

**MINUTES OF THE
NEVADA LEGISLATURE'S
INTERIM FINANCE COMMITTEE'S SUBCOMMITTEE TO CONDUCT A REVIEW OF
NEVADA'S REVENUE STRUCTURE
S.C.R. 37, 2009 SESSION**

September 21, 2009

A meeting of the Nevada Legislature's Interim Finance Committee's Subcommittee to conduct a Review of Nevada's Revenue Structure (S.C.R. 37, 2009 Session) was called to order by Chairman Steven Horsford on September 21, 2009, at 9:07 a.m. in room 4401 of the Grant Sawyer State Office Building in Las Vegas and videoconferenced to the Legislative Building, 401 South Carson Street, room 4100, Carson City, Nevada and the Great Basin College, Berg Hall Conference Room.

COMMITTEE MEMBERS PRESENT IN ELKO:

Senator Dean A. Rhoads

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Senator Bernice Mathews

Senator William J. Raggio

Senator Randolph J. Townsend

Assemblyman Bernie Anderson

Assemblyman James Settlemeyer

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Steven Horsford, Chairman

Senator David R. Parks

Senator Valerie Wiener

Assemblyman Marcus Conklin

Assemblyman Pete Goicoechea

Assemblywoman Marilyn Kirkpatrick

Assemblywoman Kathy McClain

Assemblyman John Ocegüera

Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

Senator Mike Schneider

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division

Gary Ghiggeri, Senate Fiscal Analyst, Fiscal Analysis Division

Russell Guindon, Senior Deputy Fiscal Analyst, Fiscal Analysis Division

Michael Nakamoto, Deputy Fiscal Analyst, Fiscal Analysis Division

Joe Reel, Deputy Fiscal Analyst, Fiscal Analysis Division

Brenda Erdoes, Legislative Counsel

Patti Sullivan, Secretary, Fiscal Analysis Division

EXHIBITS:

- Exhibit A: Agenda and Meeting Packet.
Exhibit B: Attendance Record.
Exhibit C: Responses to Questions Submitted on the Request for Proposal for a Review of Nevada's Revenue Structure for State and Local Governments provided by Legislative Counsel Bureau Fiscal Division staff.
Exhibit D: Evaluation of Proposals Submitted for the Review of Nevada's Revenue Structure for State and Local Governments RFP provided by Legislative Counsel Bureau Fiscal Division staff.
Exhibit E: The Principle of Taxation in a Free Society provided by Knight Allen.

I. ROLL CALL.

The meeting of the Nevada Legislature's Interim Finance Committee's Subcommittee to Conduct a Review of Nevada's Revenue Structure was called to order by Chairman Steven Horsford at 9:46 a.m. The secretary called roll and there was a quorum.

II. APPROVAL OF MINUTES OF THE AUGUST 24, 2009, MEETING.

ASSEMBLYMAN OCEGUERA MOVED TO APPROVE THE MINUTES OF THE AUGUST 24, 2009, MEETING OF THE INTERIM FINANCE COMMITTEE'S SUBCOMMITTEE TO CONDUCT A REVIEW OF NEVADA'S REVENUE STRUCTURE.

THE MOTION WAS SECONDED BY ASSEMBLYMAN CONKLIN AND CARRIED UNANIMOUSLY.

III. UPDATE ON THE STATUS OF THE REQUEST FOR PROPOSAL.

Russell Guindon, Senior Deputy Fiscal Analyst, Fiscal Analysis Division, recalled at the August 24, 2009, meeting, the Request for Proposal (RFP) was approved with various changes recommended by the Subcommittee. Those changes were made by staff and approved by Chairman Horsford, and the RFP was submitted to the public for solicitation of bids on September 1, 2009. He explained vendors submitted questions on the RFP to Fiscal Division staff until 5 p.m. on September 11, 2009. Responses to those questions were posted on the Legislative website on September 16, 2009 (Exhibit C).

Mr. Guindon described the questions as fairly general in nature having to do with clarification of the Nevada Vision Stakeholder Group (NVSG), the interaction between the consultant and the NVSG and how that interaction would relate to the tax study. There were also questions about when and where revenue and budget information could be obtained.

Mr. Guindon reported the RFP was submitted directly to various entities and was advertised for one week in the Wall Street Journal. In addition, the RFP was posted with two online clearing houses – BidNet and Oniva – where RFPs are matched to subscribers based on the services requested. Mr. Guindon explained bids would be received up to the closing date of October 1, 2009.

Chairman Horsford thanked Mr. Guindon and Legislative Counsel Bureau staff for finalizing and posting the RFP as was approved by the Subcommittee, and responding to questions from vendors in accordance to the timelines in the RFP. The process would continue with the evaluation of the responses to the RFP to identify the top three, which would then be brought to the Subcommittee for consideration. He asked Subcommittee members to direct any questions about the process to him or Mr. Guindon.

Chairman Horsford said the two main topics of the meeting would be agenda item IV regarding the discussion and creation of the NVSG and item V, the discussion of the evaluation process to select a consultant. In addition, agenda item VI would involve a brief overview of some of the prior Nevada tax studies.

IV. DISCUSSION AND CREATION OF THE NEVADA VISION STAKEHOLDER GROUP – DEVELOPMENT OF A LIST OF NAMES SUBMITTED BY COMMUNITY AND STATEWIDE GROUPS TO BE USED TO APPOINT MEMBERS OF THE NEVADA VISION STAKEHOLDER GROUP.

Chairman Horsford referred to page 27 of the meeting packet (Exhibit A), to a draft outline of the process to identify potential members of the NVSG. He said the study was discussed during the 2009 Legislative Session, and he would refresh the Subcommittee as to the intent. He said an independent and credible third-party entity would perform an economic analysis of the state's revenue structure and equally important to the process was what Nevadans wanted in the state over the next 5, 10 and 20 years. The process for the NVSG was outlined in S.C.R. 37. The process would develop a strategic plan for the state in the key quality-of-life areas in an effort to move the state forward, over time. The quality-of-life areas included education, health and human services, diversifying the state's economy, energy and infrastructure, and business and industry.

Chairman Horsford explained first and foremost would be to understand the state's rank in key areas; for example, education funding, rate of graduation, and students' successful completion of higher education. The visioning process would be led by a facilitator who is part of the consultant's team. The consultant's facilitator would work with a committee comprised of a broad range of stakeholders throughout the state named the NVSG, which would come to an agreement on those rankings and discuss strategies on how the state would move forward in those important quality-of-life indicators. This process would inform discussions on the revenue structure as to what type of system needs to be in place for the goals identified to come to pass. He said those who have been involved in strategic plans for organizations and businesses knew

how important it was to have a vision of the future in order to benchmark year-to-year progress toward those goals. He said it was imperative to use a broad net to solicit nominations for the NVSG in order to make use of the wide range of expertise, knowledge and education of Nevadans.

Mr. Guindon said S.C.R. 37 directed the Subcommittee to select the members of the NVSG from a list of nominees submitted by community and statewide groups involved in business, education, health care, human services, economic development, transit and energy, or other groups deemed appropriate. Based on that language, and discussions with the Chair, the first part of the process must be to solicit nominees for the Subcommittee to consider. He reported staff received numerous inquiries about the nomination process for the NVSG. Staff instructed those people to listen to or attend the Subcommittee meeting.

Referring to page 27 (Exhibit A), Mr. Guindon said the first paragraph of the draft put forward that the Subcommittee was soliciting names from interested parties or groups for consideration for appointment to the NVSG. The program areas listed in the draft were commerce and industry, education, health and human services, public safety, and infrastructure. Those categories differed slightly from what was listed in S.C.R. 37 because they were based on functional areas in the state budget. The Executive Budget Office and Legislative Counsel Bureau Fiscal Division were organized by those functional areas. Although there were other program areas included in the Fiscal Division's Appropriations Report, these areas closely matched what was specified in S.C.R. 37. Mr. Guindon said each interested party was asked to submit no more than three names.

In response to a question from Senator Raggio, Chairman Horsford said staff suggested the use of commerce and industry, education, health and human services, public safety, and infrastructure, rather than name specific types of industry. The entity submitting the nomination application would be asked to specify which areas the nominee represented. Through the process, a broad range of representation could be identified based on specific sectors, geographic diversity and diversity of business as well as governmental and quality-of-life areas. The areas were specified in the first paragraph of the draft on page 27 of the meeting packet (Exhibit A). He asked Mr. Guindon to elaborate.

Mr. Guindon explained the categories named on the draft nomination form were based on the functional program areas used to report, build and analyze the state budget. He said the draft was fairly close to matching the areas in S.C.R. 37, but leaned toward the areas used in the state budget. The application for nominations included the areas the nominee could represent and it was quite possible one individual could represent more than one program area. The Subcommittee would need to decide how many members would be on the NVSG. Mr. Guindon noted the Chairman had suggested the NVSG comprise 15 members.

Mr. Guindon emphasized the Subcommittee was not trying to restrict the type of industries or areas that could participate. He said the Chairman wanted the process to be as open as possible so any citizen would have the opportunity to be considered for appointment to the NVSG.

Senator Raggio pointed out that if the study was going to have credibility, it had to be objective. The composition of the NVSG was extremely important to the process. It should not be lopsided with sectors using taxes, as opposed to sectors paying taxes. He was concerned about the areas from which nominations could be solicited. He cautioned that the NVSG would have to be composed very carefully.

Chairman Horsford thanked Senator Raggio for his comments and they would be important factors when the Subcommittee began its consideration of the makeup of the NVSG.

Ms. Kirkpatrick asked where local government fit into the visioning process. She said there was discussion of local government taking on more services, but she did not see where local governments were represented. She noted the state was very diverse - from the east, to the north, to the south. Although 15 members made a large committee, it was a small number considering the diversity of the state. She asked if industry representatives could have subcommittees where there could be more dialog, or meet in smaller groups with different entities throughout the state. For example, education would involve parents, school districts, and infrastructure to build schools. If three representatives were picked to represent education, not everyone would be represented. This did not include higher education, community colleges, or continuing education for seniors who were forced to return to work.

Chairman Horsford said the consultant would facilitate the NVSG meetings and collect the quality-of-life data used to benchmark the state's standing in the specific areas. As was mentioned previously, there were only eight or nine months in which to do that. The goal was to have as broad a representation as possible throughout Nevada, while keeping the process manageable so the end product would be useful to the upcoming and future legislative sessions. He said potential nominees and the groups that nominated those individuals had a network of people with whom they communicated. He expected the members of the NVSG would reach out to make sure all voices were part of the discussion. He noted all of the NVSG meetings would be public meetings subject to the Open Meeting Law. While the NVSG member might not be able to cover every aspect of that area, specifically education, there would be opportunity at every meeting for the public to bring forward ideas and concepts.

Chairman Horsford said the goal was to have a starting document of a strategic visioning plan and the consultant would need to develop a work plan to achieve that in a short amount of time.

Assemblyman Settlemeyer noted some program areas were lumped together, such as transportation and energy. He was concerned that economic development did not fall into any of the categories listed.

Chairman Horsford thought economic development would be included under commerce and industry.

Assemblyman Settlemeyer said he thought that was separate. He wanted to make sure the topic covered not only industries currently in the state, but also industries that might move into the state from elsewhere. He said that was why economic development should be included.

Assemblyman Anderson agreed a Nevada Vision Stakeholder group of 15 members would be large, but there were other large committees that worked well. He expressed concern about the diversity of the commerce and industry representation. In addition, he wanted the rural nature of the state and small business groups to be considered. Those groups were often left out of discussions in favor of larger industries, which had to be included because they paid the big dollars. He was concerned the governmental groups that would utilize the information have been complaining for some time about restructuring and the ability to handle the dollar issues at the local and county level. Quality-of-life issues would include road structure and infrastructure questions, and the building industry would want to be heard, as well as realtors. He said 15 members may not be enough given the nature of the state. The Subcommittee would need to listen to the major stakeholders while not ignoring the smaller groups. He said the smaller groups do not have the dollars, but are often more severely impacted by decisions than the bigger groups.

Assemblyman Anderson asked the Chairman if he would also chair the NVSG, or whether it would have its own chair. He asked if the NVSG would set its own calendar. He was concerned that interested individuals may not be able to attend the meetings.

Chairman Horsford replied that he did not intend to chair the NVSG. He expected it would operate as one group rather than a collection of subgroups. That group would have to select its chair. The consultant, working with staff, would set the timeline and what was to be achieved to meet the deliverable date of July 1, 2010.

Addressing concerns expressed by Assemblyman Anderson, Assembly Settlemeyer and Senator Raggio, Chairman Horsford said the commerce and industry sector could include small business and rural and economic development entities, as well as major industries. The point was well taken that the state's industry was more diverse than just gaming and mining, although those industries contributed a significant share. The program area would include representation of smaller rural business interests as well. Once those names were submitted and the Subcommittee knew who was interested, many of those concerns could be addressed by ensuring a person who reflected that view or perspective was appointed. At this point, the Subcommittee needed to make sure people understood how to be considered for membership to the NVSG.

Assemblyman Anderson said he was hopeful that would address his concerns. He thought the Subcommittee was at a delicate point in the process. He may be more comfortable after the nominations are received.

Senator Mathews said that one individual should not represent all of business, small and large. That has been problematic in the past. Large businesses seemed to overshadow the small business portion. She wanted to make sure the state's rural areas, ranching and small business had a voice in the process.

Chairman Horsford said that could be addressed. If there were three members per group, there would not be one person who represented both small and large business. He said the draft was written so that when the nominations were submitted, major industry groups, small businesses, and different parts of commerce and industry would be included to reflect the diversity of the state.

Assemblyman Giocoechea said the first thing for the Subcommittee to do was establish the number of members on the NVSG. The A.C.R. 10 committee from the 2003 Legislative Session did not limit the number of members and ended up with a large committee that produced nothing. He suggested the number be set. If not, the number would creep up and suddenly there would be 30 members.

Assemblywoman McClain expressed concern that limiting the number of members representing one area could affect the program area of health and human services as well. There would be issues with many groups such as senior citizens, children, and the uninsured. She hoped there would be a broad-based representation of different segments of society.

Chairman Horsford said that comment applied to the larger point which was that the Subcommittee wanted to use a very broad net to allow anyone who thought they could represent those interests to submit their names. When the nominations were received, and the program areas of the nominees were known, the Subcommittee could make sure there was proper representation. If the nomination process was too narrow, the membership would be exclusive and not allow the diversity of voices in the state to be heard.

Assemblyman Stewart asked if the nominees would be approved individually or as a group.

Chairman Horsford said he intended to appoint a working group consisting of some of the members of the Subcommittee. The working group would review the nominations and make recommendations to the Subcommittee. Ultimately the Subcommittee would decide which nominees were appointed. Whether that was by individual nomination would be determined based on how many applications were submitted and how many slots are to be filled.

Mr. Guindon continued with his presentation of the draft nomination instructions on page 27 of the meeting packet (Exhibit A). He said the instruction that asked each interested party to submit no more than three names was not intended to be restrictive. It was included because if groups submitted 5, 8 or 10 names, there could be a lot of information for the Subcommittee and working group to review.

Mr. Guindon said the nomination process required the interested parties to provide biographical information, the length of residency in Nevada, business organizations to which the nominee belonged, and the program area the individual intended to represent. Mr. Guindon said the biographical information with the nominees' background might help to determine which areas the person would represent.

Assemblyman Anderson asked if Mr. Guindon anticipated the working group would consider someone who may not be the current executive director of an organization or group. For example, the former Superintendent of Instruction for Washoe County might be someone the education community would find acceptable. He asked if the nominations were limited by the seven factors listed in the draft.

Mr. Guindon said staff did not want to decide which interest groups would be requested to make nominations. The nomination instructions would be posted on the Nevada Legislature's website. Between the public attending the Subcommittee meetings and the press publishing the intent of the Subcommittee to solicit nominations, that would be enough public exposure. There has already been quite a bit of interest by the public as to how to nominate an individual for the NVSG. He said it was not the intent to send a letter with the document to individuals.

With regard to the second question, Mr. Guindon responded it was not staff's intent to place any restriction on the type of individual that could be considered for appointment to the NVSG. For example, if an individual had been an executive director of an educational association, but recently stepped down, nothing would prohibit that association from submitting the names of both the former and current executive directors. It would be up to the Subcommittee to consider which of those individuals would be the best representative for group. He noted being nominated did not guarantee an appointment to the NVSG. He thanked Assemblyman Anderson for asking the question because it should be part of the public record that there was no intent to place restrictions on who could be nominated for consideration.

Mr. Guindon noted the draft nomination required the length of residency of the nominee. That information might not be a deal breaker, but it would be taken into consideration. Nominees were asked to describe any experience in developing strategic plans, or similar experience. Finally, the nominees were invited to provide other relevant information the Subcommittee or working group should consider with regard to the nomination.

Senator Mathews asked how much weight would be given to experience in developing strategic plans. She said some of the best groups included novices with good ideas who contributed greatly to the organization, but had no clue as to what a strategic plan was. Senator Mathews asked if there were 10 nominees with experience in developing strategic plans, what would happen to the 11th nominee with no experience?

Chairman Horsford said there was no “weighting” to any of the information. If there was no experience in that area, it would not disqualify the nominee for consideration.

Assemblywoman McClain suggested nominees provide references from people in the field they proposed to represent.

Senator Wiener asked Mr. Guindon if nominees would be supplied with information about what would be required of them. Knowing that the NVSG would require 20 hours per month may be a deciding factor for some potential nominees. Also, based on concerns of Subcommittee members, she asked for language to be included allowing NVSG members to solicit information from their own groups and do their own networking to provide a breadth of information, including information from individuals not selected to serve on the NVSG. She did not believe that the nominees would presume they could have their own advisors and their own informal meetings rather than public meetings.

Assemblywoman Kirkpatrick asked how a group would be represented at a particular meeting if a member could not attend the meeting.

Chairman Horsford said he and staff had discussed that. The concern was that there would have to be some consistency with participation based on the scope of the charge of the NVSG. While there was some advantage to having alternates, it would tend to not produce results if there were new people at every meeting. The conclusion was that the consultant would set the meeting schedule in advance and the NVSG members would understand the time commitment involved. Where there were extenuating circumstances that may require a member to be replaced or substituted, there might be some language included on that process. However, having alternates at each meeting would be problematic to getting the work done.

Assemblywoman Kirkpatrick said she did not disagree about having alternates. She asked if minutes would be available if a member had to leave the meeting. She did not want to discount that there would be family emergencies or sickness where people would miss meetings. She was concerned that if a member missed a meeting, the area would not be represented.

Mr. Guindon said staff considered the concept of having alternates, but thought that would be unruly because there would be double the number of members. Staff noted that during the legislative process or the interim, members sometimes cannot attend a meeting, but the committees were still able to get the work done. He noted a recording of the meeting would be available electronically, minutes would be prepared, and the

meetings would be open to the public. He said although the consultant would be working to facilitate the NVSG, Legislative Counsel Bureau staff would be working with the Subcommittee, the working groups, and the NVSG to coordinate meetings. If a member missed a meeting, Legislative Counsel Bureau staff would supply that member with the meeting material and a copy of the meeting on DVD. If an alternate sat in for the missing member, the member would still have to watch the recording of the meeting and review the meeting materials, or take the information second hand from the alternate. Mr. Guindon said it was important to be involved in the whole continuum of the process.

Continuing, Mr. Guindon said if a member was appointed, but was unable to serve on the NVSG because of a family emergency or a move out of state, then Chairman Horsford could allow for a new appointment to replace that particular person. Staff thought that could be worked out when and if that event occurred.

In addition, Mr. Guindon said he understood Assemblywoman McClain would like nominees to submit references from people in the field they are being nominated to represent.

Mr. Guindon addressed Senator Wiener's concern acknowledging the time commitment required to serve on the NVSG. He said the draft could be revised to include an agreement that the nominee acknowledges the time commitment necessary to serve on the NVSG. It was hard to estimate the number of hours necessary to serve on the NVSG. He said the reference to 20 hours could be revised if the Subcommittee wanted, as well as any other language that the Subcommittee members wanted included.

Senator Wiener said if the time commitment was made clear, it might weed out some of the people from the beginning. If the potential nominee did not have the time, then he or she would not apply. She said it would make the selection process cleaner.

Senator Wiener added that, regardless of the number of members on the NVSG, it would not be big enough. She suggested the nominees who are not selected be encouraged to give input to the NVSG during public meetings.

Mr. Guindon said the language attempted to make the potential members aware of the time requirement and the timeframe that would be needed to conduct and complete the business of the NVSG. Staff wanted the language to make clear the state would not reimburse members of the NVSG for any travel expenses related to attending meetings. The expenses would be borne by the individual and/or the group the individual was representing.

Senator Mathews asked if there was any money for people that might request it. She said there were good ideas out there to be had from people with little money. She thought that would limit the membership to people with resources. Sometimes people without resources were good thinkers. She had a problem excluding people who could not pay for airfare or other travel and had no group to help. She said it would write off an important part of the population.

Chairman Horsford thanked Senator Mathews for raising a valid point, but he said the Subcommittee was not provided any budget for travel expenses for the NVSG. The Subcommittee was having to request consultant fees through the Contingency Fund. The nomination form states that it is the responsibility of the individual or group that recommend them to pay travel expenses. If the group that recommended the member could afford to pay, then the member could be compensated by that group. He said because all of the meetings were public, videoconferenced meetings, an individual could still participate whether or not that individual was being reimbursed for expenses. He agreed with the concern, but there were very few resources to dedicate to all of this.

Senator Mathews asked if the meetings would be videoconferenced between Elko, Las Vegas and Carson City. Chairman Horsford said that would be determined based on the composition of the NVSG and the work of the facilitator. Usually the decision to videoconference was based on the make-up of the committee or the circumstances. All of that would be determined in the future. He emphasized the Subcommittee wanted the public to participate.

Senator Mathews asked if the NVSG chair would make a decision as to when meetings would be videoconferenced. She was concerned the Subcommittee would miss hearing from a group because Nevada was a big state with few resources. Her opinion was all of the NVSG meetings should be videoconferenced. Chairman Horsford said staff would work with the consultant.

Assemblyman Anderson said in light of Senator Mathews' concern, he asked Mr. Guindon to include an affirmative statement that the meetings would be videoconferenced to facilitate the question of travel.

Mr. Guindon said with regard to Assemblyman Anderson's concerns, language could be added to state the meetings of the NVSG would be public meetings that would be videoconferenced to Carson City and Las Vegas, and could be videoconferenced to other cities. He pointed out that videoconferencing was only available at certain locations. All meetings would be broadcast over the Internet. He realized some computers may not have high enough bandwidth, and that could be difficult for some members of the public.

In response to Senator Mathews' concern, Mr. Guindon said without knowing the composition of the NVSG it was hard to know whether someone would be left out. The NVSG could direct staff that meetings should be videoconferenced to Elko so people could give public testimony. At a minimum, the public would be able to listen over the Internet.

Responding to a question from Assemblywoman Kirkpatrick, Mr. Guindon said members of the public could submit written documentation for the record in advance of the meetings. He said if it was the intent to make sure the public had the opportunity to listen to the meetings, follow the progress of the NVSG, and participate, staff would work to facilitate the possibility of having the broadest scope in terms of videoconferencing, given the technological resources available. He said, as Assemblywoman Kirkpatrick pointed out, at each meeting it should be understood what was to be discussed at the next meeting. The public could provide information to staff to give to the members of the NVSG for consideration during the meeting.

Assemblyman Anderson said the facilitator would do the job best when everyone was in the same room. He said the Subcommittee members had all dealt with the frustration of the videoconference system. He said Mr. Guindon did an excellent job of answering his questions. He said Ms. Kirkpatrick's point was well taken. Obviously written material could always be submitted.

Mr. Guindon said the draft instructions directed the nominations be sent to Legislative Counsel Bureau, Fiscal Analysis Division staff, rather than directly to Subcommittee members. The nominations could be submitted by mail, e-mail or facsimile. The instructions were clear that the information requested must be provided so the Subcommittee had something to consider with regard to that person being appointed. If the Subcommittee members were contacted directly, the person should be referred to Legislative Counsel Bureau, Fiscal Analysis Division staff. E-mail addresses were requested, because given the timeframe, the breadth and scope of the membership, as well as the scope of duties, staff would like to distribute information electronically as much as possible.

Finally, Mr. Guindon said Legislative Counsel suggested it be made clear that any information provided would be made public, except for contact information. The information would be compiled into a form that the members of the working group or Subcommittee could use, and staff would extract the contact information and not make that part of any public document. The draft directed any questions be sent to him and included his phone number and e-mail address.

Mr. Guindon said he would revise the draft to include the changes requested by the Subcommittee and provide a final draft for approval by Chairman Horsford.

Mr. Guindon said he would work as quickly as possible to make the changes recommended, get approval of the final draft from the Chairman, and post the nomination form on the Nevada Legislature's website.

Chairman Horsford thanked Mr. Guindon for his presentation. He asked if there were any other comments on the draft.

Assemblyman Anderson asked if the NVSG would be limited to 15 members. He thought that should be done now, rather than after the nominations were reviewed. He hoped the membership would be held under 19 members.

Mr. Guindon said Assemblyman Anderson's comment would bring up the next item for discussion, which was the number of members on the NVSG and the process for selection of members.

Chairman Horsford said if there was no objection, he would like to form a working group of the NVSG member selection process, with Assemblyman Conklin as Chairman. The working group would determine the number of members and make recommendations for the NVSG from the nominees. The recommendations would be brought to the full Subcommittee. Chairman Horsford thought it was premature to set the number of members before the number of submissions and areas of representation was determined. The working group and the public should have an opportunity to submit nominations first, and then allow the working group to vet those nominations and make recommendations to the full Subcommittee. He would appoint working group members after meeting with staff because there was an issue as to when the working group would need to meet in order to meet the timeline.

Assemblyman Anderson asked how many members would be on the working group and Chairman Horsford said half of the Subcommittee members would serve on the working group that would nominate NVSG members and the remainder would review the responses to the request for proposal.

There being no further comments, Chairman Horsford moved to the next agenda item.

V. DISCUSSION OF THE EVALUATION PROCESS TO SELECT A CONSULTANT.

Mr. Guindon said the Chairman intended to create a working group of the Subcommittee to evaluate bids submitted in response to the RFP. With that in mind, Legislative Counsel Bureau, Fiscal Division staff composed a document for discussion with regard to the process used by the working group and Subcommittee to evaluate bids on the RFP (Exhibit D).

Mr. Guindon explained the first section of the form dealt with application requirements, and would be completed by Legislative Counsel Bureau staff when bids were received. That information was required in every application except numbers 9 and 10, which were only necessary if the potential contractor proposed to use a subcontractor. The criterion was taken directly from the RFP. Legislative Counsel Bureau staff would provide the forms to the working group and the Subcommittee for use during the evaluation process.

Mr. Guindon said the bottom half of the first page related to Section VI of the RFP with regard to type of information that would be considered to evaluate the RFP responses. The members of the working group or Subcommittee were not limited to these factors when evaluating the bids. The oral presentation option would depend on the number of bids received. It might be necessary to narrow down the number of bids before requesting oral presentations to the body doing the evaluation. Page 2 was for the use of the working group or Subcommittee members to make notes.

Chairman Horsford reiterated the first section would be completed by Legislative Counsel Bureau staff based on the basic information requirements of the RFP. The following items were criteria in the RFP approved at the August 24, 2009, meeting of the Subcommittee. The second page would be used by members of the working group to evaluate the responses. He asked for questions or comments from the Subcommittee.

Assemblyman Conklin said he wanted to make sure consultants responding to the RFP did not have a personal vested interest in the outcome of the proposal. He did not know how that would be evaluated. He did not mean there were no qualified vendors in the state, because there were. The people who live in the state had a vested interest in what this body would present to the Legislature.

Chairman Horsford said that was a good point, and the Subcommittee would consider that when reviewing the responses to the RFPs and selecting a consultant. He asked members to give any suggestions on the evaluation form to Mr. Guindon.

Chairman Horsford said he intended to form a working group to allow a subset of the Subcommittee to begin reviewing the responses to the RFPs after the October 1, 2009, due date. He asked Senator Raggio to chair the working group based on his experience and interest in the topic. Because the request for funding had to meet a certain timeline, staff would meet with the proposed working group members to make sure their schedules permitted them to meet.

Senator Raggio thanked Chairman Horsford and said he would serve as chair of that working group.

There was no further comment.

Chairman Horsford called a recess at 10:38 a.m.

VI. BRIEF OVERVIEW OF PRIOR NEVADA TAX STUDIES.

The Subcommittee reconvened at 10:51 a.m.

Chairman Horsford said Mr. Guindon would give a brief overview of prior Nevada tax studies. He noted the prior studies were listed on page 29 of the meeting packet, and there was a list of other information resources from the Legislative Counsel Bureau Research Division website beginning on page 35 (Exhibit A). The Chairman said there was a lot of good information on the website, and noted that trends could be found based on the prior tax studies.

Mr. Guindon explained page 35 of the meeting packet was a printout of the “Hot Topics” section of the Legislative Counsel Bureau, Research Division website, which featured a list of publications regarding revenue, taxation and the state budget. He noted the web address appeared at the bottom of the page (page 35, Exhibit A) (<http://www.leg.state.nv.us/lcb/research/library/HotTopics.cfm>). The list included Research publications in addition to bulletins prepared by interim committees formed specifically for that purpose by a resolution or bill approved during a legislative session. He noted the information in the tables starting on page 29 (Exhibit A) involved the structure of state and local taxation or state and local revenues, or required formal studies to be done. He said it would benefit Subcommittee members, as well as members of the public, to look at the various studies that have been done in the past. He noted some of the reports were very lengthy, and one was 700 pages.

Mr. Guindon said the first study listed on page 29 was titled *Financing State and Local Government in Nevada*, but was often referred to as the Zubrow report after the project director of the study. The study was required by S.B. 97 of the 1959 Legislative Session. The report was finalized and submitted in October 1960 for consideration during the 1961 Legislative Session. The 25-member Special Citizens’ Committee on Taxation and Fiscal Affairs was created. The intent was to have fewer legislative representatives than members of the public on the committee. Of the 25 members, only 5 were legislators. The committee hired professors of economics from the University of Colorado and University of Denver to act as consultants. The scope of the study was spelled out in the table.

Mr. Guindon said staff would continue to work on the document to include the recommendations of the study. He cautioned that to simply list the studies’ recommendations would not be of service. Any recommendation that came out of a study would have to be considered in the context of the scope of the legislation that required the study, as well as the context in which the recommendations were made in the author’s report. To simply list the recommendations for each study would not allow for the best comparison of the studies. Staff struggled to convey the recommendations of the reports without losing the context in which the recommendations were referenced. He said staff would continue to work on that and provide updated information to the Subcommittee.

Mr. Guindon continued to page 30 of Exhibit A to a description of the study required by S.C.R. 8 which was performed by the CPA firm Lybrand, Ross Bros. & Montgomery. *The Study of General Fund Revenues of the State of Nevada* (Bulletin No. 68) was completed in December 1966 for consideration during the 1967 Legislative Session. He noted part of scope of the study was “to give priority in such study to additional gaming taxes and the economic positions of gaming.” Mr. Guindon said simply reading the recommendations without considering the scope of the study, one would find the study recommended taxing gaming. The scope of the study was an important reference point.

Mr. Guindon said the table on page 31 of Exhibit A described the study required by A.B. 397 (1987 Session) by the Urban Institute and Price Waterhouse titled *Fiscal Affairs of State and Local Governments in Nevada* and published as a book, titled *A Fiscal Agenda for Nevada*, which was edited by Robert D. Ebel. The report was often referred to as the Price Waterhouse or Urban Institute study. The Legislative Commission created a subcommittee to develop the RFP and select a vendor to perform the study. Staff was working to locate the minutes for that subcommittee to determine the scope of the study, but the scope was clear in the executive summary of the report, which was provided to the Subcommittee as Exhibit C of the minutes of the August 24, 2009, meeting. He said staff would provide a binder for Subcommittee members to place reference material, such as copies of executive summaries.

Mr. Guindon said page 32 (Exhibit A) was the result of A.B. 801 of the 1989 Legislative Session, and performed during the 1989-1990 Interim with the report being published as the *Study of Taxation in Nevada* Bulletin 91-20 in December 1990. The Legislative Commission created a subcommittee comprised of four members of the Assembly and four Senators. The scope of the study was spelled out on the table, and the report was presented for consideration by the 1991 Legislature.

Turning to page 33 (Exhibit A), Mr. Guindon said the report titled *Analysis of Fiscal Policy in Nevada* was required by A.C.R. 1 (2001 Session), and prepared during the 2001-2002 Interim. The report was written by the Governor’s Task Force on Tax Policy under Governor Kenny Guinn, with Guy Hobbs as chairman. There were no legislators on the eight-member task force. Jeremy Aguero, Applied Analysis, was the principal analyst for the task force and its working groups. Historical revenue comparisons and analysis provided to the task force were available on Applied Analysis’ website (http://www.appliedanalysis.com/market_data_report_analysis_of_fiscal_policy_in_nevada.htm). He said the scope of was taken directly from A.C.R. 1.

In conclusion, Mr. Guindon said if the Subcommittee members had questions regarding the recommendations or the scope of the studies, or would like copies of the reports, staff would assist them in getting the information.

Assemblyman Settlemeyer thanked Mr. Guindon for his report. He asked for the executive summaries of the five reports.

Mr. Guindon said he would also provide electronic copies of The Urban Institute and Price Waterhouse, Governor's Task Force on Tax Policy, and Zubrow studies. He would provide the bulletins for the other reports, because they were not very long. Mr. Guindon offered to assist any member of the Subcommittee or public if they required direction to find the reports online.

Chairman Horsford reminded the members and the public that those reports on the topic of revenue, taxation and state budget were available under the Research Library "Hot Topics" section of the legislative website (www.leg.state.nv.us).

Senator Townsend asked if it was possible to get the results of the studies, and what the legislature did with those recommendations.

Mr. Guindon said he had begun to look into that, but given the timeframe, he could not get it done. It entailed reading the reports, getting the recommendations and researching which recommendations were included in bills introduced, and what happened to those bills. He said his staff continued to work on that, and would provide a progress report to Subcommittee members at the next meeting.

Senator Townsend said it might be helpful for future legislators to understand and measure what the results would have been if certain recommendations had been implemented, based on a historical context. For example, a certain tax would have brought in a certain amount of revenue given the history of the economy at that time. The impact of expenditures could also be measured. Decisions made on both sides of the ledger, over time, could be reviewed as to the impact on the budget.

Chairman Horsford thanked Senator Townsend and said that was very instructive. The Chairman said, based on his own review, there were trends in each of the studies, and if action had been taken on the recommendations, there would have been changes to the revenue structure. He said it was important to look at those past reports. Rather than reinvent the process, look back at what recommendations were made; particularly the recent reports, such as The Urban Institute and Price Waterhouse and Governor's Task Force on Tax Policy studies.

Assemblyman Anderson said he hoped Mr. Guindon would report how many of the recommendations became specific pieces of legislation that were introduced. If the legislation died in the process, where did it die? Was there an omnibus bill that included several recommendations? If so, how many of the reports' recommendations were included in the omnibus bill?

Chairman Horsford summarized the requests for Mr. Guindon asking him to look at the recommendations of the most recent studies, and where there were bill drafts, determine how many turned into actual legislation that was carried out. That would be informative to the consultant for this process going forward. He wanted to be respectful of staffs' time and reasonable in the request. He asked Mr. Guindon to figure out the best approach to do that.

There being no further comments, Chairman Horsford moved on to the next agenda item.

VII. SCHEDULING OF FUTURE MEETINGS.

Chairman Horsford said he expected the full IFC Subcommittee would meet near the end of October to review the recommendation of the two working groups. That meeting would be important, and rather lengthy, because the Subcommittee would make the final decisions on the consultants and the members of the NVSG.

Mr. Guindon said there were two very important dates. The full Subcommittee would need to meet in late October to consider the recommendations from the working groups. In addition, the Working Group to Review the Responses to the RFP would need to meet on or before October 8, 2009, because that was the deadline to submit the potential cost of the study to the Board of Examiners for its meeting on October 13, 2009. Staff would not know the potential cost of the study until the bids are received on October 1, 2009.

Mr. Guindon said, after the October 8, 2009, working group meeting, the Subcommittee may need to meet to evaluate the RFPs. If six to eight bids were received, the Subcommittee would narrow that down to the top three or four prospective consultants. No determination has been made as to whether there would be oral presentations to the working group, and/or the Subcommittee. Staff would work out those issues with Chairman Horsford and the chairs of the working groups.

Mr. Guindon said the Working Group to Review Nominations to the Nevada Vision Stakeholder Group would need to meet after the application due date of Friday, October 9. Staff would compile the list of nominees and provide that to the working group along with the nomination forms. Mr. Guindon agreed that the full Subcommittee would need to meet toward the end of October.

Senator Mathews asked if the working groups would be made up of members of the Subcommittee.

Chairman Horsford said he would name the members of the working groups shortly and each member would be notified as to which working group they had been appointed. The Subcommittee members would either serve on the Working Group to Review Responses to RFPs or the Working Group to Review Nominations to the Nevada Vision Stakeholder Group. There would be at least two meetings of the Working Group to Review Responses to RFPs, one on or before October 8 to meet the timeline of the Board of Examiners meeting, and another to review and rank the proposals. The Working Group to Review Nominations to the Nevada Vision Stakeholder Group would meet at least once after the October 9, 2009, due date to review the nominations and make recommendations to the Subcommittee. The full Subcommittee would meet in late October to hear recommendations from the two working groups. He would ask the chairs to schedule the meetings of the working groups.

There being no further questions, Chairman Horsford moved to the next agenda item.

VIII. PUBLIC COMMENT.

Geoffrey Lawrence, Fiscal Policy Analyst, Nevada Policy Research Institute (NPRI), commented that the most recent study of the Nevada tax structure was not included in meeting material. The study was published by the Nevada Development Authority in 2008. The study may be of significant interest to the Subcommittee because it looked specifically at the volatility of the different tax instruments used in Nevada and used empirical data to quantify that volatility by calculating the elasticity rates. He also commented that it seemed the proposed tax study would go in the direction of a corporate income tax or a corporate net profits tax. Numerous studies across the country have shown that particular tax instrument to be among the most volatile used by state governments. As the Subcommittee has concerned itself primarily with volatility it seemed that would be antithetical to creating a more stable tax structure. For instance, the Federal Reserve Bank of Kansas City did a study a couple of years ago that showed the corporate income tax was twice as volatile as the general sales tax. Finally, Mr. Lawrence expressed concern about the funding being used for the study. The funding for the study was explicitly defeated in the legislative process, and the Subcommittee was applying to use Contingency Funds for that process. He was curious as to whether the Subcommittee could provide some rationale for doing that.

Chairman Horsford said Brenda Erdoes, Legislative Counsel, would address Mr. Lawrence's question about the process of requesting Contingency Funds to hire a consultant to perform the study.

Ms. Erdoes said the legislation that would have appropriated money directly for the study was vetoed by the Governor. However, that did not preclude requesting Contingency Funds to fund the study.

Chairman Horsford asked Mr. Lawrence to submit any information he had to staff. He said there were no specific tax plans being considered by the Subcommittee at this point. The Subcommittee would like to hear any suggestions or input.

Victor Joecks, Deputy Communications Director, Nevada Policy Research Institute (NPRI), asked if the Subcommittee had looked at other states that had done particularly well with revenue stabilization to know which states Nevada should emulate.

Knight Allen, private citizen, said he was sure the Subcommittee members had read or heard the numerous comments ridiculing the creation of the Subcommittee. For example, "we have already done more than enough studies, and they have all said the same thing." "Nevada's tax systems is weak and needs to be broadened and stabilized." "The Legislators know what they have to do, and this committee is just a waste of time and money."

Mr. Allen explained he had a different approach. He thought the study was a great idea. He said the Subcommittee had an opportunity to correct the horrible blunders of the past. It did not matter whether the study was A.C.R. 1 and the Governor's Task Force on Tax Policy, the Price Waterhouse/Urban Institute report, or the Arthur Anderson report before that. They all got it wrong. He said the Arthur Anderson report was prepared for a private entity and had very little validity. One study mechanically and mindlessly followed the last. It was almost biblical. Arthur Anderson begat Price Waterhouse/Urban Institute, which begat A.C.R. 1 and the Governor's Task Force, which begat the IFC's Subcommittee to conduct a Review of Nevada's Revenue Structure (S.C.R. 37, 2009 Session).

Mr. Allen had believed the Subcommittee had a great opportunity to break that cycle; but, then he read the RFP and could not believe his eyes. It was happening all over again. Assembly Concurrent Resolution 1 broadened and stabilized the tax base, and the RFP broadened and stabilized the tax base. The RFP was basically a carbon copy of A.C.R. 1. He asked if the definition of insanity was doing the same thing over and over, expecting a different result. He said many of the Subcommittee members were part of the 2003 Legislature when the Governor's Task Force dropped its carefully constructed neutron bomb, and completely blew away the legislative process. Collegial working relationships, even friendships built over years were gone with the wind, not to mention the constitutional nightmare of *Guinn v. Legislature*. He asked, why in the name of heaven would you do that to yourselves again? He paraphrased George Santayana's famous admonition, "Those who cannot learn from history are doomed to repeat it." Mr. Allen said the state of Nevada had the best tax system in the country. He said over 70 percent of each dollar that flowed into the General Fund of the state of Nevada came from the free economic choices of a free people. He asked why the Subcommittee would want to throw that away and put it on the alter of a worthless troika of nonsense, such as a broad-based tax system that makes business pay its fair share by stabilizing it. It was just not true. It was wrong at the core. It was humbug when Arthur Anderson, Price Waterhouse/Urban Institute and the Governor's Tax Force, with its insane gross receipts tax pushed it, and it was still humbug.

Mr. Allen suggested if the Subcommittee wanted to study the tax base it should use the principal and its corollaries of Adam Smith's *Wealth of Nations* (Exhibit E). He said the Subcommittee members had the intellectual capacity to improve Nevada's already best-in-the-country tax base to conform 100 percent to the principle, rather than 70 percent. That was worth doing and worth taking to the 2011 Legislative session.

On another topic, Mr. Allen commented it was a bad idea to request staff to analyze the results of using the recommendations from the various studies. He said that was termed "static accounting" and government often made that mistake. He said if the legislature had "infected" Nevada's economy with the gross receipts tax – which thank goodness it had the wisdom not to – it could not be determined how much revenue would have been produced. The public and businesses would have reacted, so there would be no way to know how much weaker the Nevada economy would have been, or how much less revenue would have come in. There was no way to know. He

suggested they withdraw that request to staff because it would delude the Subcommittee to thinking that it would have produced revenue.

There was no further comment.

IX. ADJOURNMENT.

Chairman Horsford thanked staff and Subcommittee members for the additional work. He was looking forward to the recommendations coming forward to the Subcommittee from the working groups.

The meeting was adjourned at 11:35 a.m.

Respectfully submitted,

Becky Lowe, Transcribing Secretary

APPROVED:

Senator Steven Horsford, Chair

Date: _____

Copies of exhibits mentioned in these minutes are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. The library may be contacted at (775) 684-6827.