about a year before a regular session begins. He said those folks will have a dramatically longer period of probation than they currently have because of their hire date. The conflicts that seem to take place are often conflicts of personality with legislators and not necessarily over their professional responsibilities. He is concerned about these people who are professionals who may not be getting evaluations in a timely fashion and that they are not given the opportunity to improve and the personalities of legislators do not become detrimental to having good, solid staff and having proper evaluation for what they really do. He is not sure the rule accomplishes that and he is concerned about extending the professional staff probationary time.

Chair Buckley requested Mr. Malkiewich to provide the rationale and why the changes would help. Mr. Malkiewich said, "What he says is exactly the issue and that is exactly the question before the commission. When we hire professional staff shortly following a legislative session, are we going to make the decision on whether to make them permanent employees in September or October before a session or in July following a session? We believe it is in the best interest of the Legislature to make that decision following a session. If we have to make that decision in August, September or October before a session, we're not going to have a real good idea of how well that person can perform under the stress of session. I believe that one of the things we'll do, either we're going to be saying we're not sure and we don't want to take the chance so we're not going to keep the person and have to pull the trigger before session, or we're going to make someone permanent who perhaps is not up to the requirements of session. I believe that we get a much better 'read' on how good an employee is after

they've 'been through the fire,' they've gone through a session."

The chair inquired if the change has been recommended or agreed to by all the division chiefs and does everyone think that this is going to help be able to make sure the divisions have folks to "deliver" during the legislative session. Mr. Malkiewicz responded, "Yes, we had a meeting of our management group which is all of the division chiefs, the secretary of the senate and the chief clerk of the assembly and that's where this request came from. We were discussing rules and potential rule changes and we started with just some of the silly things like the October 15<sup>th</sup> request. I proposed the change from September to July on the session overtime because we do so much session preparation starting in July. This issue came up and it was, I believe, for the people who it primarily affects and again, that's primarily legal, research and fiscal—it's not so much

a concern in audit and admin—but, in those divisions, they're all nodding their heads 'yes,' there is complete agreement and I support this as well."

Mr. Anderson said, "I recognize that during session that the folks in fiscal and legal and research, whether they are in the management of those departments or servicing one of the committees all do the basic work, they all do the same 'grunt work' of research, they all do the basic legal drafting and I appreciate that and they have a huge, huge responsibility. I realize the whole focus is the Legislature itself. I am concerned about the timeliness and fair evaluation and the opportunity to treat our employees with the dignity and professionalism that they have and the key to that is fair evaluation with an opportunity to respond to those and to clear up their response. I am not sure by changing all of these policies at one time whether we are going to accomplish that."

Chair Buckley inquired how evaluations would be handled. Mr. Malkiewicz responded, "We would still do performance evaluations in the probationary period but it would be at the division level instead of at the LCB-wide level so that each division would develop its own policies on when to do probationary evaluations. I agree, at least, that you need to let an employee know what actions he or she needs to take to become permanent—that you want to have probationary evaluations so an employee knows if their performance is deficient, what changes they need to make to become a permanent employee and if their performance is up to standard, they need to know that as well. The intent would not be to discontinue probationary evaluations but rather to allow each division to establish its own policy. And, again, with audit and admin having much less of a concern during session with the excess overtime, theirs would probably remain more like what we have counsel bureau-wide now but it would give the other divisions flexibility to develop their own policies for probationary evaluations to ensure that the employees are not only adequately reviewed but that they have an adequate understanding of what is required of them to become permanent employees."

The chair asked if the commission could receive copies of the policies once they are adopted. She thought that Mr. Anderson raises a good point as they want to ensure that evaluations are given and people are given an opportunity to improve and know what are the deficiencies. She said that the record should show that will still exist and the policies will be provided for review at the next meeting.

SENATOR TOWNSEND MOVED TO ACCEPT THE RULE CHANGES PROPOSED. MOTION  
SECONDED BY ASSEMBLYMAN ANDERSON AND CARRIED UNANIMOUSLY.

**C. Resolution recognizing 94<sup>th</sup> Anniversary of the Founding of the Republic of China--Lorne J. Malkiewicz, Director.**

Mr. Malkiewicz said that Nevada has had a sister-state relationship for a number of years with the Republic of China on Taiwan and October 10<sup>th</sup> is the 94<sup>th</sup> Anniversary of the founding of the Republic of China and is known as Double Tenth Day and celebrated in Taiwan. This resolution is generally adopted by the commission every year to congratulate the Republic of China and to commemorate the sister-state relationship. A draft of the resolution was included in the meeting packet.



SENATOR TOWNSEND MOVED APPROVAL OF THE RESOLUTION. MOTION SECONDED BY ASSEMBLYMAN GOICOECHEA AND CARRIED UNANIMOUSLY.

**D. Adoption of Policy Concerning Formation of Subcommittees by Statutory and Interim Committees--**Lorne J. Malkiewich, Director.

Mr. Malkiewich called attention to the proposed policy contained in the meeting packet for this agenda item. He noted that the subject was discussed during the previous interim. An agreement was not reached on a policy and the matter was deferred and then the interim studies were concluding. Since committees are now being formed, it was determined to make an attempt to resolve the issue of the authority of the chair of a statutory or interim committee to create subcommittees. Paragraph a. of subsection 1 addresses when a quorum is not present, the members could convene as a subcommittee until such time as a quorum is present and dissolve into a subcommittee if a quorum is lost at any time. The second issue is the actual creation of a subcommittee to provide recommendations to the full committee. This policy would allow the chair to appoint the subcommittee to report back to the committee on one or more of the topics within the jurisdiction of the committee. The members could be members of the committee, legislators other than those members of the committee or any other person. The key to that is in subsection 2 which indicates that the subcommittee would just be reporting back to the appointing committee. Final action on all recommendations must be taken by the appointing committee. Creation of a subcommittee does not increase the number of bill draft requests.

Senator Wiener inquired if the chair would entertain questions from a member of the public in attendance in Las Vegas. The chair responded in the affirmative.

Knight Allen, a private citizen from Las Vegas, appeared at the witness table. He spoke on the subject of appointments of non-legislators to legislative committees urging the commission to prohibit such appointments to all committees and subcommittees under its control. Mr. Allen read from his prepared remarks which are attached as Exhibit E.

Mr. Anderson said that he appreciates that the creation of a subcommittee does not increase the number of bill draft requests that an appointing committee is authorized. He said that in a number cases, the study or legislation has required the participation of various judiciary members or members of the executive branch of government in order to obtain the information needed to carry out the function. He said as he understands the policy, it does not increase the number of bill draft requests but it does not seem to address the issue of a committee staying within its budget when subcommittees are created. Mr. Malkiewich said that the committee would have to appear before the Legislative Commission for an increase in budget. He noted that later in the agenda there are items which will set the budgets for the statutory and interim committees. It is not stated in the policy because the budget is established and is a separate issue.

Mr. Anderson recalled that at the end of the last interim several of the committees determined that they wanted to meet after deadline for reports and asked for additional meetings. He said that seems to be a recurring event.

The chair reiterated that the requests have to come back to the commission for approval and it certainly could get "tougher" and ask that of the interim committees, especially with trying to get bill drafts finalized for session. She thought all of the members share the goal of wanting to get bill draft requests in sooner with details so that the session starts with a greater number "in the hopper." She suggested that is something that the commission might want to do and urge that all of the interim committees must finish on time because the bill draft requests must be in. If the commission members agree, she could have staff notify all the chairs that will be the expectation and extensions would probably not be looked upon favorably just because of trying to get bill draft requests ready for session. The chair asked the members if there were any concerns about considering that approach.

Senator Townsend stated, "It's an excellent suggestion. I support that approach. Also, one thing that counsel has always brought to many of our attention is that when someone submits a bill draft, many

times it is on behalf of a constituent or constituent group. Please submit that person's name, e-mail, cell phone and home address and everything else because if the counsel who is working on the draft can't find you, they need a contact otherwise you go to the bottom of the list and they move on to the next thing so it's best that we give them the information they need to do their job."

Chair Buckley said that the Committee to Consult with the Director is going to re-examine all of this, such as what to do about LCB receiving partial requests with no details. She said that she has a number of suggestions that she is anxious to propose to that committee and maybe report back to the whole commission on how it can try to improve efficiency. Part of it is getting the information to the Legal Division. Sometimes legislators are distracted with campaigns and other commitments but she thinks they can do better and can certainly demand that agencies and constituency groups do better. She said that she is planning a full hearing just on those topics and how to avoid special sessions. She said it is her goal.

Mr. Anderson stated that the only reason he brought forth the question was because he noticed that the bill draft request part was being addressed but the other two concerns were not addressed. He agreed that he would not want the Legislative Commission to lose its oversight function and he thinks it is a good policy.

**ASSEMBLYMAN ANDERSON MOVED TO ADOPT THE PROPOSED POLICY. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.**

Under discussion, Chair Buckley said that the members should keep in mind Mr. Allen's comments about making sure and keeping more to the policy of having legislators only on committees, within the chair's discretion, because it makes sense.

**E. Approval of Augmentation of Amount Authorized for Expenditure by State Printing Office--**  
Lorne J. Malkiewich, Director.

Mr. Malkiewich stated that in addition to the material in the meeting packet, there is a handout for this agenda item (copy of handout attached as Exhibit F) which explains the issue. First, he indicated that the authorized expenditure act includes this authority--that the director may request the Legislative Commission to authorize augmentation of amount authorized for expenditure. He stated that this is a success story. After the end of the last session when the LCB took over the State Printing Office, staff had no idea what was going to happen with the revenues especially when the change was made to say that state agencies did not have to use the printing office any longer. He said that Kevin Honkomp and the entire staff of the printing office have done a great job and won back many of the state contracts. With some of the increased efficiencies, it has gotten where the amount of money that the printing office has is building up and as the printing office is supposed to be a revenue neutral entity, it should not be making a profit. One of the goals in taking over the printing office was to modernize it and keep it competitive. The proposal is to authorize an augmentation of the amount authorized for expenditure by the printing office so that it can purchase a multi-color printing press allowing it to work on a number of additional jobs, bid on additional jobs and keep its ending fund balance at a level that does not generate a profit which will raise some legal issues.

**SENATOR TITUS MOVED TO APPROVE THE REQUEST TO AUGMENT AMOUNT AUTHORIZED FOR EXPENDITURE BY STATE PRINTING OFFICE. MOTION SECONDED BY ASSEMBLYMAN GOICOECHEA AND CARRIED UNANIMOUSLY.**

Chair Buckley said that she would like to congratulate the LCB for the idea and the tremendous execution as staff has done a terrific job with the project and the members thank them.

**F. Review and approval of proposed forms to report campaign contributions and expenses--**  
Renee L. Parker, Chief Deputy Secretary of State.

Ms. Parker called attention to a letter dated August 30, 2005, and accompanying forms which were sent to members with their meeting packet but not included within it due to the size of the forms. A copy of the letter and forms are attached as Exhibit G.

Ms. Parker said that her office took the form that the Legislative Commission approved prior to the last election cycle. She recalled that there was much controversy leading up to that approval. She said that the commission approved a specific form and her office took that form and the only changes made were to address statutory changes made during the last legislative session, specifically with reference to A.B. 500, A.B. 455 and S.B. 224. Another change made was a result of confusion last cycle with the new Category K for the disposition of unspent contributions. She recalled that because the office made the one annual form combining into it a separate form and then gave it a Category K. She said this time, Category K was "wiped out" and a line was put in on the summary page. Many people just report disposed of "X" amount in contributions and so they can just put it on the summary page. She thinks that will avoid some of the confusion with Category K from last time. She said she could review the specific changes with relation to the statutory changes and the chair asked her to "go ahead."

Ms. Parker said that two new boxes have been added to the form to address the changes in S.B. 224 that has reporting for nonprofit corporations. This was a change to address some of the problems with some loopholes in the statutes with certain entities circulating petitions and not being subject to reporting requirements. On the summary sheet, the nonprofit corporation line was added checking who was reported and then also for persons who initiate and circulate a petition and receive or expend money in excess of \$10,000. The date for Report #1 has also been revised due to the changes in A.B. 455 which changed the date of the primary election which is now the 12<sup>th</sup> Tuesday preceding the general election. The next cycle the date ends up being August 15<sup>th</sup>. New lines 3, 4 and 6 have been added to the contributions summary page to reflect some changes made by A.B. 500 that require reporting of loans that are guaranteed by a third party, loans that are forgiven and written commitments for contributions received. A new line 12 has been added for reporting unspent contributions for more clarity on the summary page as she described earlier. New columns were added in the reporting section to reference the written commitments and loan changes in A.B. 500.

Chair Buckley asked with regard to the written commitments, if someone gets a written commitment and it is added in the balance and then the money does not come in, what does one do. Ms. Parker said that is a good question because the statute only addresses the reporting of the written commitment. She guessed the person could report it in the next report form but she said it could become confusing and she is not sure how to address it because the statute does require that it be reported now. Ms. Buckley suggested that perhaps it should not be included in the total until it is received. It could still be reported that a written commitment had been received but maybe in parenthesis it could say do not add in total until received. She said she is worried about the report balancing. Ms. Parker said that she thinks it is a good suggestion and in looking at the legislation it just says a written commitment so she thinks it would be okay to add language. When the amount is added to the next report, a reference could be added indicating that it was previously reported as a written commitment. It would have to be added in the total at some point. The chair said if you report that a written commitment has been received but it is not added in the total then, in whatever period in which the contribution is received, it is included on the "add" list so then it balances against the expenses and it totals. Ms. Parker said that she thinks her office could add that and she sees Ms. Erdoes nodding her head as well so she does not see any problem with adding the change.

Further, Chair Buckley asked with regard to the disposition of unspent contributions this period, a person might make a charitable donation or save it for the next election but when it is in the reporting period of, for example, three months, the disposition of the unspent is what remains in the accounts and would just be carried into the next quarter. She asked for an explanation. Ms. Parker said those items only get reported on the annual form. She said that in the 2003 session, the disposition was combined into the annual form so a separate disposition form did not have to be filed. The only time that would be reported would be on the January 15<sup>th</sup> form following the election cycle when there was money to dispose of. The chair asked why the form says this period and why would it not say to be included only on (date). Ms. Parker said "this period" could be deleted. The chair said she would just like it to be clear. She said everybody is so busy and when they get to the forms they say 'what does

that mean' and you get people doing it ten different ways. She would just like it really clear when that needs to be filled out otherwise it is just a carry-forward balance and people would say 'I'm not disposing of it, I'm just carrying it forward into the next quarter.' Different terminology was mentioned and then Ms. Parker said she could review the language with Ms. Erdoes. The chair said she would be satisfied with that procedure. Ms. Parker said if the commission could give her that authority, it would help because her office has to get out the forms for the January 15<sup>th</sup> filings.

Mr. Mabey ask for further clarification on the disposition issue with regard to money left over from an election campaign. Ms. Parker explained that the money would be reported on the January 15<sup>th</sup> annual report and continued with the balance on the reports. There are specific reporting requirements for dispositions of unspent contributions under certain circumstances. Remaining money can be contributed to another campaign. In certain circumstances it has to be disposed of and under other circumstances it can be carried forward.

Assemblyman David R. Parks, a legislator attending the meeting in Las Vegas, said that he shared some of the same concerns expressed by Ms. Buckley and Mr. Mabey. He said that there appears to be some redundancy on lines 5 and 6 where the form asks for the same information to be indicated twice. He thought when the form was prepared, it was intended to only have one line for the total value of in-kind contributions received in excess of \$100. If one is entering written commitments for contributions received, the form is asking for it to be entered for "this period" and cumulative in columns on the left and to repeat it again on columns on the right. Another concern he has is that there is no place on the forms for such things as interest income. Additionally, the in-kind contributions are listed as a revenue and as an expense so that too is a duplication of items. Normally, when a contribution is received it is looked upon as revenue as opposed to looking at it as both and as an expense. He said, "Somebody else paid for it, you got the benefit."

Mr. Goicoechea asked if it was correct to assume that if one did not list any unspent contributions then zero would be entered if the money would be carried on for another campaign. Ms. Parker responded, "Yes."

Chair Buckley asked, "Is that true though because in the January following the election, one of the proper disposition uses is for the following election so you would have to say that. You are allowed to do it, of course, but that is where it gets confusing because if you then put that on an expense that comes forward in your carry-forward balance if you are using it for your next campaign." Ms. Parker responded, "Right, but if you're in the middle of the election period and you're doing this report you'd put zero as Assemblyman Goicoechea mentioned because you wouldn't have any that you were disposing of during that time." The chair asked that this issue be put on the list for Ms. Parker and Ms. Erdoes to work on and perhaps it could just be dropped down and put disposition to be completed on January 15<sup>th</sup> of the year following the election and have that separate so it does not get carried forwarded in expenses and people are not wondering. Anyone who is not on the commission, when they come to their form will be asking what do I do there and that's what we're trying to avoid.

Mr. Anderson inquired, "With these new additions, is the voluntary form that the Secretary of State decided to create on his own going to be done away with?"

Ms. Parker said that she asked that question of Mr. Heller and the decision has not yet been made. She recalled the purpose of the form was due to the issue of cash on hand. Some of the changes that were made did not address that issue. She further recalled that the bill that would have required that information passed out of the Assembly but did not pass out of the Senate so there still exists the problem where there is not an accurate picture because the beginning and ending balances are not required.

Mr. Anderson said he thought that was the whole question with which everyone is wrestling with respect to the unspent contributions and how they are carried forward because some people fit under one category and others come from before the creation of the forms. He said, "I was kind of hopeful

that we were doing away with the Secretary of State creating his own reporting requirements different than the Legislature's statutes that we'd all agreed to play by the same sort of rules." Ms. Parker said that Mr. Heller believes the purpose of the statutes were to give an accurate depiction. It does not do much good to get the reports if it does not give an accurate depiction of what is in the account. It does not provide meaningful information and disclosure to the public which was the purpose of the voluntary form.

Mr. Anderson asked for clarification on the point that Mr. Parks raised relative to in-kind contributions. He said that by its very nature, in-kind contributions are not something the legislator has much control over in his or her campaign. A legislator does not have much control over or is able to determine how it is utilized as compared to a dollar contribution so shouldn't it be shown as both income and an expense in order to show it "as a wash." Ms. Parker responded, "Yes. Eventually you show it as both." This has been the standard and has not been changed.

Senator Townsend inquired about the item on line 12 and the question is triggered by the statement we all agree with which is to have a full picture for the public to understand. There are 63 legislators and perhaps 50 challengers who are all going to have a different interpretation of that line and so the public is going to be vastly confused. If someone chooses not to dispose of unspent contributions, then legally the answer to that line is zero. He said, "I don't know what this accomplishes. I'm not saying you shouldn't have lines about what's in your account, that's not the point."

Ms. Parker said the purpose is you still have to report the disposition of unspent contributions. Last time the form was revised, it was shown as a Category K expense and it led right into the problem that Ms. Buckley referenced where it was going in under expenses and everyone got confused. She said they had a lot of complaints during the last cycle where people would say they were confused about Category K noting that they just have a lump sum when they dispose of their unspent contributions, they report that on the January 15<sup>th</sup> report and asked can they just put that amount on the summary page line so that there is an accounting of it but it is not being confused with the other expenses. It was suggested by some of those individuals to just put the summary line. She said that it obviously does not apply during the election cycle but because in lumping all the forms together last session, the office tried to do that so there was not a different form during the election cycle and a different form for the annual report. She is happy to make a change if there is a better suggestion.

Senator Townsend apologized that he did not have a suggestion but he was not sure what that line does for people because unless someone is not going to run for reelection and therefore not need the funds leftover in their account, that is the only time it would be used unless someone resigned. He said that is the way most people would perceive it.

Chair Buckley said, "I think Senator Townsend's absolutely right—that needs to be clarified. Five and six need to be clarified. The written commitments Mr. Parks raised another concern—what if it's already received, you don't want the contribution added together. So, I think that if we could approve the form subject to Ms. Parker and

Ms. Erdoes working together to clarify, five and six, written commitments, in-kind and the disposition of unspent that it's only the same statutory reporting period separated out with the totals not to be included, then I think we can get this form out."

Senator Townsend said, "That would be fine. The reason I bring up the question on six is because Senator Tiffany, Senator Titus and myself sit on the committee that processes these bills. We don't remember any testimony on written commitments. Where did that come from?" Ms. Parker said that did not come through her office and all of it came in A.B. 500 which was Assemblywoman Giunchigliani's bill in the last couple of days of session. She said that she did not even testify on it so she is unable to provide much insight on it.

**SENATOR TOWNSEND MOVED TO ACCEPT THE FORMS SUBJECT TO THE REQUIREMENTS ARTICULATED BY THE CHAIR. MOTION SECONDED BY ASSEMBLYMAN GRADY AND CARRIED.**

## **Item V--Appointments and Approval of Budgets:**

### **A. Appointments to various Ongoing Statutory Committees.**

Mr. Malkiewich said that for all of the items under agenda item V. he would direct attention to the meeting packet where the names of people interested in the various committees are listed and would outline the requirements for appointment. He stated that a survey was sent to all legislators asking them for interest in committees and to indicate whether they were very interested or interested in serving on committees. On the few who did not respond, he contacted them and obtained their input. The results are shown in the packet material.

#### **1. Commission on Special License Plates (NRS 482.367004)**

Mr. Malkiewich said the committee consists of the two chairs of the standing committees on Transportation and three other members. Senator Dennis Nolan and Assemblyman John Ocegura are automatically members and the commission needs to appoint three other members and to designate a chair and vice chair. It was noted that Assemblywoman Vonne Chowning chaired the committee during the previous interim.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT ASSEMBLYMAN KELVIN ATKINSON, ASSEMBLYMAN SCOTT SIBLEY AND SENATOR MAGGIE CARLTON AS THE THREE COMMISSION APPOINTEES. MOTION SECONDED BY ASSEMBLYMAN MABEY AND CARRIED UNANIMOUSLY.

SENATOR TOWNSEND MOVED TO APPOINT SENATOR DENNIS NOLAN AS CHAIR AND ASSEMBLYMAN JOHN OCEGUERA AS VICE CHAIR. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED.

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

Mr. Malkiewich explained that there is no specified size or composition to the committee and noted that it is a very important committee and is responsible for preparation of the next legislative session and the management and organization of the LCB. The committee generated the original 120-day calendar and has a lot of work to do in making changes for the next session. There is an attempt to appoint members of leadership from all four caucuses to the committee so that consensus can be obtained prior to session on any changes that need to be made to rules. He anticipates a busy interim for this committee.

Senator Tiffany asked that the commission take into consideration the fact that some of the current members will probably not be returning for the next session as they will be running for other offices or not running for reelection to the Legislature. The chair pointed out that those individuals are members of the Senate and Assembly until the terms have ended and are entitled to serve by law. The chair said that she has spoken to Assembly Speaker Richard Perkins who has indicated that he did not wish to be appointed to the committee and to Assemblyman Lynn Hettrick who indicated that he did want to serve on the committee. She intends to honor both of those requests on the Assembly side.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS RAGGIO, TOWNSEND, TITUS, HARDY AND LEE AND ASSEMBLY MEMBERS BUCKLEY, HETTRICK, OCEGUERA, ANDERSON AND MABEY. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED.

Mr. Malkiewich mentioned that for the past three or four sessions, the chair of the Legislative Commission has also served as chair of the committee. Chair Buckley said that she would be honored to serve, noting that she is not putting herself on any other interim committees and would have the

time.

SENATOR TOWNSEND MOVED TO APPOINT ASSEMBLYWOMAN BUCKLEY AS CHAIR OF THE COMMITTEE TO CONSULT WITH THE DIRECTOR. MOTION SECONDED BY ASSEMBLYMAN ANDERSON AND CARRIED UNANIMOUSLY.

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

Mr. Malkiewich said following the passage of S.B. 17 during the last session, the requirements for appointment have changed and the duties of the subcommittee are going to become much greater. Only members of the Legislative Commission are eligible for appointment which makes sense in that the subcommittee will be reviewing regulations in many instances that have been objected to by the commission. A change in the requirements has been made and regulations are not going to be filed between meetings because someone happened to miss commission meetings and no one requested a meeting of the subcommittee. All regulations will be reviewed either by the subcommittee or the commission. The subcommittee must consist of three or more members of the commission so the commission must designate members and a chair.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS AMODEI, HORSFORD AND TOWNSEND AND ASSEMBLY MEMBERS BUCKLEY, CARPENTER AND OCEGUERA TO THE SUBCOMMITTEE. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

ASSEMBLYMAN ANDERSON MOVED TO APPOINT ASSEMBLYMAN OCEGUERA AS CHAIR OF THE SUBCOMMITTEE. MOTION SECONDED BY SENATOR TITUS 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 stated that this committee consists of three members of each house and the members select their own chair and vice chair so the commission just needs to appoint three members from each house.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS AMODEI, CARLTON AND RHOADS AND ASSEMBLY MEMBERS ARBERRY, GRADY AND PIERCE. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

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

Mr. Malkiewich said that this committee consists of six members, three from each house, appointed with appropriate regard for experience and knowledge in matters related to health care. The commission also selects a chair and vice chair and the appointments rotate between the houses and will be in the Senate this interim.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS HECK, HORSFORD AND WASHINGTON WITH SENATOR HECK AS CHAIR AND ASSEMBLY MEMBERS LESLIE, HARDY AND MCCLAIN. MOTION SECONDED BY SENATOR TOWNSEND.

Under discussion, Chair Buckley inquired if there had been some discussion with Senator Washington, since he had served as chair the previous interim, about stepping down and

allowing Senator Heck to chair the committee. Senator Townsend said that he had not spoken to Senator Washington directly and was unsure whether the majority leader had spoken to him about the matter. He said leadership has tried to accommodate Senator Washington's requests as a senior member and his other responsibilities and at the same time relieve some of his burden due to health considerations.

THE CHAIR CALLED FOR A VOTE AND THE MOTION CARRIED UNANIMOUSLY.

SENATOR TITUS MOVED TO APPOINT ASSEMBLYWOMAN LESLIE AS VICE CHAIR. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

Later in the meeting after agenda item D. 7. additional action was taken on the appointment of the chair and is included here for purposes of continuity.

SENATOR TOWNSEND MOVED TO RECONSIDER THE APPOINTMENT OF SENATOR HECK AS CHAIR OF THE LEGISLATIVE COMMITTEE ON HEALTH CARE AND TO INSTEAD APPOINT SENATOR WASHINGTON AS CHAIR. MOTION SECONDED BY SENATOR AMODEI AND CARRIED UNANIMOUSLY.

#### 6. Legislative Committee on Persons with Disabilities (NRS 218.53791)

Mr. Malkiewicz said that three members of each house are to be appointed and the members elect their chair and vice chair.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS CEGAVSKE, MATHEWS AND WASHINGTON AND ASSEMBLYWOMEN GERHARDT, KOIVISTO AND WEBER. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED UNANIMOUSLY.

#### 7. Legislative Committee on Public Lands (NRS 218.5363)

Mr. Malkiewicz said that three members are to be appointed from each house and the members select a chair and vice chair. An elected officer also needs to be selected represented by the governing body of a local political subdivision. He indicated that there are a number of nominees and there is a letter from Senator Rhoads on suggested appointments and a representative of local government. He said that this committee, as in the past, is a very popular one and alternates are generally appointed to facilitate keeping a quorum when the meetings are held in rural areas and some members are unable to attend. Chair Buckley said that the Legislature should consider expanding the committee to four members from each house during the next legislative session. There always seem to be so many more requests to serve than positions available.

Senator Amodei asked that his name be removed from the "very interested" category as he and Senator McGinness have tried to make a practice of alternating between the Legislative Commission and the Public Lands Committee.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS CARE, MCGINNESS AND RHOADS AND ASSEMBLY MEMBERS CLABORN, MARVEL AND OHRENSCHALL AND TOM COLLINS AS THE LOCAL GOVERNMENT APPOINTEE. MOTION SECONDED BY SENATOR HORSFORD.

Under discussion, Senator Titus asked that the legislators be appointed first and appoint the local government officer in a separate motion. It was agreed to by the maker of the motion and the senator who seconded the motion.



MOTION WAS AMENDED TO REMOVE THE NAME OF THE LOCAL GOVERNMENT REPRESENTATIVE. THE CHAIR CALLED FOR A VOTE AND THE AMENDED MOTION CARRIED UNANIMOUSLY.

Senator Titus said, "I think Commissioner Tom Collins would be fine, it's just that he has been in the Legislature and had this opportunity before. It seems to me that it would make sense to chose somebody from somewhere else who's not had the opportunity for input. I don't have a preference among any of the others but that would just be something to take into account."

The chair inquired who the current local government representative is and that individual was identified as Tim Perkins from Lincoln County. The chair commented that Commissioner Collins expressed his interest to her noting that he feels like a rural cowboy and the area is next to his heart and love but she would defer to the wishes of the other members of the commission if they feel like someone else should deserve a turn.

Senator Townsend suggested that perhaps the members of the committee could provide some guidance as to the type of input they are looking for from the elected person and it might guide the members toward the type of person for whom it is looking. He thought that most of the members of the committee from the Senate side have served a long time.

Mr. Grady inquired about the name of the person recommended by Senator Rhoads, committee chair. Mr. Malkiewich referred to the letter in the meeting packet from Senator Rhoads regarding the nomination. He suggested Tom Fransway, Vice Chairman of the Humboldt County Commission be appointed as local government representative. Mr. Fransway's name is listed on the main page along with the other people who have been suggested.

Senator Horsford directed his question to any of the current members of the committee and asked whether any of the public lands act issues through the congressional act are dealt with through the interim committee. Because of the impact to Clark County, he thought that would be an important component if it is something that has been discussed previously.

Senator Amodei said that he has only served on the committee once but he said that Mr. Perkins' addition as the Lincoln County representative was due in large part to the fact that there were many public lands issues that were timely in the Lincoln County sense. He thought the inclusion last interim was a reflection of that situation. He said that since the state is 87 percent federal, he is sure that every county with the possible exception of Storey County can claim a large public lands potential issue. He thought what was looked for last interim was counties wherein a representative on either the county commission or a city council would be particularly helpful to the committee in the context of local government issues that had significant public lands impacts on what was going on in a local government context.

Chair Buckley noticed Michael J. Stewart, Principal Research Analyst and staff to the public lands committee present in the audience and invited him to provide an answer to the question with regard to Bureau of Land Management land and other public land in Clark County. She said that she is aware of considerable concern that higher land values have caused some of the increases in the prices of housing and wondered if the committee has looked into that issue. Mr. Stewart said that he has served as staff to the committee "off and on" for several years. He said that the committee does address the issue quite regularly. The Southern Nevada Public Land Management Act of 1998 authorizes public land auctions and the committee was very involved in its formation during the congressional session. The committee discusses the issue regularly in terms of what lands are up for auction and the amount of money coming in from the land sales. Mr. Stewart added that it is a very popular topic of discussion.

Mr. Goicoechea said that he had the opportunity of sitting on the committee as a local government official several years ago. He thinks that the local government officer tends to bring the county into the legislative process. He said that although Mr. Collins is a good friend of his, he has been in the

Legislature and in looking at the list, he thinks Humboldt County is very close to coming forth with a county land bill that they would like to see submitted for congressional action. He thought that is why Senator Rhoads was recommending a representative from Humboldt County for this interim.

ASSEMBLYMAN GOICOECHEA MOVED TO APPOINT COUNTY COMMISSIONER TOM FRANSWAY FROM HUMBOLDT COUNTY TO THE COMMITTEE. MOTION SECONDED BY ASSEMBLYMAN GRADY AND CARRIED UNANIMOUSLY.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS AMODEI, LEE AND WASHINGTON AND ASSEMBLY MEMBERS CARPENTER, GOICOECHEA, KIRKPATRICK AND OCEGUERA AS ALTERNATES TO THE COMMITTEE. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

ASSEMBLYMAN ANDERSON MOVED TO APPOINT CLARK COUNTY COMMISSIONER TOM COLLINS AS AN ALTERNATE FOR THE LOCAL GOVERNMENT REPRESENTATIVE. MOTION SECONDED BY ASSEMBLYMAN GOICOECHEA AND CARRIED UNANIMOUSLY.

Additional action was taken later in the meeting at the conclusion of agenda item V. D. 7. and is placed here for purposes of continuity.

SENATOR TOWNSEND MOVED TO RECONSIDER THE APPOINTMENT OF SENATOR WASHINGTON AS AN ALTERNATE AND THAT SENATOR TOWNSEND BE APPOINTED AS HIS REPLACEMENT. MOTION SECONDED BY SENATOR AMODEI AND CARRIED UNANIMOUSLY.

## **B. Appointments to Legislative Commission Subcommittees**

Mr. Malkiewich explained that these two committees are not created by statute but historically, the Legislative Commission has appointed them for the past several interims.

### **1. Information Technology Subcommittee**

Mr. Malkiewich said that the Information Technology Subcommittee oversees computer and audio/visual activity during the interim and generally makes recommendations to the next session of the Legislature with regard to direction in information technology as well as expenditures in that area. Its size and composition is determined by the commission. The chair was a member of the Assembly last interim.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS COFFIN AND RHOADS AND ASSEMBLY MEMBERS ALLEN, DENIS AND MORTENSON. MOTION SECONDED BY ASSEMBLYMAN ANDERSON AND CARRIED UNANIMOUSLY.

SENATOR TOWNSEND MOVED TO APPOINT SENATOR RHOADS AS CHAIR AND ASSEMBLYMAN DENIS AS VICE CHAIR. MOTION SECONDED BY ASSEMBLYMAN ANDERSON AND CARRIED.

### **2. Security Subcommittee**

Mr. Malkiewich said that the Security Subcommittee generally meets once or twice during the interim period if that much. He noted that only one of the four members remains in the Legislature. The subcommittee almost went out of existence prior to the 9/11 Disaster and then it was reconstituted because of the need to ensure that security issues are reviewed each interim. The size and composition is entirely at the discretion of the Legislative Commission. The subcommittee was previously chaired by a member of the Senate.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS NOLAN AND SCHNEIDER AND

ASSEMBLYMEN OCEGUERA AND SIBLEY. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

ASSEMBLYMAN ANDERSON MOVED TO APPOINT ASSEMBLYMAN OCEGUERA AS CHAIR OF THE SECURITY SUBCOMMITTEE. MOTION SECONDED BY ASSEMBLYMAN GRADY AND CARRIED UNANIMOUSLY.

### **C. Appointments to Nonlegislative Committees**

Mr. Malkiewich explained that this item contains entities that are not legislative subcommittees but they are appointed by the Legislative Commission and in some cases contain legislative members.

#### **1. Advisory Council on Mortgage Investments and Mortgage Lending (NRS 645B.860)**

Mr. Malkiewich stated that the Legislative Commission appoints five members from a list submitted by the Commissioner of Mortgage Lending. He called attention to a letter from Commissioner Scott Bice suggesting five people to be appointed along with a couple of alternate suggestions following it.

Senator Amodei said that he had a call from someone who expressed some concern that the availability of appointment to this advisory council was something that was not posted on the Website for the mortgage brokers. He thinks it is significant when one looks back at a later time. There is a concern that the folks who are eligible or potentially interested are not notified. The complaint that he received is that it is something that may have been posted on an association Website but all the folks that are licensed were not necessarily included.

Chair Buckley asked if Senator Amodei would like the item pulled from the agenda and postponed to the next meeting in order to give a broader opportunity for communication. The senator responded in the affirmative and the chair removed the item from the agenda to allow for further opportunity for advertising.

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

Mr. Malkiewich explained that the Legislative Commission appoints four attorneys to the national conference and the statute provides that if legislators are available, they are to be appointed. There are also two members from the Boyd School of Law which is a new addition to the law from the last session. He said a nomination was received from Dean Morgan for Kay Kindred and Robert Lawless as the two members from the Boyd School of Law.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS AMODEI AND CARE, ASSEMBLY MEMBERS HORNE AND OHRENSCHALL AND PROFESSORS KINDRED AND LAWLESS. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

#### **3. Nevada AIDS Advisory Task Force**

Mr. Malkiewich said that the Nevada AIDS Advisory Task Force is not a statutory committee but is created by the Health Division and has traditionally included at least one legislator and two members were appointed for the last interim.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT ASSEMBLYMAN ATKINSON AND SENATOR WASHINGTON. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

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

Mr. Malkiewicz explained that the Legislative Commission is to appoint one member of the Senate and one member of the Assembly as nonvoting members with regard for their experience with and knowledge of matters relating to older persons. The chair mentioned that Senator Wiener has served for many years and has done an extraordinary job as has Assemblywoman McClain and both are very interested in finishing some things they have started.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATOR WIENER AND ASSEMBLYWOMAN MCCLAIN TO THE NEVADA COMMISSION ON AGING. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED UNANIMOUSLY.

#### 5. Nevada Commission on Minority Affairs (NRS 233J.020)

Mr. Malkiewicz indicated that he has been corresponding with Bert Ramos, the chair of the Nevada Commission on Minority Affairs and had received an electronic mail last night with some changes but is not comfortable with the fact that the recommendations are not quite worked out. He requested that the item be held for the next meeting of the Legislative Commission. The chair stated that she will "pull" the item from the agenda to allow more time and if anyone has any input on this matter to contact Mr. Malkiewicz.

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

Mr. Malkiewicz referred to material in the meeting packet for this item. In addition he referenced a handout (copy attached as Exhibit H) showing the legislators and their appointments. The material in the meeting packet indicates the names of the nominees to be appointed. The remaining vacancies to be filled stands at four and the coordinator is working to get those positions filled. The names are Mary D. Roberts, Ronald E. Stoller, Thelma Clark, Mimi Rodden, Donald Kirkwood, Margaret Spooner, Ray B. Jones, Robert McCune and Jane Maxfield

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT THE MEMBERS AS OUTLINED BY THE DIRECTOR. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

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

Mr. Malkiewicz said the last couple of interims the Legislative Commission has appointed a member and an alternate.

Mr. Oceguera suggested appointing Senator Maggie Carlton as the member and Assemblyman John Marvel as the alternate. Mr. Mabey suggested that since Mr. Marvel is on a number of committees and Assemblywoman Francis Allen is not on many that she be appointed as the alternate. Senator Townsend suggested Senator Rhoads but it was pointed out that he marked "interested" not "very interested" on the survey.

ASSEMBLYMAN GRADY MOVED TO APPOINT SENATOR CARLTON AS THE MEMBER AND ASSEMBLYWOMAN ALLEN AS THE ALTERNATE. MOTION SECONDED BY ASSEMBLYMAN OCEGUERA AND CARRIED UNANIMOUSLY.

#### 8. Commission on Ethics (NRS 281.455)

Mr. Malkiewich said that the Legislative Commission appoints four members and the governor appoints four members. No more than four members can be of the same political party, no more than four can be from the same county, a member cannot be engaged in lobbying or involved in any campaign. There has been a vacancy for about four months and was created when Merle Berman resigned her position. Material is contained in the meeting packet showing the appointees. He noted that the printout from the Website of the Commission on Ethics shows a link to the legislative Website. At the last meeting, it was suggested that the position be advertised and it has been on the legislative Website for several months and the ethics commission has also linked to it. The material includes information on the three people who have expressed interest in serving. He said that Joanne Bond was previously interested, Randy Capurro and

Dr. Paul Mozen have also provided information. All three individuals are interested in serving and all three are eligible for appointment.

Senator Tiffany said that she was contacted by Mr. Capurro. He is the only one who contacted her and he fits the criteria of being from southern Nevada and having previously served as a legislator. He is very active in the community and keeps abreast of all activities.

Mr. Anderson said that he is in the unique position of knowing all three of the individuals having gone to high school with Mr. Capurro, knowing Ms. Bond from her professional responsibilities and a county commissioner and knowing Dr. Mozen. He recognized the value particularly of Mr. Capurro and Ms. Bond from their experiences. He thinks that Ms. Bond has shown dramatic fairness as has Mr. Capurro. He thought that Ms. Bond would be in an excellent position to add a different dimension to the group and should be considered and would be a candidate that he would support.

Ms. Buckley stated that it is "very nice" to be in a position where there are a few good candidates because the Legislative Commission has not been in that position for a while in terms of begging people to apply. It was clarified that the appointee cannot be a Democrat. It was also noted that Ms. Bond and Dr. Mozen reside in the Reno area and Mr. Capurro resides in Las Vegas.

**SENATOR TIFFANY MOVED TO APPOINT RANDY CAPURRO TO THE COMMISSION ON ETHICS. MOTION SECONDED BY SENATOR AMODEI AND CARRIED.**

#### **D. Appointments to Interim Studies**

Mr. Malkiewich noted that he received questions about a couple of committees that are not listed and explained the reason for that is because the appointments are made by legislative leadership and not the Legislative Commission. The listed committees are appointed by the commission.

##### **1. Public Employees' Benefits Program (A.C.R. 10 of the 72<sup>nd</sup> Session)**

Mr. Malkiewich stated that this is a committee that was created during the 2003 session and was directed to make an interim report to the 2005 legislative session and a final report to the 2007 session. The commission appoints three members of each house and appoints the chair.

**ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS AMODEI, BEERS AND COFFIN AND ASSEMBLY MEMBERS GOICOECHEA, GIUNCHIGLIANI AND PARNELL.**

Under discussion, Mr. Goicoechea inquired if the chair position rotates to the opposite house for the current interim. Mr. Malkiewich reiterated that the commission appoints the chair and mentioned that Assemblywoman Giunchigliani has expressed interest to continue as chair. Ms. Buckley said that the chair position could rotate or continue if

Mr. Goicoechea, as a member, thought the committee was in the middle and would benefit from the

continued leadership. Mr. Goicoechea opined that it seemed like there was a breakdown at the end of the interim and the committee ceased to meet for almost a year so he was unsure whether it would be beneficial to “roll it” to the Senate side. He said that Ms. Giunchigliani is a great chair but the committee seemed to just stop meeting.

Senator Townsend suggested that Senator Amodei chair the committee with either Ms. Giunchigliani or Ms. Parnell as vice chair depending on the Assembly members’ wishes.

THE MOTION WAS AMENDED BY SENATOR TOWNSEND TO APPOINT SENATOR AMODEI AS CHAIR AND ASSEMBLYWOMAN GIUNCHIGLIANI AS VICE CHAIR. MOTION SECONDED BY ASSEMBLYMAN GOICOECHEA AND CARRIED UNANIMOUSLY.

## 2. Oversee Consultant Conducting Performance Audit regarding Children under Care of a Governmental Entity or Private Facility (A.B. 580, sections 75-77)

Mr. Malkiewicz said that this committee is appointed by the Legislative Commission and there is no specification in the bill of size or composition so the members can appoint a committee of any size and designate the chair.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS TOWNSEND AND WIENER AND ASSEMBLY MEMBERS ANDERSON, BUCKLEY, CARPENTER AND LESLIE. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

ASSEMBLYMAN ANDERSON MOVED TO APPOINT ASSEMBLYWOMAN LESLIE AS CHAIR. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

Mr. Anderson suggested that the performance audit on the juvenile court system contained in the commission meeting packet be sent to the committee members just appointed as he thought it would be very helpful for them to review. Chair Buckley requested that the report be sent by staff to those members prior to their first meeting.

## 3. Study of School Financing Adequacy (A.C.R. 10)

Mr. Malkiewicz stated that the Legislative Commission appoints three members of each house and also the chair.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS BEERS, HARDY AND SCHNEIDER AND ASSEMBLY MEMBERS HOLCOMB, PERKINS AND SMITH AND TO APPOINT ASSEMBLYWOMAN SMITH AS THE CHAIR. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

## 4. Study of Affordable Housing (A.C.R. 11)

Mr. Malkiewicz explained that the commission appoints three members of each house and a chair.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS NOLAN, TITUS AND WASHINGTON AND ASSEMBLY MEMBERS CONKLIN, ALLEN AND KIRKPATRICK AND TO APPOINT ASSEMBLYMAN CONKLIN AS CHAIR. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

Later in the meeting the commission took the following action at the request of

Senator Titus. The motion is placed here for purposes of continuity.

SENATOR TITUS MOVED TO APPOINT SENATOR HORSFORD TO REPLACE HER AS A MEMBER OF THE STUDY OF AFFORDABLE HOUSING. MOTION SECONDED BY SENATOR AMODEI AND CARRIED UNANIMOUSLY.

#### 5. Study of Sentencing and of Pardons, Parole and Probation (A.C.R. 17)

Mr. Malkiewicz said that the study consists of three members of each house appointed by the commission and a chair also appointed by the commission.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS HORSFORD, MCGINNESS AND WASHINGTON AND ASSEMBLY MEMBERS ANDERSON, CARPENTER AND HORNE TO THE STUDY AND TO APPOINT ASSEMBLYMAN HORNE AS THE CHAIR. MOTION SECONDED BY SENATOR TOWNSEND.

MOTION WAS AMENDED TO APPOINT SENATOR WIENER INSTEAD OF SENATOR HORSFORD. AMENDED MOTION AGREED TO BY SENATOR TOWNSEND. A VOTE WAS CALLED FOR AND THE MOTION CARRIED UNANIMOUSLY.

SENATOR TOWNSEND MOVED TO RECONSIDER THE APPOINTMENT OF SENATOR WASHINGTON AND REPLACE HIM WITH SENATOR NOLAN. MOTION SECONDED BY SENATOR AMODEI AND CARRIED UNANIMOUSLY.

#### 6. Advisory Group to conduct Interim Study on Lease-Purchase and Installment-Purchase Agreements by Public Entities (S.B. 426, sec. 31)

Mr. Malkiewicz explained that the two legislative members of the advisory group are appointed by leadership of each house. The six members to be appointed by the commission are representatives of different fields. The nominees for appointment are shown in the meeting packet. He noted that he has an additional name to add to the list under construction project management. The name is Patrick Schlosser of Clark and Sullivan and was submitted by Gary Milliken who has indicated that he did not wish to be appointed. Additionally, he noted that under public purchasing, the first three names—Justine Chambers, James Keenan and Ted Olivas—are all members of the Public Purchasing Group. He said that he spoke to all three of them and they suggested that Mr. Keenan be the representative of that group. A suggestion was also received that Richard “Skip” Daley be the representative of the labor group. He said that Dan O’Brien, Andrew Clinger and John Sherman have been contacted and all indicated that they would be willing to serve if appointed.

ASSEMBLYMAN ANDERSON MOVED TO APPOINT JAMES KEENAN, RICHARD “SKIP” DALY, DAN O’BRIEN, PATRICK SCHLOSSER, ANDREW CLINGER AND JOHN SHERMAN. MOTION SECONDED BY SENATOR HORSFORD AND CARRIED UNANIMOUSLY.

#### 7. Study to Protect Natural Treasures (S.C.R. 35)

Mr. Malkiewicz said that there are no restrictions on the composition of the committee. The commission can appoint any number it wishes, however, the committee is budgeted for six members and if there are more the budget will be stretched a bit.

ASSEMBLYMAN OCEGUERA MOVED TO APPOINT SENATORS AMODEI, RHOADS AND TITUS AND ASSEMBLYMEN GRADY, HOGAN, MORTENSON AND MUNFORD WITH SENATOR TITUS AS CHAIR. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

Senator Titus requested that since she will be chairing the Study to Protect Natural Treasures, that the

commission reconsider its appointment of her to the Study on Affordable Housing and she suggested Senator Horsford as her replacement. The motion is placed under agenda item V. D. 4. for purposes of continuity.

Senator Townsend recalled that there was discussion under agenda item V. A. 5. relative to the appointment of Senator Heck as chair of the Legislative Committee on Health Care. He has subsequently received a telephone call from Senator Washington who has indicated that he did not discuss the appointment with leadership because he was under the assumption that since the committee was previously chaired by an Assembly member, the chair position would rotate to the Senate this interim. He said if that has been the past procedure he would recommend the commission consider it. The motion is placed under that agenda item for purposes of continuity.

Chair Buckley inquired if Senator Townsend wished to reconsider any of the various other appointments of Senator Washington since he will be chairing the Legislative Committee on Health Care and the assignments might be excessive. Senator Townsend thanked the chair for the opportunity to reconsider. Two additional actions of reconsideration were taken and are placed under agenda items V. A. 7. and V. D. 5. for purposes of continuity.

### **E. Appointment of Chair and Vice Chair of Certain Statutory Committees**

Mr. Malkiewich explained that the following two committees require appointment of the chairs and vice chairs. He referred to a one page handout (copy attached as Exhibit I) listing the members appointed by leadership of both houses and the legislators suggested by leadership to be the chairs and vice chairs.

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

Mr. Malkiewich said that Assemblyman Mortenson is suggested as the chair and Senator McGinness is suggested as the vice chair. In addition, there is a letter from Assemblyman Mortenson in the meeting packet.

#### **2. Legislative Committee on Education (NRS 218.5352)**

Mr. Malkiewich said that Senator Raggio is the suggested chair of this committee and Assemblywoman Parnell is the suggested vice chair.

**SENATOR TIFFANY MOVED TO APPOINT ASSEMBLYMAN MORTENSON AS CHAIR AND SENATOR MCGINNESS AS VICE CHAIR OF THE COMMITTEE ON HIGH-LEVEL RADIOACTIVE WASTE AND SENATOR RAGGIO AS CHAIR AND ASSEMBLYWOMAN PARNELL AS VICE CHAIR OF THE LEGISLATIVE COMMITTEE ON EDUCATION. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.**

### **F. Approval of Budgets for Interim Studies**

Mr. Malkiewich referred to material in the meeting packet for this item. He noted that the spreadsheet contained the estimated number of members and number of meetings and have "spent" all but \$200 of the budgeted amount. He recalled the appointment of an additional member to the Study to Protect Natural Treasures but between the various committees there should be enough savings to cover it. He recommended approval of the budgets.

Mr. Anderson said that given the potential cost of energy he anticipates that air fares will increase and the expense of travel will become a significant factor.

Chair Buckley said that budgets will also be affected by the use of videoconferencing. She said that in the past if there has been an anticipated deviation about half way through the interim, the committee has to return to the commission and allowances can be made if it is due to factors beyond the control



of the committee.

ASSEMBLYMAN ANDERSON MOVED APPROVAL OF THE BUDGETS FOR INTERIM STUDIES.  
MOTION SECONDED BY ASSEMBLYMAN OCEGUERA AND CARRIED UNANIMOUSLY.

Under discussion of the motion, Senator Titus expressed concern about the budget and noting that at least two of the committees will be traveling around the state and she would like it on the record that the commission might need to consider additional traveling money particularly with an additional member added to the Study to Protect Natural Treasures. Chair Buckley responded that she will ask staff to inform the commission if there are any problems with the budgets. She noted that some of the committees do not use all their budgeted money and it can be moved around but she does not anticipate any problems and recognized that the two committees will be traveling.

Senator Townsend said that if members can be encouraged to stay within their jurisdiction and utilize videoconferencing, other than the chairs who need the flexibility to move to different locations, it would keep the costs due to air travel down.

### **G. Approval of Budgets for Certain Committees**

1. Interim Retirement and Benefits Committee
2. Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System
3. Legislative Committee on Health Care
4. Legislative Committee on Persons with Disabilities
5. Legislative Committee on Public Lands
6. Legislative Committee on Taxation, Public Revenue and Tax Policy
7. Task Force for the Fund for a Healthy Nevada
8. Taxation of Real Property

Mr. Malkiewicz said that the budgets for each of the committees listed as agenda items G. 1. through 8. are contained in the meeting packet. If there are questions on any individual budgets, he would be pleased to answer them. If any committee needs to exceed its budget, it must appear before the Legislative Commission with a request to do so.

Mr. Anderson asked about the hiring of an interim secretary for the Legislative Committee on Public Lands and why would it not be staffed by one of the permanent staff members. Donald O. Williams, Research Director, responded that for the past several interims, the division has hired a secretary as an intermittent hire along with the intermittent secretarial hires for the Legislative Committee on Education and the Legislative Committee on Health Care. He said that discussions have been held with the director regarding budget proposals during the legislative session to include the positions in the budget. Those positions could be shown as ongoing positions if it is the preference of the Legislative Commission and the Legislature.

Further, Mr. Anderson inquired if the secretaries then tend to be hired during the legislative session because they are knowledgeable about the process. He asked if it conceivable that their talents can be used on a full time basis. Mr. Williams responded that the Research Division has had cases where it has lost secretaries to the session staff and it is an issue which needs to be addressed in the future. The preference of his staff is that secretaries are kept working in the Research Division and are not utilized for session hires and he will be working with the director in the near future prior to the legislative session on the issue.

ASSEMBLYMAN ANDERSON MOVED TO APPROVE THE BUDGETS FOR CERTAIN COMMITTEES  
AS SHOWN. MOTION SECONDED BY SENATOR TOWNSEND AND CARRIED UNANIMOUSLY.

## **Item VI--Informational Items:**

Chair Buckley called attention to the materials under this agenda item and noted that the information is contained in the meeting packet.

Mr. Anderson referenced the Juvenile Court Advisory Board recommendations and reiterated that the report be sent to the Juvenile Study Committee because of its importance. Additionally, he commented on the Disciplinary Action Reports noting the lack of consistency. He would like to see staff develop a standard reporting form for the licensing boards so that the legislators can obtain a certain level of consistency to know that--this is what is happening, these are the number of complaints and how many of them have been standing for a long period of time. The chair requested the director to work with Mr. Anderson and staff on the issue.

Chair Buckley informed the members that the Advance Sheets are available.

### **A. Legislative Committee Reports.**

### **B. Legislators' Travel Reports.**

### **C. Quarterly Reports on Disciplinary Action from the following Boards or Agencies:**

1. Board of Examiners for Alcohol and Drug Abuse Counselors.
2. Board of Examiners for Long Term Care Administrators.
3. Board of Examiners for Social Workers.
4. Board of Psychological Examiners.
5. Board of Registered Environmental Health Specialists.
6. Board of Veterinary Medical Examiners.
7. Chiropractic Physicians' Board of Nevada.
8. Health Division Bureau of Licensure and Certification, Department of Human Resources.
9. Nevada Board of Dispensing Opticians.
10. Nevada State Barber's Health and Sanitation Board.
11. Nevada State Board of Accountancy.
12. Nevada State Board of Dental Examiners.
13. Nevada State Board of Landscape Architecture.
14. Nevada State Board of Medical Examiners.
15. Nevada State Board of Nursing.
16. Nevada State Board of Optometry.
17. Nevada State Board of Pharmacy.
18. Nevada State Board of Physical Therapy Examiners.
19. Nevada State Contractors Board.
20. Private Investigator's Licensing Board.
21. State Board of Cosmetology.
22. State Board of Professional Engineers and Land Surveyors.

### **D. Miscellaneous Reports from State Agencies and Others:**

1. Report from Nevada State Board of Medical Examiners.
2. Quarterly report on activities concerning proposed transactions between an eligible customer and a provider of new electric resources from the Public Utilities Commission of Nevada.
3. Semi-Annual Report from Juvenile Court Advisory Board.
4. Report from Division of Insurance, Department of Business and Industry regarding

Industrial Insurance-Revisions of Basic Manual Classifications and Rules.

5. Copies of correspondence regarding Report from the Las Vegas Monorail Company distributed to members at an earlier date.

**Item VII--Public Comment:**

Knight Allen, private citizen from Las Vegas asked that attention be turned to agenda item II. A. and the subject of child support. He recalled that in December 2000 when he approached the commission and pointed out that there had been no increase in child support payments in the State of Nevada for 14 years, it came to quite a surprise to many members and there was quite a bit of publicity about it. In the 2001 session, an attempt was made to try to resolve the problem and A.B. 37 was passed. He noted that it did not support the lawyers association approach to the issue which was to escalate it by the inflation rate and bring payments to that level to "make up" for the 14 years. Another direction was taken and the "bottom line" on the bill was that the vast majority of the children of divorce got no increase whatsoever. However, in the bill was a provision that future payments were going to be inflation escalated and each year the payments would automatically go up by the Consumer Price Index. He has been told that has not happened and he asked the members if any of them have been approached and been told in the ensuing years between July 2002 when it was to have been effective that the provisions of the bill have not been placed. He said that he is reluctant to speak on hearsay but the person who talked to him said that the checks being received between July 2002 and the current time have not increased. He said that he told the person he would raise the question since he was testifying on another agenda item.

Chair Buckley said that to the best of her knowledge, the increases have been happening and communications have been received from the court on what the increase is going to be which leads her to believe that it has been implemented. She said that she would ask Ms. Erdoes and Ms. Lang to check into the matter to ensure that they are being implemented. She said that the impetus for the child support enforcement audit arose because of the collection. She said that Clark County did an audit which showed where it was far below where it needed to be and in some cases not even half of the families who had a child support order were getting collections. She said that she personally "runs into people" all the time who are not receiving child support and so she has been "beating this drum" for the past year. She is hoping that the audit will show the true numbers statewide, what best practices need to be implemented, and lead to some future legislation to improve the abysmal record. She said that staff will double check on the escalator in particular and would be happy to keep Mr. Allen informed as the audit results come in. The chair said that the person could contact Ms. Erdoes. Mr. Allen expressed his appreciation.

Senator Titus said that there have been some reports in the news recently about members of state government who are involved in contracts with their wives or companies that they regulate. She was unsure whether there was anything specifically wrong or not but she thought that it draws attention to the fact that there needs to be some policies in place so that appearance of any conflict of interest can be avoided. She asked if staff could be requested to give members some overview of what the state policy is, see if a state policy needs to be adopted or if it varies from department to department. Chair Buckley requested Mr. Malkiewich to work with the appropriate staff person to obtain research on what the law is currently and if there is any room for improvement.

There being no further comments, the meeting was adjourned.

Respectfully submitted,

Marilyn K. White  
Executive Assistant

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Assemblywoman Barbara E. Buckley, Chair  
Nevada Legislative Commission