

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-fourth Session  
February 8, 2007**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:03 a.m. on Thursday, February 8, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Randolph J. Townsend, Chair  
Senator Warren B. Hardy II, Vice Chair  
Senator Joseph J. Heck  
Senator Michael A. Schneider

**COMMITTEE MEMBERS ABSENT:**

Senator Maggie Carlton (Excused)

**STAFF MEMBERS PRESENT:**

Laura Adler, Committee Secretary  
Duncan Burke, Intern to Senator Townsend  
Kelly S. Gregory, Committee Policy Analyst  
Wil Keane, Committee Counsel  
Scott Young, Committee Policy Analyst  
Gloria Gaillard-Powell, Committee Secretary

**OTHERS PRESENT:**

Michael Tanchek, Labor Commissioner, Office of Labor Commissioner,  
Department of Business and Industry  
Ed Guthrie, Executive Director, Opportunity Village

Senate Committee on Commerce and Labor  
February 8, 2007  
Page 2

Richard G. McCracken, Attorney at Law, McCracken, Stemerman and Holsberry  
Jim Greely, Progressive Choice  
Robert A. Ostrovsky, Nevada Resort Association  
Samuel P. McMullen, Nevada Restaurant Association; Retail Association of Nevada; Las Vegas Chamber of Commerce  
Lea Lipscomb, Retail Association of Nevada  
Michael D. Pennington, Public Policy Director, Reno-Sparks Chamber of Commerce

CHAIR TOWNSEND:

The hearing on issues pertaining to the minimum wage is opened. This is a unique issue because there is not much flexibility. Those who testify today after Mr. Tanchek are to be put "on the record." Today will not be a debate and the wage amounts are set.

MICHAEL TANCHEK (Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry):

The constitutional amendment on the minimum wage was passed and certified in November 2006. It will go into effect on November 28, 2006.

We are the State enforcement agency for these types of issues and have been inundated with calls and questions from people seeking information. After consultation with Governor Guinn's office and the Office of the Attorney General (OAG), emergency regulations were drafted to deal with the issues.

I have presented a written testimony and explanation for the constitutional amendment ([Exhibit C](#), original is on file in the Research Library). The constitutional amendment has four basic parts. Section A establishes the requirement for all employers to pay the minimum wage to employees. It establishes two minimum wage rates for Nevada. Currently, they are \$5.15 and \$6.15 per hour depending on whether insurance benefits are provided. There is a requirement that the rates be adjusted to reflect changes in the federal minimum wage and the cost-of-living wage. The amendment prohibits offsetting the minimum wage with tips and gratuities received by employees.

Section B deals with the legal issues of the amendment. This section prohibits waiving any of the legal requirements between an employer and an employee. There is an exception that permits the minimum wage issue be dealt with in collective bargaining agreements. It creates a private right-of-action for

employees. Individuals need not go through the Labor Commissioner, Office of Labor Commissioner, Department of Business and Industry, to enforce their rights under the amendment. They can go into court on their own. It also prohibits retaliatory action against an employee for exercising his rights under the amendment.

Section C contains the definitions of employee and employer.

Section D contains the severability provisions of the amendment to preserve the balance of the language, should the court rule any portion invalid. If any part of this amendment is deemed invalid, it does not affect the remaining portions.

Please refer to [Exhibit C](#) for issues and questions.

The last section of the handout covers the proposed regulations of the Labor Commissioner. Many of the regulations are amendable by statutes. The provisions are set for a hearing on March 5, 2007.

SENATOR HARDY:

The point of confusion is the annual-adjustment concept and how it will be handled.

MR. TANCHEK:

The cost-of-living adjustment and increases in the federal minimum wage are the two areas for which we are seeking legal advice. If the federal government raises the minimum wage, the question is when does it impact the minimum wage in our State?

SENATOR HARDY:

This should be pursued aggressively to get a definitive answer for employers, or the employers will be in violation of the Nevada State Constitution or the federal law.

MR. TANCHEK:

The opinion has been drafted and is in the review stage. The adjustment has to be made in April and will need to be resolved quickly.

CHAIR TOWNSEND:

Mr. Keane, will the Legislative Counsel Bureau (LCB) rule on the issue posed by Senator Hardy?

Mr. Tanchek, do you think our only dealings will be with the consumer price index (CPI)? When the minimum wage becomes effective and if it does not correspond to the Nevada Constitution, do you have a concern about the State of Nevada's responsibility?

MR. TANCHEK:

There could be some issues for example; if we make a cost-of-living wage adjustment less than the 70-cent jump in the federal minimum wage, there could be a problem. We could see a situation where our minimum wage is actually lower than the federal minimum wage. This is one of the issues before the Attorney General. The key is how we will make the calculations.

CHAIR TOWNSEND:

When the employer pays the employee is the most important issue. What happens if the CPI adjustment is negative, or if we have a recession or depression?

MR. TANCHEK:

Those questions are part of what we asked the OAG for a resolution.

CHAIR TOWNSEND:

Section 4, middle of subsection 1, [Exhibit C](#), of the proposed regulation of the Labor Commissioner, "when an employer contracts for," this is a concern. This is okay if it is a private company because they contract, but is not okay if it is a self-funded plan. The same section a couple of lines down states, "required to complete the coverage which is applicable to all similarly situated employees within this class, unless the waiting period exceeds 120 days" and section 8 speaks about "no more than six months." Both sections seem to have inconsistencies. I want to make sure these issues are on the list for clarification. Contact the OAG to make sure they are working closely with the LCB on the regulatory process.

ED GUTHRIE (Executive Director, Opportunity Village):

Opportunity Village is a training center similar to 14 other community training centers (CTC) throughout the State of Nevada. Some of our colleagues in southern Nevada are the Easter Seals of Southern Nevada and up north, High Sierra Industries and Washoe Association for Retarded Citizens that you are familiar with. All of us provide similar types of services. At Opportunity Village, we provide services to approximately 200 people in a community-based contract and about 450 people in center-based contracts. We are the largest CTC in the State of Nevada. We are certified by the Division of Mental Health and Developmental Services. Other CTCs might be certified by the Department of Employment, Training and Rehabilitation through the Bureau of Services for the Blind and Visually Impaired or through the Bureau of Vocational Rehabilitation. There are multiple avenues for individuals to be certified. The services that are provided at these CTCs are primarily rehabilitative and therapeutic in nature. They are not really an industrial type of model; not a model that people would use to—make money. They are here to provide training and services for individuals with severe disabilities. There is also not the normal employer-employee relationship between one of these centers and the people they serve.

People are assigned to those centers by a department in the State. They are usually subsidized by a department of the State. There is not the normal ability to hire and fire. If one of the people we serve were to reach over and slap a fellow service recipient or one of our staff, we would not have the ability to fire that individual. We would design a behavior plan; we would work with the individual and make sure things like that do not happen. As opposed to our staff, if one of my staff reached over and slapped one of their fellow staff members or one of the people that we served, they probably would not have a job by that afternoon. We simply would not allow that.

MR. GUTHRIE:

That is just one example of—we were very concerned, in the initial readings of the constitutional amendment it said all employees were subject to the new minimum wage law. We had been providing services under the State Labor Regulations. Those regulations had recognized the Fair Labor Standards Act (FLSA) and specifically section 14, subsection c of the FLSA. The FLSA recognizes some people with very severe disabilities do not have the ability to produce at a level that would allow them to receive minimum wage. They are offered a special minimum wage through the FLSA section 14, subsection c. That is what we have done for 20 to 30 years; since section 14, subsection c has existed.—what we were looking at, and what we thought we were facing, was the problem of having literally thousands of people throughout the State of Nevada lose the ability to have vocational rehabilitation and employment training services taken away from them because of the new constitutional amendment and the new regulations. In our concern, we contacted a number of people, including the Assembly Speaker, Barbara Buckley. Barbara Buckley, in turn, contacted Richard McCracken who helped to develop the initiative for us. Mr. McCracken and I discussed potential language that would say the people we serve, since the services we provide are primarily rehabilitative and therapeutic in nature, and since we do not have the normal employer-employee relationship, those individuals are not therefore employees, they are in another class. If they are not employees, they are not covered by the constitutional amendment or the wage. Mr. McCracken can speak to the language he developed. I circulated that through the 15 CTCs in the State of Nevada. They are all happy with the language which I think is exceptional, because finding an agreement between those 15 CTCs is like herding cats. I think Mr. McCracken has done an exceptional job.

CHAIR TOWNSEND:

Do we have copies of the language?

MR. GUTHRIE:

We can provide a copy of that language. That language is going to be in a bill that is sponsored by Speaker Buckley so we are able to deal with the issue and go on from there.

CHAIR TOWNSEND:  
I hope nobody sues you.

MR. GUTHRIE:

Yes. We need this entered into the regulations; try and have it in law and then we are going to go back. I am not necessarily praying that nobody sues me because I think there is enough background in what we have done. When and if a lawsuit occurs, we feel there is a comfortable risk in going to court with this lawsuit. Some of the people we serve have multiple challenges; they have mental health challenges, as well as other challenges, and I fully expect to get sued one day. It is not a question of if; it is a question of when. That is why we are trying to structure this in such a way that we have the best defense we possibly can against the lawsuit.

CHAIR TOWNSEND:  
I have served on the Washoe Association for Retarded Citizens Board since 1972. You are associated with a remarkable organization and I appreciate all you do on behalf of that organization.

RICHARD MCCrackEN (Attorney at Law; McCracken, Stemerman, and Holsberry):

Let me address Mr. Guthrie's point. It has been very enjoyable working with him in solving this. The solution was really quite evident because his clients and those of the other 15 CTCs were never regarded as employees by any body of law. The Internal Revenue Service does not regard them as employees; there is no withholding and no employment taxes for them. The National Labor Relations Board does not regard them as employees. They can't be organized by unions. We are talking about a problem that was easily resolved by making clear what already has been true for all

the time these workshops have been in existence. No body of government has regarded them as employees.

CHAIR TOWNSEND:

If one of the clients is injured while working in a shop, how do we cover the injury?

MR. MCCrackEN:

I don't know the answer whether they are covered by workers' compensation law in Nevada. My suspicion would be no to that. I would imagine the injuries are being covered by the agencies under whose authority they work.

MR. GUTHRIE:

Under our workers' compensation policy, we cover volunteers; we cover all different kinds of people in addition to employees of the agency, and I am assuming they are covered under the same provisions that allow us to cover volunteers. If someone gets injured at the Magical Forest, we have 75 volunteers a night assisting us. Inevitably during the 38 nights of the Magical Forest, one of the volunteers gets injured. It is going to happen and is not a question of if, but a question of when it is going to happen. We have always used our workers' compensation policy and the coverage from that, to take care of the medical expenses of that volunteer.

CHAIR TOWNSEND:

The committee working with Mr. McCracken needs the Legislative Counsel Bureau's opinion. We need to make sure all 15 of the organizations understand they are not considered employees, but still will be covered under the workers' compensation policy.

MR. MCCrackEN:

Senator, we anticipated the potential for unintended effects of this, so the amendment to the definition of employee in NRS 608 that we drafted only refers to minimum wages. It does not have an



effect on any other part of the code. I will be able to provide the draft this afternoon to all members of this Committee. Senator Hardy asked about how the adjustments work, and I can at least tell how I think they should work. The consumer price index adjustments are called adjustments. They increase over federal minimum wage and it is called an adjustment too. Finally, in that first section of the amendment, adjustments generally incorporate both CPI adjustments and adjustments to the federal minimum wage. They are determined as of April 1, announced and then go into effect the following July 1. The purpose of that structure is to make sure everyone has time to adjust to the increased cost that will be visited by the increase. Congress makes laws and amends laws on a regular basis. I don't think even if we know what the minimum wage is going to be after April 1, it is an adjustment that is incorporated into the April 1 announcement. I think it only gets incorporated when it is in effect. If the federal minimum wage this year were to increase before April 1, it would be incorporated into the adjustment and announced as of that date.

If Congress passes a bill and the President signs it, providing for an increase, it would go into effect sometime later in 2007, after April 1. I do not believe that is in effect and therefore not something that should be incorporated into the April 1 announcement. I believe that is a bright line. I also believe that is what the amendment, fairly read, means. It will enable everyone to not be surprised. I think the idea that if the federal minimum wage increased at a particular date in the middle of the year, not before April 1, all of a sudden it would be a jump up in the State minimum wage and not at all consistent with the structure of this. Again, the structure is to have an announcement April 1, then give everyone three months' time to adjust to the fact this is going to be part of their budget.

MR. MCCracken:

On the question Senator Townsend raised about whether the CPI adjustments could be negative, I think the answer is no. The amendment refers only to an increase in the CPI. The increase due to the CPI is cumulative over a baseline of December 31, 2004.

That is specified. The way the CPI works is that it is actually an index number. The base year for the CPI we use now is 1982, it was 100. If you see a CPI number it will be something like 190.3. That is actually the index number as of the end of 2004. That is the baseline for this amendment. We can look to see what the CPI index was at the end of 2006. That is a computation that already has been made. It is simply a matter of comparing that index number to the end of 2004 baseline and determining what percentage increase that is. At the end of 2006, the increase is slightly over 6 percent not for one year but cumulative since the end of 2004. There is a CPI cap of 3 percent. That means that even though there has been a 6-percent increase in the 2 years since the end of 2004, the maximum CPI increase that could be announced as of April 1 is 3 percent, which is a few pennies above each of these rates. That is what it will be if Congress does not put in effect a new rate before then.

CHAIR TOWNSEND:

Mr. McCracken, do you read it as accumulative from 2004 to 2008; making it 12 percent?

MR. MCCracken:

Yes. In effect, there is a carryover and the unused portion increases bank for the future. If we end up with inflation like we did in the latter 1970s with 12- to 13-percent inflation, the CPI adjustment will still be capped at 3 percent and there may be a bank that runs out for many years after that.

One other thing I would like to say which I had not planned on saying, but I had coffee this morning over at Comma Coffee. I entered into a debate with June about this amendment. It was not the start of the morning I had anticipated, but it taught me something very important. She had been told that she had to increase the wages of all of her employees to \$6.15. Someone called her and told her she had to do that. Being the person she is, she went ahead and put those increases into effect, even for her 15-year-old employee. Nobody told her. She did not know until this morning that under 18s are totally exempt from this obligation. It

was not really welcome news to her. It brought home to me was that even though many of us who are interested in this have gone to the workshops that Mr. Tanchek has organized which have been very beneficial, very constructive and had a lot of consensus evolve out of them. They have been great. It is only those of us who have been involved, who really know.

MR. MCCracken:

One of the things that need to be done as quickly as possible is to endorse the statement you made about the need for speed here. We need to get out to the employer community, especially the small business community, the ones most likely to be paying low wages, that there are exemptions. Some of the basic parts of the structure here, including the exemption for people who are under 18, is the 90-day trainee exemption. The knowledge has to be distributed out to the community very rapidly. That is one of the things I hope to work on with Commissioner Tanchek to do, pending the resolution of some of these more esoteric issues. Let's get the basics out to the employer so they do not make mistakes and do not underpay or do not overpay.

SENATOR HECK:

Is the CPI index from December to December? Is the measurement from December 2004 to December 2006? It would be 5.7 percent from December to December versus 6.3 percent annually.

MR. MCCracken:

"It would be—what I calculated it came to a little bit above 6 percent. But that is using the annual change. It is whatever the percentage increase is from December 31, 2004, to the present."

CHAIR TOWNSEND:

The committee received an e-mail/fax ([Exhibit D](#)) from the Ruby Mountain Resource Center. They wanted to make sure their remarks were entered for the record.

JIM GREELY (Progressive Choices):

"The group that I am here with today were just wondering if we were going to be able to see the language before it is presented."

CHAIR TOWNSEND:

I have been assured by Mr. Guthrie that it has been sent to you.

ROBERT A. OSTROVSKY (Nevada Resort Association):

Just skipping what I was going to say about the regulation, and going to the issues relative to the testimony you have taken here regarding Opportunity Village and associated-type providers of services, I do have a concern about workers' compensation in CTCs. I would urge this committee to make sure we have a definition in 616 and 617 which is adequate to capture those people, because the insurers have to take a hard line on third parties and independent contractors that are usually not covered. Volunteers that show up for the other events are covered under specific language in the statute which talks about volunteers. I don't believe these people are volunteers. If they are not employees, then we have to make sure there is a definition they fit into. I think everyone wants these people's status not to change from what it is today, because of this amendment I would be happy to work on it. I would be very careful about the language. I do not know who the insurers are, but there are a bunch of insurers like—I do represent one of those insurers who have been around Nevada forever, as the old State fund. There are insurers who buy their policy from some insurer out in New York, Georgia or Hartford, Connecticut, who take a vastly different view of the world than we do here in Nevada. We need to make sure the language is there. I will volunteer to help and take a look. I am sure we will look at that.

CHAIR TOWNSEND:

There is no intent by the proposers. I just need to make sure there is no gap for those folks. The tragedy is if you have to litigate a workers' compensation case the claimant who might legitimately been injured on the job and deserves compensation, he is now in a fight with an insurance company, and he is not getting help.

MR. OSTROVSKY:

Most of the concerns that I had, have been addressed. I would just like to be "on the record" to state there are concerns. I did participate in the workshop process that the commissioner held. I appreciate the commissioner's efforts to try to respond to the needs of the employer community that I represent. We didn't go back and look at the current emergency regulations, the regulation has a lot of substantive change from what the emergency regulation says today. I support the effort to get this worked out as quickly as possible. I would like to go on record to show I do have concerns about the definition of annual adjustment in section 2, sub 4. I think how that turns out could make a potential significant difference on what ways will be paid, this year and next year but also what could be paid in 2015 and 2020; assuming this is on the books for a long time. It is a constitutional matter. The accumulative effects and how they will be applied have consequences way out in the outer years. We want to make sure the definition is adequate. I understand that the Labor Commissioner has punted and said; well we will just use the language in the Constitution until they can get better direction from the OAG. The sooner we get that, the better. I also would like to resolve the issue of the waiting period. I think, Senator Townsend, you raised the issue of the inconsistency between section 4 and section 8. I think I have supported six months and others have supported other time periods and we will be raising the issue again at the hearing. Hopefully, we will be able to resolve this so employers know what—and we will be raising that issue again at the hearing—the standard waiting period is, and pay the lower tier during the waiting period as long as they meet all the other qualifications of offering insurance. Other than that, I am quite satisfied with what the Commissioner has done to define what an insurance policy is and to define some of the other issues that are out there. I look forward to working with the Commissioner on March 5, to try to resolve the issues we just talked about that are unresolved. The Commissioner agrees these have yet to be resolved. Those are the comments I would like to have "on the record."

SAMUEL P. McMULLEN (Nevada Restaurant Association; Retail Association of Nevada; Las Vegas Chamber of Commerce):

I would like to echo that this has actually been a very good process in a lot of ways. We have had some very difficult things to implement after the constitutional amendment was passed and of course as everyone knows, immediately effective. I agree with Mr. McCracken, the process we have gone through has resolved issues. I think there are still some wrinkles that need to be straightened out as we go through this next month before the final reg, at least the temporary regulation, excuse me I should use the correct term. I really wanted to say I think the process has been good. Labor Commissioner Tanchek and his staff really need to be complimented for a lot of hard work. I also appreciated the involvement of other people myself, like Mr. McCracken, who have given good interpretations of what they mean, what they wrote, and the clarity of that. I would say it is important for this Committee to understand that even though there has not been testimony to them today, there has been an awful lot of issues that were out there that have been resolved.

You have heard about some of them, the definitions of insurance, the application when someone comes on before the insurance is actually "effective" for an individual but offered. The test of course is offering it; trying to reduce some of the roller coasters, but more importantly, from our point of view, trying to reduce the cost and the difficulty of implementing this and making sure there is as much as possible some practical rule of reason in how this works. I think Mr. McCracken was sort of the commercially reasonable —would like also to compliment him for really good thought on things that would implement this more practically. I also think there has been a lot of progress made on this regulation. We will be able to tell the employers for instance they—as Mr. Tanchek said today they don't have to do this every pay period. You could effectively say that gross taxable income is arguably defined every pay period. It could in some cases make you crazy and say it is defined every day. You have to do the test to find out whether you are paying people correctly or not. By doing it this way, I think we have allowed that to be stretched out and done annually, if you have the

data, quarterly if not. I think we will probably work on quarterly adjustments.

MR. MCCracken:

The interesting issues are the ones set forth in regulation section 4, subsection 2. I think b-4, shows you how difficult this is to implement. What do you do with somebody who is just hired; how do you know exactly when they are hired whether they qualify or they don't? I think the theory would be to offer health insurance and they may qualify. You can either do a quick calculation day by day or you can try and use two pay periods and extrapolate into the 10-percent test and see. If you do not do it, then I think there is probably—you pay them at \$5.15, but if they didn't qualify and you probably have to look back and correct it over some time. Those are the kind of difficulties that are in this.

The constitutional language is very simple but those kinds of implementations are right on point in the middle of this reg. Again, we are working on them, and I want to compliment the people that have—at least the staff and the Labor Commission Office who have been working a lot of nights to make sure this is in play. The things that aren't really evident are the kind of implications of the minimum wage and its impact into overtime. We're functionally now going to have a two-tiered overtime system based on what rate of pay you're at. That is going to be difficult for businesses. Those are things that we will get done once we have gotten the basic rules and try to figure out exactly how we do it and make sure it is done correctly. Everyone on the committee knows there are federal laws that applies to this. We have to follow them as well. We appreciate the fact —there has not been a double system built where employers are trying to implement, based on two sets of standards, both federal and state to the greatest extent possible. We have tried to minimize that.

MR. McMULLEN:

I would just like to clarify one thing for the record, or at least make sure it is on the record. I think we talked about one side of the accumulative CPI adjustments. There are two sides and I want to make sure my understanding is incorrect that we make sure that at least I am corrected. Mr. McCracken talked about the issue of banking the CPI and I think that is correct. Of course, you would implement that in 3-percent increments until you get there. The interesting thing about what we are going to be doing with—in reality here a \$2.10 increase in the minimum wage will effectively be the equivalent of about—currently based on a \$5.15 base of 40.78-percent increase in the CPI. If I read what it says to me is that we will go through a number of years and under that calculation we would be somewhere between the 13th and 14th year where you would finally exceed the accumulative increase in the CPI. The adjustment for that 14th or 15th year, depending on when it hits, would then have the additional increment up to the 3 percent of that year and then the CPI would start to kick in. I think that does a couple of things; it shows you the order of magnitude of the federal increase as it relates to this constitutional amendment, but also we want to make sure we are implementing it correctly. In fact, until you cumulatively go over that 40 percent, whatever it correctly calculates out to be, I would not trust my math. It wouldn't be until that year, wherever that happens, 13 or 14 years down the road here that the CPI accumulative starts to have impact and raise our basic State rate.

Second of all, I think we need to make sure your staff clarifies Mr. McCracken's statement about how it would be implemented on the April report and the July implementation. I think that is extremely reasonable, very practical and I just want to make sure that in fact the effect comports with our obligations under federal law in terms of an increase in the federal law which I think that is a question we would have no matter what we are doing on regulations, which can be a difficulty we may have to accommodate, if in fact, we find out it can't be implemented the way it was testified to today. There are a ton of issues in this, but the great part is the process is still ongoing and the workshops



have been great. The dialogue and the drafting of language and the reiterative process of that have been great. We still have a whole month to finalize things and to adjust them correctly. I do agree with Mr. McCracken, getting the word out though is extremely important. We are trying to do that with our members because it is huge. Even though it is just a few employees affected, in terms of percentage of workforce for these employers that have to deal with it, it is a lot of practicality and burden. We appreciate the interest in doing it as efficiently and cost-effectively for those small businesses. I thank you and would be happy to answer any questions.

LEAH LIPSCOMB (Retail Association of Nevada):

I will be very brief and simply echo the remarks and concerns of Mr. Ostrovsky and Mr. McMullen. We would like to ensure that the regulation language be clear and simple as to minimize the paperwork and ease the implementation process for our members and their employees. The Retail Association has also participated in the workshop process of the Labor Commissioner and at this point we would just like to express our desire to continue working with Commissioner Tanchek as we move forward to further clarify and refine the language. Thank you.

CHAIR TOWNSEND:

Mr. McMullen, I am looking at a chart we developed and if the passage of the federal minimum wage, I think it is 70 cents, 70 cents, 70 cents. Based on our calculations, that is about a 36-plus percent, those 70 cents.

MR. McMULLEN:

"I could be wrong again."

CHAIR TOWNSEND:

I just happen to have it in front of me.

MR. McMULLEN:

"I do believe that the calculation is as simple as dividing 70 cents in the first increase by \$5.15 so that I think comes out I think to 13.6."

CHAIR TOWNSEND:

That means 12 percent is the next one and 10.7 is next.

MR. McMULLEN:

"I get 2.10 off a base of \$5.15. That is the only difference in my—"

CHAIR TOWNSEND:

I understand your point is that preliminary increase outstrips the CPI.

MR. McMULLEN:

"I would say I don't want to argue with your people, but again the constitution is very clear. It is the percentage increase over \$5.15. It is not the percentage increase over \$5.15 as adjusted up and then adjusted up and adjusted up."

CHAIR TOWNSEND:

So you are probably closer to right.

MR. McMULLEN:

"I don't know, but again, that again I liked Mr. Tanchek's statement that I would not rely on him or me for your math."

CHAIR TOWNSEND:

Let us find someone we can rely on.

MICHAEL D. PENNINGTON (Public Policy Director, Reno-Sparks Chamber of Commerce):

You have had a lot of wise experts in very proficient fields come before you and go through a lot of the technical issues relative to this. I had come prepared to address three primary bullet issues, one with regards to getting the information out to employers so that way they are aware of the issues. We've had the pleasure to work with Commissioner Tanchek since November. He has been very responsive to the Chamber in helping us. We have been able to get those emergency regs out and work with them, as well as get quick-fax and any information he has been able to provide to us so we could provide to our members. He has been very responsive, but I would if there is anything that the legislature can do to ensure that Mr. Tanchek has those resources and tools to help

organizations and help employers out. That would be something that we think would be advisable. I received many calls in late November, early December about where do we go from here and he was responsive, but I know he is very short-staffed and very limited and so we're trying to do what we can to help him out and get that information. The discussion earlier relative to the federal and the State that was an issue that we have been discussing. We appreciate the passionate concerns Senator Hardy and the Chairman have brought to the table relative to that this morning. We think that is very important.

MR. PENNINGTON:

The third bullet point that I wanted to address this morning which kind of goes off the reservation a little bit for the scope of this Committee but I think the Committee members might be concerned. I know Senator Heck would be serving on the Health Care Committee is the provisions relative to the health care coverage. I think it is important for us to work for solutions in trying to see if we can get some of Nevada's uninsured insured, a lot of those people come in the small business area. Last week I was in a meeting and I think an individual had told me that Washoe County specifically their estimated numbers are 70,000 relative to how many people that need some good coverage in the Reno-Sparks area. There is going to be some proposals that I think the interim Committee on Health Care worked on between the last session to maybe look at some pilot programs, some innovative solutions to come forth to provide coverage. Groups in Washoe County are seeing if they can't find a way to get 10,000 of those 70,000 uninsured on the insured rolls. I think that will go to some extent of minimizing some of the impacts of the issues that we talked about today as well as improving the quality of life for, you know, employees. Members I represent would like to provide that coverage. So, I know this Committee does have some concerns on that. I know that down the road, working with the Insurance Commissioner as well that would be an issue that has purview within this jurisdiction here today. Beyond that, those are my remarks and I appreciate the time to appear this morning.

CHAIR TOWNSEND:

As you know, Senator Heck is a member of Senate Committee on Human Resources and Education and at a time that will work for him I am sure he will brief us on what they are working on. On the flip-side of that, I believe Senator Schneider and I are the two members from the Senate Committee on Taxation. We are working on some additional changes on that payroll issue relative to health care. It could be very helpful to our small-to medium-size people. We are trying to figure it out with the budget committees because you know they—whatever the tax committee gives them they always want just a little bit more than that. We know for a fact that the more we can encourage small-to medium-sized employers to cover people, the less fiscal responsibility we have on the other end of the spectrum, particularly in the emergency room and lost days, lost time, etc. So we are trying to work on it. Any creative ideas that Human Resources can come up with I think we are going to be very enthused to hear.

MR. PENNINGTON:

"Senator, I appreciate the invitation and I will look forward to working with each and all of you during the session on those issues and more."

CHAIR TOWNSEND:

Does anyone else want to testify on the regulation that Mr. Tanchek has put out; provide something additionally informative? We are trying to get the Legislative Counsel Bureau, and particularly Brian Davie in southern Nevada has been remarkable in trying to get more rooms in southern Nevada so people can hear what is going on. We are trying on a regular basis make sure the three committees that meet in the Senate at each time slot can teleconference. I know we are trying to work with the Assembly to give them as many slots as we can for the hearings. Any time something happens in Judiciary that is of great interest to the State, we are just working through some normal bills and are trying to give them the slots. We are trying to work together so more Nevadans can take advantage.

Senate Committee on Commerce and Labor  
February 8, 2007  
Page 21

CHAIR TOWNSEND:

Are there any other questions? The meeting of the Senate Committee on Commerce and Labor is officially adjourned at 9:43 a.m.

RESPECTFULLY SUBMITTED:

---

Gloria Gaillard-Powell,  
Committee Secretary

APPROVED BY:

---

Senator Randolph J. Townsend, Chair

DATE: \_\_\_\_\_