

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Fifth Session
March 17, 2009**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9:02 a.m. on Tuesday, March 17, 2009, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblyman David P. Bobzien, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblyman Ed A. Goedhart
Assemblywoman April Mastroluca
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce
Assemblyman James A. Settelmeyer
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Harry Mortenson, Clark County Assembly District No. 42

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Cynthia Carter, Committee Manager
J. Renee Ekleberry, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Michael E. Fischer, Director, Department of Cultural Affairs
Brad Kosch, Retired State Parks Employee, Carson City, Nevada
Helen Mortenson, President, Ice Age Park Foundation, Las Vegas, Nevada
Stephen Rowland, Professor, Department of Geoscience, University of Nevada, Las Vegas
Aubrey Shirk, Ph.D. Student, Department of Geoscience, University of Nevada, Las Vegas, and President of the Nevada Friends of Paleontology, Las Vegas, Nevada
Josh Bonde, Ph.D. Student, Department of Geoscience, University of Nevada, Las Vegas
Thalia Dondero, Member, Board of Directors, Ice Age Park Foundation, Las Vegas, Nevada
David F. Kallas, Director, Government Affairs, Las Vegas Police Protective Association Metro, Inc., Las Vegas, Nevada
Ted Olivas, Director, Government and Community Affairs, City of Las Vegas, Nevada
Tom Roberts, Lieutenant, Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, Las Vegas, Nevada
Sabra Smith-Newby, representing Clark County, Las Vegas, Nevada

Chair Kirkpatrick:

[Roll taken. Quorum present.] This morning we are going to go a little out of order from the agenda. Assemblyman Mortenson has other committee meetings to get to, so we are going to hear Assembly Bill 305 and Assembly Bill 306 first. Good morning, and please start with A.B. 305.

Assembly Bill 305: Provides for an ex officio State Paleontologist.
(BDR 33-254)

Assemblyman Harry Mortenson, Clark County Assembly District No. 42:

Thank you, Madam Chair and Committee members, for allowing me to bring these two bills forward. Two gentlemen are here with me today to testify.

Assembly Bill 305 would establish the ex officio position of State Paleontologist. The genesis of the bill came during the 2005-2006 interim, when then-Senator Dina Titus held a series of meetings around the state with the Legislative Commission's Subcommittee to Study the Protection of Natural Treasures. She found a lot of treasures, and among them were some very important paleontological sites. She was convinced that it was important that Nevada have a State Paleontologist. Unfortunately, during the 2007 Session money was extremely tight; it is even tighter this time. At that time her Senate Bill No. 135 of the 74th Session was bumped into that big black hole called the money committee and it died. You will note that this bill has no fiscal note attached. That is why I am bringing it forward. It is a baby step toward establishing a full-blown position of State Paleontologist.

When I first put this and a few other bills out, the *Las Vegas Review-Journal* ran an editorial that looked at two of them and said, "This is a great bill, and this other bill is really bad." They liked the "castle doctrine" bill, but they did not like the State Paleontologist bill. They asked how did our great state ever survive without a State Paleontologist? So I wrote an editorial, which they published. That editorial says almost everything that I really want to say, so I will quote from it.

When they asked how Nevada ever got along without a State Paleontologist, I answered, "Poorly." I pointed out that Nevada has many priceless paleontological sites. We are one of the richest states in the Union regarding paleontological sites and fossils. I gave one example, the 13,000-acre Upper Las Vegas Wash, which is also known as the Tule Springs Wash. It has one of the most valuable paleontological resources in our nation—perhaps in the world. In the early 1960s the National Academy of Sciences, initiated an excavation of just 1,000 of those 13,000 acres in the Upper Las Vegas Wash. They invited scientists from all over the world to come and dig. The scientists included many ground scientists—the paleontologists and the archaeologists.

It was a tremendous project. Some of the biggest earth-moving equipment in the country worked this site. Bulldozers dug trenches 35 feet deep and thousands of feet long in this 1,000-acre site. The scientists collected on the order of 10,000 fossils. Then I asked the *Review-Journal*, where were these wonderful, valuable, unearthed fossils being studied and the skeletal models being replicated? Were they in the paleontological laboratories of the University of Nevada, Las Vegas (UNLV) or the University of Nevada, Reno (UNR)? The

answer was "no." We did not have a State Paleontologist who could take charge of the "loot," and we did not even have sufficient archival space to store it. So those fossils went out of state, mostly to California. This is not a source of pride for our state.

In a study by the Bureau of Land Management (BLM), paleontologists from San Bernardino performed a surface survey of the entire 13,000 Upper Las Vegas Wash and discovered 500 sites where bones were sticking out of the ground. We had the most wonderful animals here. We had Ice Age mammoths. We had camels and llamas. My favorite is the North American lion. We had lions here! We had sloths. This site is so rich that it far exceeds a California site that most of you have heard of, La Brea Tar Pits. It has a wider time-range of fossils and a larger variety of fossils. It is mind-boggling how rich Upper Las Vegas Wash is paleontologically.

I continued in my *Review-Journal* editorial with the comment that if Nevada had a State Paleontologist, it might have made the difference between hiring Californians and hiring Nevadans to do this work. We hired the people from San Bernardino, and guess where the fossils went? They went out of our state again. They went to San Bernardino. We have this terrible situation where we have all these treasures and we do not study them here. It is a slap in the face to our paleontologists and our scientists here in Nevada. They have to go to California to study our own treasures.

I have people with me today who are much more knowledgeable and who I would like to testify before the Committee. To get this bill to have no fiscal note, I talked at length with Michael Fischer, Director of the Department of Cultural Affairs, who is responsible for the museums where most of this material would have resided. Michael thought it was a good idea, though I am not going to put words in his mouth; I am going to ask him if he will tell us a little about that.

Chair Kirkpatrick:

Assemblyman Mortenson, let us see if there are any questions from the Committee.

Assemblyman Christensen:

I appreciate your efforts on this. We have discussed this topic many times throughout the years. I am pretty much a lifelong Las Vegas and, until I was elected, I had no idea that Nevada had all these paleontological sites in the north part of the Las Vegas Valley. Now both Assemblyman Atkinson and I represent that area. This is great. I applaud your efforts.

You said that Nevada is one of the richest states in terms of paleontological finds. I was unaware of that before you described the different animal fossils and other finds. I was curious, are these finds primarily in the southern part of Nevada, or are they all over the state?

Assemblyman Mortenson:

They really are all over the state. I have a book published by the State of Nevada about Quaternary fossils, and it describes sites all over the state. I was unaware Nevada had so many fossils, myself. My wife and I, along with the Protectors of Tule Springs (POTS), work very hard to save the archeological and paleontological 13,000-acre area of the Upper Las Vegas Wash. I have provided a brochure and a letter of support from POTS ([Exhibit C](#) and [Exhibit D](#)).

We met with Senator Harry Reid and he got excited about all the evidence of these ancient animals. He was especially enamored with the giant North American lions.

Assemblyman Christensen:

I know that you and Mrs. Mortenson have worked tirelessly to bring attention to this subject. I have spoken recently about these efforts with constituents of mine who are part of POTS. What children love now, and what I loved when I was a kid, are dinosaurs. Kids are fascinated by the part in *Jurassic Park* when they find the velociraptor bones. Given that these finds are all over our state, I would love to see this developed so children could take field trips and really understand that long range of history. I just want to share that this is a move in the right direction.

Assemblyman Mortenson:

Jill DeStefano is the one who started POTS. She has done a wonderful job.

Assemblyman Christensen:

She is the one with whom I spoke.

Assemblyman Mortenson:

I have included letters from UNLV and a number of supporters of this bill ([Exhibit E](#), [Exhibit F](#), and [Exhibit G](#)).

Assemblyman Bobzien:

I think the action shot of Mrs. Mortenson on the cover of this pamphlet is fantastic. I would like to talk about the amendment ([Exhibit H](#)). On page 3, section 1, subsection 3, line 28, it says the State Paleontologist shall "permit and promote paleontological research activities within this state." Are you

envisioning that anyone who wants to dig for fossils would have to go through this administrative position to get a permit? Do you want to set up a regulatory structure where anyone who digs has to go through this office? What are you envisioning?

Assemblyman Mortenson:

I would like to have Mr. Fischer discuss that topic. That is all in his bailiwick; he currently issues permits as required by BLM.

Michael E. Fischer, Director, Department of Cultural Affairs:

I will happily refer any technical questions to Brad Kosch because, as a dentist, I spent my years fixing teeth that were not nearly as old as the ones we are discussing.

To answer Assemblyman Bobzien's question, we currently issue a Nevada Antiquities permit. Federal resources on federal land require a federal permit. Even the person in our office who issues that permit cannot get that permit because of a technical disclaimer. There is a permitting process in existence now.

Chair Kirkpatrick:

Assemblyman Mortenson, I do not want to speak for your bill. To prevent the park from being closed, the state gave Floyd Lamb Park at Tule Springs to the City of Las Vegas two years ago. We worked with the people from POTS to allow the community to be a part of the process. I think that is what you were wanting, that groups could work within the museum. Is that right?

Assemblyman Mortenson:

Yes. Actually, that is the most wonderful part of this. Volunteers can be trained to excavate at digs. They will always excavate under the supervision of a professional. I also want to ask Mr. Fischer if he will talk about the amendment and the reasoning for it.

Chair Kirkpatrick:

First we need to get to other questions, and then we can go over the bill.

Assemblyman Claborn:

This is not really a question. Mr. Mortenson, when you were talking about the heavy equipment moving all that dirt and all those bones, it reminded me, I am sorry to say, that I was one of those who moved those bones back in the late 1950s working for Twin Lakes Construction. I am sorry and I apologize.

Assemblyman Mortenson:

That is great. I had no idea. That is terrific.

Assemblyman Goedhart:

Regarding the 13,000 acres you have described, is that area protected under the BLM?

Assemblyman Mortenson:

Unfortunately, that land is currently in a disposal area. The BLM is considering whether that land should be released for sale to the public for development. There have been so many voices raised against that proposal; I am hoping they will not do it. After our meeting, even Senator Harry Reid wrote us a letter saying that we need to protect this area. I cannot guarantee that will happen, but I am hoping that we can preserve this site, not just for posterity, but for the scientific work that needs to be done.

Chair Kirkpatrick:

Does anyone else have any questions?

Michael Fischer:

The Department of Cultural Affairs is supportive of this bill. [Read from prepared testimony ([Exhibit I](#)).]

In the amendment you will notice one small technical section in section 1, subsection 3, lines 18 through 24, which gives us some room to do the duties as we have the resources. We have a person who has edited paleontological reviews. He happens to be an anthropologist with a background in paleopollen—it can get quite esoteric in this world. We are comfortable with the amendment and support the bill.

Chair Kirkpatrick:

Does anyone else have any questions for Mr. Fischer?

Michael Fischer:

May I add one more comment? I am aware of paleontological resources such as Berlin-Ichthyosaur State Park, where Brad Kosch worked. A woolly mammoth was found up in Elko County and is now in the Northeastern Nevada Museum, which is a private museum. Fossils are clearly widespread in Nevada.

Assemblyman Mortenson:

I would like to introduce Brad Kosch. He is retired but has a very long active career in paleontology and would like to say a few words.

Brad Kosch, Private Citizen, Retired State Parks Employee, Carson City, Nevada:

I retired from the Division of State Parks a few years ago. I worked at Berlin-Ichthyosaur State Park, where I was involved in fossil resource management. I found out about this bill last night. When you are retired you are not in the loop, so I have not prepared a statement.

Nevada has been known as the world's collecting grounds for paleo resources. Even worse, Nevada is known for not taking care of the resources that it has. That is, in large part, because there is no central person in charge of monitoring fossil resources and being a spokesman for the state. This bill is a great first step.

My background involves starting paleo resource management programs. I went to Berlin-Ichthyosaur State Park in 1984. I was a zoologist, so I did not have a huge background in paleontology, but I realized that there was no program for managing these resources at the park. The fossils at Berlin-Ichthyosaur State Park have had a difficult history. There have been offers twice to cover them back up. When Dr. Charles Camp of the University of California, Berkeley began excavating the ichthyosaur fossils in the 1950s, he went to the Nevada State Museum, and they gave him \$50 to cover the site back up because they did not want to get involved. Later the fossils deteriorated. I might mention that times have changed since then, and the State Museum is now one of the great allies of paleontology in the state.

During my search for information on paleo resource management, I went to many places. One was the Dinosaur National Monument in Colorado. It has its own troubles; they closed the museum that housed the fossils. Another was the University of California, Berkeley (UC Berkeley), which is considered "the" paleontological institution of the West and is where most of Nevada's ichthyosaurs are currently located.

I was invited, at that time, to join a conference on fossil resources sponsored by the National Park Service. It was a week-long study that ran the whole gamut of managing fossils, from academics to law enforcement. It was an awakening experience on how to manage fossil resources. It also demonstrated that you need that first step, and that is what this State Paleontologist position provides. It gets the process started.

The National Park Service has developed a wonderful foundation of fossil management that is a good model. Many states can provide information. We do not have to re-create the wheel. Experts will come out of the woodwork to help you if you have someone leading the effort. This state needs someone to take the lead.

Nevada has a great history of paleontological discoveries. The first mammoth was found in 1850 by a traveler on the Emigrant Trail. The first ichthyosaur was excavated in 1862 and was taken to the California Geological Survey. The first publication about an ichthyosaur appeared in 1867. Those fossils are now at Harvard. It is not necessarily bad that the fossils are going somewhere else, if we cannot have a fiscal note and have the fossils handled properly in Nevada. Once a fossil is excavated, it needs be properly curated.

The ichthyosaur fossils from Berlin have had a difficult history. They were excavated and then stored in a garage in Washoe Valley for 10 years because no one knew what to do with them. The fossils were taken to UNLV and then to the Nevada State Museum and Historical Society in Las Vegas. That was probably the best thing that ever happened to them; that museum really has an appreciation for those fossils and their value. They are the types of specimens that define *Shonisaurus popularis*, the Nevada state fossil.

The position of State Paleontologist really is the first step. I think this position can generate a huge amount of volunteer support to get things done.

Assemblyman Stewart:

Assemblyman Mortenson, I appreciate the great work you are doing. I take my grandchildren to the State Museum at Lorenzi Park in Las Vegas. The new museum is being built next to the Las Vegas Springs Preserve. Will that have sufficient space and will it store some of the fossils? Is there more cooperation now than there has been in the past between the Division of State Parks and the museums?

Brad Kosch:

There is a huge amount of cooperation. There is the *Shonisaurus* exhibit at the State Museum in Las Vegas. My wife has a Ph.D. in paleontology from UC Berkeley, and I have a lot of background on how Berkeley does things. I might mention that she thinks this bill is incredibly important. When they were designing that exhibit, the State Museum called us to ask about ichthyosaur fossils. Because the museum is much more up to date on collection and curation, we call them for information. There is very good cooperation.

Michael Fischer:

Yes, we will have adequate space to store the fossils. We are not scheduled to open because of some fiscal constraints. Within the Governor's budget as it exists now, there is not enough money to build the exhibits, but there has been interest in our department's number-one priority, which is to build the exhibits. It takes 13 months to build the exhibits before the museum can open. Staffing

is obviously a question. I know this is not the money committee, but there clearly is interest in moving the museum along. We do have adequate space.

Assemblyman Stewart:

I would like to ask a follow-up question. Are you going to close the Lorenzi Park museum when the new one is built? Is there coordination between the Springs Preserve efforts and the museum?

Michael Fischer:

We have a very good working relationship with the people at the Springs Preserve and their parent company. We are very comfortable with that going forward and being symbiotic, where both gain from the museum being open. What was your other question?

Assemblyman Stewart:

Are you going to close the Lorenzi Park museum when the new one is completed?

Michael Fischer:

Without burdening you with all the details, Lorenzi Park has in its lease an obligation to maintain that building as a museum. We have been in discussions with the City of Las Vegas to find the most rational way of using that building. In the previous session it was addressed as a capital improvement project (CIP) to convert the back portion of the building to an area for record storage—much needed in southern Nevada—and the front portion being a very small museum component.

We are having discussions with the city to see if there is some other way to address those needs without the state being adversely impacted by losing a \$6 million to \$8 million building.

Assemblyman Stewart:

There are no plans to convert it to a Mob Museum?

Michael Fischer:

It has a small component of that right now, including the door to Bugsy Siegel's suite and one of the stock certificates from the corporation that he set up. So there is a small component naturally related to the history of Nevada.

Chair Kirkpatrick:

Does anyone else have any questions? Thank you, Assemblyman Mortenson. I went to the Upper Las Vegas Wash on tour years ago and saw the scientists from San Bernardino. They had found one of the camel bones, and it was exciting to be part of that process. With the Tule Springs park and the work of the folks protecting the Upper Las Vegas Wash, Nevadans in the long run will be able to join this effort. I have often talked with Mrs. Mortenson about getting younger kids involved and working with our vocational schools and the university. History will keep moving forward, and we will continue to do great things in our state. I thank you for your involvement.

Would anyone like to testify in support? I know we have Mrs. Mortenson in Las Vegas. Good morning.

Helen Mortenson, President, Las Vegas Ice Age Park Foundation, Las Vegas, Nevada:

I would like to defer my comments to the end of the presentations from Las Vegas. I would first like to introduce Dr. Stephen Rowland of the Geoscience Department at UNLV.

Stephen Rowland, Professor, Department of Geoscience, University of Nevada, Las Vegas:

In addition to being a geology professor, I am also a paleontologist, one of the very few professional paleontologists currently working in the State of Nevada. Mostly, I would like to reconfirm the testimony of Assemblyman Mortenson, Brad Kosch, and Michael Fischer. First of all, Nevada is a fantastically rich state in terms of fossil resources. That is true not only in southern Nevada but all over the state. This includes not just vertebrate fossils such as mammoths, ground sloths, camels, and horses, but also invertebrate fossils such as trilobites and corals extending over hundreds of millions of years. We truly are one of the most paleontologically rich states in the nation and in the world.

I would like to give you one short example of why we need this position. A few years ago, the first dinosaurs ever discovered within the State of Nevada were discovered in Valley of Fire State Park by a group of researchers from Montana State University. Because it happened to be in a state park, they were working very cooperatively with the people from the Nevada state park system. Those fossil dinosaurs are currently at the Nevada State Museum in Lorenzi Park, in Las Vegas, where they are enjoyed by school children and others. We have that legacy here in Nevada to enjoy preserving such fossils and to inspire future generations of paleontologists and citizens. If those dinosaur fossils had not been on state park land, it is extremely likely that they would be in the state of Montana right now. Even though fossils are an extremely important part of

Nevada's historical legacy, there has simply not been any systematic tracking of who is working in the state on paleontological issues and where the fossils go.

I strongly support this bill. It is an important first step in taking care of Nevada's fossil resources for future generations.

Chair Kirkpatrick:

Thank you. Does anyone have any questions? Thank you very much, Mrs. Mortenson. Is anyone else there in Las Vegas who would like to testify in support of this bill?

Helen Mortenson:

Yes. I would like to introduce Aubrey Shirk and Josh Bonde to speak. Josh Bonde was the person who, in 2004, discovered our dinosaur fossils in the Valley of Fire.

Aubrey Shirk, Ph.D. Student, Department of Geoscience, University of Nevada, Las Vegas, and President, Nevada Friends of Paleontology, Las Vegas, Nevada:

I am a student of Dr. Stephen Rowland. The Nevada Friends of Paleontology was started about two years ago, and we have academic, professional interests as well as public interest. One of the group's aims is to get the public involved and teach people more about our fossil resources. We present distinguished lecturers. We also hold excavations. Through this process, John Bonde, Dr. Rowland, and I teach interested parties how to conduct a professional excavation. The public interest in southern Nevada is very great. We have an extensive membership base and we are growing daily.

I wanted to say, on behalf of the Nevada Friends of Paleontology, that we support this bill.

Josh Bonde, Ph.D. Student, Department of Geoscience, University of Nevada, Las Vegas:

I was involved in the research project that discovered the dinosaurs in the Valley of Fire State Park. As part of my master's program, I was fortunate to work under Jack Horner, who is the State Paleontologist for Montana. I have also had a good working relationship with Jim Kirkland, who is the State Paleontologist for the state of Utah. Both of those men do a great job and are very supportive of paleontology in their states. They do not exclude other people from doing research within their states, but they make sure that tabs are kept on all their state's resources. I think that a State Paleontologist would be a great benefit to the State of Nevada.

Chair Kirkpatrick:

Does anyone have any questions? Thank you very much for coming out to testify.

Assemblyman Aizley:

As a matter of complete disclosure, I am a former UNLV professor, and I have been to Africa with Stephen Rowland and attended his very impressive lectures at the Riff Valley. I would also point out that, in years past, UNLV offered continuing education courses on how to do a dig at archaeological, if not paleontological, sites.

I would like to thank Stephen Rowland for his testimony.

Chair Kirkpatrick:

Mrs. Mortenson, would you like to wrap it up for us?

Helen Mortenson:

I would like to introduce Thalia Dondero. She is a board member of the Las Vegas Ice Age Park.

Thalia Dondero, Member, Board of Directors, Ice Age Park Foundation, Las Vegas, Nevada:

I have been on the State Park Commission and was there when the ichthyosaurs were discovered and Berlin-Ichthyosaur was made a state park. My message is very short. I think all fossils, bones, artifacts, and historical pieces of native Nevada found at paleontology digs should come back to Nevada. I think there is a federal law that says that items dug out of a state should remain in that state. I think that should be researched and, probably, all those bones and fossils dug up in Nevada years ago should be brought back to Nevada for display.

Chair Kirkpatrick:

Thank you. Does anyone have any questions?

Brad Kosch:

I would like to follow up with something Dr. Rowland had said. He does an excellent job, and I would like to mention that you could not have a better person at UNLV. Regarding the fossil that Josh Bonde excavated—the first real dinosaur in Nevada—I wrote the permit for that excavation and determined that it would go to the museum. That is another example of how the State Museum and State Parks have worked together and coordinated where the fossils will go. The resource officer for State Parks was very close to turning down that excavation. This is symbolic of the paleo-resource problems nationwide. The

only reason that permit was handled successfully is because I had attended National Park Service seminars on permitting. This is another reason why a State Paleontologist should be in place. If that fossil had not been excavated, it would have eroded away and disappeared from the record.

Chair Kirkpatrick:

Thank you. Mrs. Mortenson, would you like to wrap it up?

Helen Mortenson:

I certainly would. Thank you very much for the committee hearing. All of the people in Las Vegas who came to testify appreciate your time. I want to let you know that paleontology is the overlooked treasure of our state. We do have a state fossil, the ichthyosaur; but how many of our citizens have visited Berlin-Ichthyosaur State Park, where a complete skeleton approximately 55 feet long—the largest ichthyosaur in the United States—resides. We have the imperial mammoth of Black Rock. We have the short-faced bear of Ely. The short-faced bear is a huge predator bear that was 5 feet at the shoulder and 11 feet tall when it stood on its hind legs. I am 5 feet 2 inches, so you can see how big that bear would be at the shoulders. I understand it is one-third larger than the grizzly bear.

The mastodon is in a beautiful museum display in Elko. In Tonopah there are Ice Age horses and huge herds of Columbian mammoths. Ice Age bison, horses, and camels ran in the Las Vegas Valley and in the Upper Las Vegas Wash. In fact, all 17 counties in our great state have Ice Age fossils. I refer you to the Nevada State Museum *Catalogue of Late Quaternary and Holocene Fossil Vertebrates from Nevada* which will help anyone in any county see what fossils have come out of our state. They may now be in California or Arizona, but these fossils were found in our state.

I looked at early reports by Chester Stock and other paleontologists who came through Nevada. We have an antelope in Thousand Springs that may be the precursor of the pronged antelope. Our state is full of Ice Age fossils, plants, and seashells; we were covered by a huge sea at one time.

This is so significant for private landowners, educators, legislators, and tourism advocates. Nevadans need to know that this is an important resource for scientific education. When we go to schools to talk about the Ice Age Tule Springs area, and I bring a mammoth tooth for students to see, I ask the children, "How many of you know what a mammoth is?" They all shoot their hands up; they have seen the movie *Ice Age*. They all know what a mammoth is. I say, "Do you know there were herds of these mammoth elephant-like

creatures running through your backyard at one time?" and they get very excited about that.

For the ecotourist, we offer a special reason to visit our state. With so many large paleontological sites in the state, we are planning to organize and train volunteers to help the professional paleontologists inventory what is in our state. Those are some of the reasons that the State Paleontologist is so very important.

One last thing. Professor Steve Rowland, with the help of Bill Gilcrease of the Gilcrease Paleo Camp has worked tirelessly to educate the public about the wonderful treasures of our state. They have people—from children to 90-year-olds—come out and help excavate the site, which is on private land; that is why we can do it. This excellent program is under the supervision of Aubrey Shirk, Josh Bonde, and Steve Rowland. It is well publicized and helps the community get excited about what is in our area. That could happen all over the state.

Jill DeStefano, who heads the Protectors of Tule Springs, and I have gathered over 9,000 signatures to encourage the BLM to look at this area and save it as a natural resource area—a recreation area with trails going to Floyd Lamb Park at Tule Springs and to Shadow Ridge High School.

I would love for this small step to be taken. I appreciate the Committee hearing us and I do hope that you vote to support A.B. 305.

Chair Kirkpatrick:

Thank you. Does anyone have any questions? Is there anyone who would like to testify in opposition to A.B. 305? [There were none.] Is there anyone who would like to testify neutral on A.B. 305? [There were none.] We are going to close the hearing on A.B. 305.

Assemblyman Mortenson, I think you have made a pretty good case for Assembly Bill 306 designating April as "Paleontological Awareness Month," so if you would like to make a quick presentation, that would be fine.

Assembly Bill 306: Designates the month of April of each year as "Paleontological Awareness Month" in Nevada. (BDR 19-1085)

Assemblyman Mortenson:

Ditto on my presentation.

Chair Kirkpatrick:

That works for me; how about the Committee? Is there anyone in Las Vegas who would like to give the same ditto for A.B. 306? We can see by a show of hands those in support. [All in Las Vegas raised their hands.] Is there anyone who is in opposition of A.B. 306? [There were none.] Is there anyone who is neutral on A.B. 306? [There were none.] With that, we are closing the hearing on A.B. 306. Thank you, Assemblyman Mortenson. That was the fastest hearing we have ever had.

We are opening the hearing on Assembly Bill 130.

Assembly Bill 130: Revises provisions governing the approval by a metropolitan police department of negotiated agreements under the Local Government Employee-Management Relations Act. (BDR 22-632)

Chair Kirkpatrick:

We are opening the hearing on A.B. 130. Good morning, Mr. Kallas.

David F. Kallas, Director, Government Affairs, Las Vegas Police Protective Association Metro, Inc., Las Vegas, Nevada:

I am here today to ask the Government Affairs Committee to support A.B. 130. My hopes are that the entire Committee has received the association's amendment to the original A.B. 130 ([Exhibit J](#)).

I would like to give you a brief history of what brought us here. In Las Vegas we have a unique situation created in 1973 by Senate Bill No. 340 of the 57th Session, which combined the City of Las Vegas Police Department and the Clark County Sheriff's Department into one organization, the Las Vegas Metropolitan Police Department (Metro), to effectively and efficiently provide law enforcement services to Clark County. With any large consolidation, there are always problems and challenges to be worked out.

In 1981, they came back to the Legislature with concerns regarding funding issues. At that time Senate Bill No. 386 of the 61st Session was composed. During the hearings on S.B. No. 386, one change was made that impacted the organization's employees, and that is the reason I am here. That is in regard to how the Metropolitan Police Department, which is funded by two separate entities, negotiates contracts with its employees.

The initial legislation in 1973 created the Police Commission to oversee the fiscal responsibilities of the Metropolitan Police Department. The Police Commission was composed of elected representatives of both the County Commission and the City Council.

In 1981, in order to iron out some of the bugs in S.B. No. 386, legislation changed the terminology, and that group's name was changed from the Police Commission to the Fiscal Affairs Committee. The legislation also allowed the Fiscal Affairs Committee, which was obligated to participate in the collective bargaining process along with the Sheriff, to designate a representative rather than sit in negotiations themselves. That is what has brought us here today.

For the last 28 years, it was the belief of the Fiscal Affairs Committee that they had 100 percent oversight with regard to the collective bargaining process between the employer—the Metropolitan Police Department—and its employees. Rightfully so, the Legislature gave the Fiscal Affairs Committee some oversight into that process because those entities were financially responsible for the funding for the Metropolitan Police Department.

In the *Nevada Revised Statutes* (NRS) 280.320, part of the amendment that I proposed, the language you see there minus the amended portion, is the same language that has been in the statute since 1981.

Unlike most employee/employer relations, when our employees negotiate their contract, it is not just the employer who is present. The statute mandates that either the Fiscal Affairs Committee members themselves—two County Commissioners and two City Council members—or their designee must participate in the negotiations. The reason they do so is because they are responsible for the financial subsidy to Metro for its budget. We do not disagree with their participation in the collective bargaining process because we understand the accountability aspect. What we disagree with, and why we propose this amendment, is because of a circumstance that took place in 2005.

We began our contract negotiations in February 2005. Present were the Sheriff and his designee, the Fiscal Affairs Committee and their designees, and a representative of the Las Vegas Police Protective Association. Sometime in September 2005, after almost eight months of negotiations, we reached a tentative agreement. That was agreed to by the representatives of our employer—the Sheriff's designee, the County's designee, and the City's designee. They did not all sign—it is just the Sheriff's designee who signs—but they participated in that good-faith collective bargaining process. On behalf of the association, our chief spokesperson signed that tentative agreement.

I am not sure where the system broke down, but after the tentative agreement was reached, the contract ceremonially went back in front of the same body that participated in the negotiations in an open, public meeting for approval. That appears to be where the system broke down. Between the time we signed the tentative agreement and the time that we went before the Fiscal Affairs

Committee—a meeting which we believed was ceremonial—one of the Fiscal Affairs Committee members was outspoken about his support of our contract. That did not set well with the County Commission. Based on the original language contained in NRS 280.130, which said that their representatives sat at the pleasure of their boards, the County Commission removed one of their representatives, Tom Collins, and replaced him with another representative, Rory Reid. At the Fiscal Affairs Committee meeting on the contract issue, Rory Reid voted "no." Eight months of good-faith bargaining went out the window because the Fiscal Affairs Committee believed it was their responsibility, once the contract was agreed to in the contract room by all the parties involved, that it ultimately had to come back in front of them.

I have reviewed the entire legislative history since the enactment of S.B. No. 340 in 1973, and nothing in the legislative history indicated that paid employee contracts between the Las Vegas Metropolitan Police Department and any of the employee groups needed to come back in front of the Fiscal Affairs Committee for final approval, the reason being that they were mandated by legislation to actually participate in the negotiations themselves.

Unlike contracts for purchases of vehicles or radio systems, which must be brought before the Fiscal Affairs Committee, this situation between the employee group and the employer required that the funding sources participate in the negotiations so they could understand what the Sheriff was doing with his budget. There would be accountability in that they would not give the Sheriff \$10 million, so to speak, and then he would decide to use \$5 million for compensation for his employees and \$5 million for law enforcement services, which would not provide the taxpayers with the type of law enforcement they have earned and deserved. In order to ensure that the Sheriff or his designee was not providing inordinate amounts of compensation to their employees, it was mandated that members of the Fiscal Affairs Committee participate in those negotiations.

Based on what occurred in 2005, we spoke with Assemblyman Conklin, and with his and the other cosponsors' support, Assembly Bill 130 was brought in front of the Government Affairs Committee. We ask that we memorialize for the city, the county, the Metropolitan Police Department, and the Fiscal Affairs Committee that they understand their roles during the collective bargaining process and to ensure that an egregious situation does not take place as it did in 2005, when an elected official, representing his constituents, had decided to make a decision regarding a contract, and because other members of his body disagreed with him, he was embarrassed, removed from that board, and replaced by someone who had a predisposed opinion, even though he had not been involved in any of the conversations during the prior eight months.

That is why you see, under NRS 280.130 in the proposed Amendment to A.B. 130, that it requests that each representative of a participating political subdivision must be a member of its governing body and serves—this new language—a two-year term unless they voluntarily discontinue participation.

I will be happy to answer any questions from the Committee.

Chair Kirkpatrick:

Thank you, Mr. Kallas. Does anyone have any questions?

Assemblyman Munford:

I am confused to some degree. I remember when this situation was in the news in 2005. Are you asking that no one from the County Commission sit on this negotiating committee?

David Kallas:

No. We understand the need for the elected officials to participate in the process. They have to be accountable to taxpayers; they have a fiduciary responsibility. The legislation enacted in 1973 mandated that they participate in the collective bargaining process. When it came back to the Legislature in 1981 to work out some financial issues—in regards to how much the City of Las Vegas and Clark County paid—additional changes were made to the section of statute dealing with collective bargaining agreements. Rather than mandating that County Commissioners and City Council members sit in on the negotiations with the Sheriff, they were allowed to designate someone to sit in on negotiations on their behalf. What we are saying is that if you are going to designate someone to negotiate on your behalf, then they must have the authority to negotiate. If not, then they should not be in the room negotiating and we should revert back to the pre-1981 legislation. In that legislation, County Commission members and City Council members were mandated to participate in the negotiation process. [A newspaper article ([Exhibit K](#)) and a statement entitled "Finances" ([Exhibit L](#)) were distributed.]

As busy as City Council members and County Commissioners may be, we realize that is unrealistic. We understand that they may have to designate people to participate. Our concern is about having a designated individual participate when they do not have the authority to negotiate. This is not done in a vacuum. No doubt, before they designate people to participate in the contract talks, they meet with them. They brief them in closed personnel sessions to discuss the boundaries of agreements they are willing to make and those they will not. These meetings and boundaries are decided before they walk into the negotiation room.

So those designees, whether they are from the county or the city or from the Metropolitan Police Department, understand beforehand the direction from their bosses—the County Commissioners, the City Council members, and the Sheriff.

Assemblyman Munford:

Thank you.

Assemblywoman Spiegel:

I would like to clarify something in the amendment that was distributed. Regarding the change to NRS 280.130 where it says, "Each representative of a participating political subdivision must be a member of its governing body," you are going to delete "and serves at the pleasure of the governing body making the appointment" and replace it with the language that you put in. Is that correct?

David Kallas:

Yes, Assemblywoman Spiegel. This is so that no elected official ever gets embarrassed again like the Commissioner did in 2005 and also to add stability to our Fiscal Affairs Committee. Their function is important. They provide the budgetary oversight for the Metropolitan Police Department, the Sheriff, and his employees. I think it is important to have some stability.

Assemblywoman Spiegel:

At the bottom of that page under NRS 280.320, on point number 3, we have "Notwithstanding any specific statute to the contrary, the persons who represent the department in such negotiations have the exclusive authority." In the original bill, it said "by a majority vote of those persons," and then in the amendment it does not. Why has that change been made?

David Kallas:

Assemblywoman Spiegel, we changed it because, for purposes of negotiations, the Department is one entity, even though there are actually three entities present. No one but us negotiates with three entities in a contract. The City of Las Vegas is present, Clark County is present, and the Metropolitan Police Department designee is present. We believe they function as one, so we did not think it would be proper if two of the three votes split, and then the city and Metro could obligate the county to pay its percentage even though the county may have disagreed. They have discussions beforehand, so that when they come in to negotiate, they all should be on the same page. That is why we decided to remove that language.

Assemblyman Stewart:

Maybe this is redundant, but I just want to have this clear in my mind. There are two City Councilman, two County Commissioners, and one Sheriff on the committee. The Sheriff appoints a representative, the two County Commissioners appoint one representative, and the two City Councilmen appoint one, so there are three people at the table, right?

David Kallas:

Assemblyman Stewart, that is correct.

Assemblyman Stewart:

Once they agree unanimously, you expect that to be the final decision?

David Kallas:

Assemblyman Stewart, yes. Whether they agree unanimously or not, it is not our position to say whether there is unanimous agreement. We believe that once both parties—our organization, or any other organization within the Police Department, and the Department itself, being made up of those three entities—sign a tentative agreement, then that agreement should be final and binding.

Assemblyman Stewart:

All three would sign the tentative agreement, and that would be the end of it?

David Kallas:

All three would not sign the tentative agreement. The person who would sign it on behalf of the Department would be the Sheriff; the person who signs it on behalf of the Las Vegas Police Protective Association is our Executive Director.

Assemblyman Stewart:

But they all would agree to it verbally?

David Kallas:

I would believe that was true, based on their discussions in their closed personnel sessions, and we are not privy to those. I believe when they walk into the negotiations room, they know what the parameters are that they received from their elected County Commissioners and elected City Council members.

Assemblyman Claborn:

I have been in that position before. It is like telling the person who is negotiating for you, "Here is a pistol. Go in there and do something and get it done." Then the negotiator says, "Wait a minute! Do not send me into that

room to negotiate with this pistol unless you give me some bullets for this. Then I will go in there and negotiate."

It is the same old thing. If they do not have the right to make a bargain agreement and stick to it, then what is the reason for them to be in there?

I support this bill wholeheartedly.

David Kallas:

Assemblyman Claborn, thank you.

Assemblyman Settlemeyer:

I understand the concept. You want to make sure that the individuals in the room have the right and the power to negotiate. I was wondering if the bill should be modified so that every individual in the room will have to stick by their word, not just the Department.

David Kallas:

Assemblyman Settlemeyer, the way the statute is set up, I do not think that you can obligate every individual in the room based on the provisions of NRS Chapter 280 and the unique way the Metropolitan Police Department is financed. The purpose of having representatives of the city and the county in negotiations is to ensure that taxpayer dollars are being spent appropriately. But the Sheriff is still our employer for purposes of budget and compensation. When that contract is signed, by statute it is signed between the employee organization and the employer, which is the Sheriff.

However, because of the financial makeup of the Metropolitan Police Department, the statute also provides for the other parties to be in the room. I think it would complicate things if the City of Las Vegas and Clark County and the Sheriff were all required to sign it. They have to be in there, I believe, for accountability to their taxpayers.

Assemblyman Settlemeyer:

As a follow-up, I am saying that the people in that room should have the authority to say something, so that if the employee organization makes an agreement, then its word, as well as that of the employer entities, has to be worth something, too. Whoever the representative may be, he has to have the power; that is what I am trying to say.

David Kallas:

Again, Assemblyman Settlemeyer, I do not disagree. However, according to our bylaws, our members want to be able to see and ratify the contract to which

the negotiators agreed. That is the only difference in the way the system operates.

Assemblyman Settlemeyer:

Should the Department have the same right, to have the agreement ratified by the rest of its entities rather than by one representative?

David Kallas:

Again, Assemblyman Settlemeyer, I would believe that they have the ultimate authority to make that decision as the head of the agency. I do not think that they have to ask their subordinates permission to have the agreement ratified. With us, we work for the members; they are our employers, so to speak.

Assemblyman Claborn:

Let me try to set my mind right. For over 24 years, I negotiated many contracts for the Operating Engineers. When we struck a bargain with the contractors, we made a tentative agreement and then had to get ratification. We called a union meeting, and the members ratified the contract. I am confused here, because if members did not ratify what we had negotiated and insisted on something else, that is when I say, "Do not send me back there unless I can come back and almost guarantee that we can ratify this." It is a tough question. I find it hard to understand what you are trying to put together.

David Kallas:

I was answering Assemblyman Settlemeyer's question. I agree that both parties have the responsibility to negotiate in good faith. The difference is that the representatives of the city and the county are the ultimate decision makers in their organizations, while as representatives of members, we are not the ultimate decision makers; the members are, just as in your case when you said you had to go back for ratification. It is procedural in nature. I can recall only one time in the last 30 years when a contract was not ratified.

I do not disagree that it appears to be a double standard, we are talking about heads of organizations who have the ultimate authority to make decisions, and people who are representing organizations and do not have the authority to make those decisions.

Assemblyman Claborn:

The way I understand it, the county and the city are mandated to be in the room with you when you are negotiating. When you go back to your membership with a tentative agreement and they do not ratify it—or even if they do ratify it—and the other people you are negotiating with do not like it, what kind of a negotiation is that?

David Kallas:

Assemblyman Claborn, I agree with you. When we walk out of there, we believe we have a tentative agreement, so both parties have one last obligation: our department needs to include that in their budget, and the association needs to make the sure the members ratify it.

Assemblyman Claborn:

Well, I am with you now. It is still a little hard to understand.

David Kallas:

I understand.

Chair Kirkpatrick:

Does anyone else have any questions for Mr. Kallas? [No response.] At this time, I have a disclosure to make: my son-in-law is a Metro officer. I do not think that this materially affects me. I do not know anything about his financial position except that he does not live with me. Assemblyman Aizley, do you have anything?

Assemblyman Aizley:

My son David Phillips is also an employee of Metro, and I do not think this affects him in any special way either.

Chair Kirkpatrick:

Is there anyone who is in support of A.B. 130 who would like to testify? [There were none.] Is there anyone who is neutral on A.B. 130 who would like to testify? [There were none.] Is there anyone who is in opposition?

Ted Olivas, Director, Administrative Services, Government and Community Affairs, City of Las Vegas, Nevada:

As you can imagine, this is a difficult bill for us. We are in opposition. We have talked with Mr. Kallas the many times he has reached out to us. I certainly appreciate that. I also have talked to the sponsors of the bill. I, too, have looked at the legislative history of this section of the law in 1973, 1981, and a minor change in 1999.

As Mr. Kallas indicated, in 1973 they said we should probably consolidate these two departments, based on a recommendation from the 1971 Legislature, and they did a study. Interestingly enough, the only person I could find who is still here today is Marvin Leavitt, who was involved in the financial side of the study which the Legislature requested. So in 1973 they put together legislation and created a Police Commission to be responsible for the labor negotiations. At the time, that commission was made up of seven members—the sheriff, three city

representatives, and three county representatives. As you can imagine, trying to get those seven elected officials in a room to negotiate a contract with the union probably was difficult at best.

There was a lawsuit in 1981 regarding how the Metropolitan Police Department was put together. In so doing, they said, "Well, if we can pass some legislation to clean this stuff up, then the lawsuit will go away." In 1981, the Legislature made a number of minor changes. The Police Commission was changed to the Fiscal Affairs Committee—key words, "fiscal affairs."

A change was also made, as Mr. Kallas mentioned, that the Committee, or two or more persons designated by it and the Sheriff, or a person designated by him, represent the department in those negotiations. The composition of the committee was changed from seven to five members. The Sheriff was booted off, no disrespect intended. They had two city representatives, two county representatives, and one representative from the general public so there was a neutral fifth person on the Committee. In 1999, there were some minor clarifications about school police units.

The Las Vegas Metropolitan Police Department submitted its Fiscal Year 2010 tentative budget. That budget was \$549 million. Of that \$549 million, 87 percent is salaries and benefits—\$479 million. If just a portion of that relates to the labor negotiations—say half of that—that would be roughly \$240 million. I would submit to you that, as a Fiscal Affairs Committee, they are not going to delegate \$240 million of their budget to staff.

You can look at what other public agencies do. Our City Manager, our Mayor, and our Council members do not sit in on the deliberations with our labor organizations. They do not. The county does not. The school district does not. We have representatives—human resources professionals—who sit in and make the best deal they can. But before that deal is final, it goes before the City Council, it goes before the County Commission, and in this case, it goes before the Fiscal Affairs Committee.

As Assemblyman Claborn mentioned, when these deals are negotiated, the union still has to go to its membership, just as those representatives still have to go back to their membership, the members of the Fiscal Affairs Committee, to finally approve that agreement. They are the ones who are responsible for that organization. The committee had a name change in 1981, and it was not changed to the Policy and Procedure Committee but to the Fiscal Affairs Committee—it is about the money that they spend. The county spends a considerable amount of money every year for the Fiscal Affairs Committee, as the Legislature decided. The city of Las Vegas spends a considerable amount of

money. We need to have input into that process. It is good public policy. It has been working for 28 years.

As Mr. Kallas represented, there was no indication that this approval should not be delegated. There was no indication in this legislative history that there was any intent to delegate to a staff member the approval of something so important. They do not make those decisions. It is like this Committee, Madam Chair, when you have a Committee member meet with the folks about a bill and work something out. We do the best we can, but it is not a done deal until the Assembly Government Affairs Committee votes on the bill. You have to have the final say. We have to have a say.

If there is a need to clarify this law, then I suggest the provision should say that any tentative agreement resulting from the negotiations must be reviewed and approved by the Fiscal Affairs Committee in an open meeting. That is good government. I would be happy to answer any questions.

Chair Kirkpatrick:

Does anyone have any questions? [There were none.] I was thinking that was an amendment, Mr. Olivas. Did you want to print that wording out for us and drop it off and we would get it to everyone on Friday?

Ted Olivas:

Madam Chair, I know the protocol, and it was simply a suggestion.

Chair Kirkpatrick:

That was a very well versed suggestion, so I will accept it as an amendment.

Ted Olivas:

Thank you, Madam Chair. I would be glad to give you that statement and my comments.

Assemblyman Aizley:

Are you referring to an agreement's approval or disapproval, or are you also allowing for negotiations that change what the agreement was? I think there is a difference between just saying "yes" or "no," and allowing it to go back for further discussion, versus having the Fiscal Affairs Committee make changes at the end when the others do not have a chance to contribute.

Ted Olivas:

Assemblyman Aizley, that is a great question. The answer is that if that agreement went back to the Fiscal Affairs Committee, and it was not approved

in its current form, the only thing they could do is to send it back to the group to negotiate.

Chair Kirkpatrick:

Does anyone else have any questions?

Assemblywoman Pierce:

It seems really untenable. Why in the world would any organization sit there and negotiate month after month after month knowing that they are not negotiating with anyone who can make a decision or give their word? When a union negotiates, it is very rare that the union would not be able to get ratification. The negotiating committee, in my experience as a longtime union member, goes back and makes a very concerted effort to get members to ratify the agreement. They do a lot of education and work very hard to get it ratified.

Why would anyone negotiate with your committee now? As a negotiator, I am not going to sit there for eight months and look across the table and listen to people say things when I know they have essentially no say and no power. Not only that, during the entire eight months, they are talking to those who can make the decisions. It is clear that they did not because when they went back to the Fiscal Affairs Committee, all of a sudden the agreement is blown up. Why did it not blow up in the first or second month? Why was there no indication? This is untenable, what you are setting up. It makes no sense for anyone to negotiate with the committee that you are putting in the room now. They would have to be foolish to do that.

Ted Olivas:

Assemblywoman Pierce, I understand your question. The interesting part here is that 99 times out of a 100, the process works fine. At the end of the day, the Fiscal Affairs Committee needs to have the final authority. It is no different with the union than it is with the other two members who sit on that committee. They are doing the best they can on behalf of their organization. During that process, they are updating the members of the Fiscal Affairs Committee with what is going on with the negotiation, just as the union is doing. At the end of the day, once that tentative agreement is put together, the union still has to go to its members, and the other representatives still have to go to the Fiscal Affairs Committee.

Assemblywoman Pierce:

How many members are on the Fiscal Affairs Committee?

Ted Olivas:

Five.

Assemblywoman Pierce:

Mr. Kallas' organization represents thousands of people. There is a very practical difference in having ongoing communication with thousands of people and ongoing communication with five people. I do not understand how you can come back after eight months of negotiations and have it fall apart at the end. Was no one talking to the Fiscal Affairs Committee? What was happening behind the scenes?

Ted Olivas:

I cannot specifically answer your question regarding the situation Mr. Kallas brought up. Just as if we think we have a tentative agreement and Mr. Kallas' organization does not like certain parts of it, he would have to come back and say that he thought there was a deal but he could not sell it to the membership.

Chair Kirkpatrick:

I do not know a great deal about union negotiations, but I do know there is a lot of communication with the members as the process is moving forward. It would seem that if there is communication with the thousands of people, it should not be that hard to know that there are issues with the County Commission or the City Council with the direction that the Fiscal Affairs Committee is heading. I know for a fact that they do not wait until the end to say "this is it"; they are having conversations with their members all along.

Assemblyman Claborn:

Mr. Olivas, I have to disagree with you in regards to the idea that the government bodies negotiate just like the union. That is not really so. Mr. Kallas is stuck with two different situations. He has a negotiating team that should have the power to come up with a tentative agreement, but he has someone else sitting behind him. After the tentative agreement has been made with the two parties, the third party—the Fiscal Affairs Committee—says, "No, no, no, we cannot do that."

I was aware of how the Operating Engineers negotiated for 24 years. We did not take an agreement back to our membership—we took a tentative agreement back. It all relied on the membership agreeing to ratify that agreement. It was not an agreement until it was ratified. Therefore, if it is turned down by union membership, we would go back with the authority to see if we could agree to something else. If we could not, the last straw is to strike. I would say, "Listen, you do not want to go on strike if we can get some money." That is how it worked. I negotiated strictly with "yes" or "no" people. They did not have anyone else to answer to. If I negotiated with one contractor, it was between him and me. It is not between the owner of the company and me. Whether the company wins or loses, it is still the contractor and I who negotiate

the contract. But the membership still has to ratify it, and he has to abide by the binding agreement, which is called "bargaining in good faith." So I humbly disagree with you.

Chair Kirkpatrick:

Mr. Olivas, do you have a problem with the two-year term? I do not understand why any local government changes their boards in a year. It takes time to learn the system.

Ted Olivas:

My only concern is that unless they voluntarily discontinue participation, it may not work. Let us say that there is a member who continually does not show up to that committee meeting; would we not want the authority to swap that person out?

Chair Kirkpatrick:

If we are going to do that, there are a lot of boards where members do not show up.

Ted Olivas:

We are not proponents of that. That is my concern.

Chair Kirkpatrick:

That seems a little crazy to me, but I will give you that. The "voluntarily discontinue" idea could be a problem. What if they are sick? What if they are unelected? How would that process work? There are a lot of committees and boards where members do not show up. I am curious how they remove members and appoint new people to those positions.

Ted Olivas:

Potentially, there is a way to clarify that. There could be situations that create unintended consequences. I will think about it.

Assemblyman Stewart:

I want to go back to the five members. The City Council appoints two people. Is that right?

Ted Olivas:

That is correct.

Assemblyman Stewart:

They do not have to be members of the City Council, but they could be, right?

Ted Olivas:

They have to be elected.

Assemblyman Stewart:

So would they be members of the City Council?

Ted Olivas:

That is correct.

Assemblyman Stewart:

The county appoints two people—they are County Commissioners—and the other person is...

Ted Olivas:

The fifth person is elected by the other four; they get a neutral third party from the business community.

Assemblyman Stewart:

So they have a neutral third party. Once the agreement is tentatively reached, then it goes back to the five people, and they have to vote unanimously or what? What is the vote?

Ted Olivas:

I would assume the majority.

Assemblyman Stewart:

So we could have the two county people vote "no," and the other three vote "yes," and then it would be ratified?

Ted Olivas:

That is correct.

Assemblyman Goedhart:

Regarding the person negotiating on behalf of the Fiscal Affairs Committee, how does he communicate with the five members? With some committees the members cannot be polled because of the open meeting law. For example, if there is a five-member commission, each member cannot be called up to state their intended vote. Are there any types of binding laws that apply to the Fiscal Affairs Committee?

Ted Olivas:

Assemblyman Goedhart, I believe the same rules apply. What I cannot tell you is exactly the negotiation process. Mr. Kallas could do so. Yes, the open meeting rules apply.

Assemblyman Goedhart:

That would tend to prevent the Fiscal Affairs Committee's negotiator from having open communication on how each member was going to vote.

Ted Olivas:

That is correct, although I have not been that person. In our situation, it is our Human Resources Director who is involved in that process.

Chair Kirkpatrick:

Does anyone else have any questions?

Assemblywoman Mastroluca:

Mr. Olivas, who do you work for?

Ted Olivas:

The City of Las Vegas.

Assemblywoman Mastroluca:

What person?

Ted Olivas:

Betsy Fretwell, the City Manager.

Assemblywoman Mastroluca:

Have you been working with Mr. Kallas on trying to find some way that you can come to an agreement on this bill?

Ted Olivas:

We have had discussions. I am not sure how to get there. When we talk about the authority that a commission should have, I have not been able to come up with a solution. That is correct.

Assemblywoman Mastroluca:

But Mr. Kallas can trust your word that you can come up with an agreement, not, "I think I can come up with an agreement but let me call Betsy and make sure it is okay." Do you have the authority to make an agreement with Mr. Kallas, or do you have to go back to Ms. Fretwell every time you want to change a word in an amendment?

Ted Olivas:

I would have to go back and get approval on an amendment. For instance, if I submit my comments with that clarification, that would have to be approved by my boss.

Assemblywoman Mastroluca:

So can Mr. Kallas trust what you say?

Chair Kirkpatrick:

Okay. Mr. Roberts, I think it is your turn.

Assemblywoman Mastroluca:

I am just trying to show the parallel between what you are asking to have done versus what you do every day.

Chair Kirkpatrick:

I think we got the point. So, now we will hear from Mr. Roberts.

**Tom Roberts, Lieutenant, Director, Office of Intergovernmental Services,
Las Vegas Metropolitan Police Department, Las Vegas, Nevada:**

We are also opposed to A.B. 130. For us, it is a matter of fairness, as was brought up by Mr. Olivas. I have been a union member for 16 years. I was a member of the Police Protective Association (PPA) and during union negotiations I was never told what was going on in the negotiations. Not until a tentative agreement was brought back did we know what we were voting on. For us, I believe it would be the same courtesy that would be extended to the city and the county, because the Sheriff is obviously the Chief Executive Officer for the Police Department, and when they go into contract negotiations, his representation is not necessarily for salaries but for the managerial rights, work safety rules, and similar matters. When it comes to the fiscal component, I believe that should be left up to the folks that provide a majority of our funding, and that would be the city and county representatives.

It has been this way for 28 years. Now we are trying to rewrite this law to fix one incident, and this may go a little too far. The process seems to have worked fine except for this one incident. As a matter of fact, less than a month of contract negotiation for a one-year tentative contract has just been completed, and we have not yet had this issue. The current process seems to have worked fine this year.

We are opposed to this bill for the same reasons as the city and county.

Chair Kirkpatrick:

Does anyone have any questions? What do you think about the two-year term? The reason I ask is because term limits are now a reality for the State of Nevada. We are not going to have a lot of the institutional knowledge that we have been lucky to have in the past on a lot of these boards. I worry that we are not going to have folks that know where we were, where we have been, and how decisions had been made. How do you feel about that?

Tom Roberts:

For us, the two-year limitation and set time would be good. As Mr. Olivas brought up, there could be occasions where someone may not need to be there. There needs to be some kind of checks and balances provision so members can be removed. That would be rare, but I would hate to tie your hands and not be able to remove someone who is never there. It would create an advantage for one entity over the other simply because of malfeasance or inattentiveness.

Assemblyman Goedhart:

So is that why you are looking at a shorter term, in case you had a member who was not participating or did not show up on a regular basis?

Tom Roberts:

For the record, currently we generally switch members every two years. We do not mind the time frame; that is the way it is now. I would just want some caveat that, if there was a problem with a member who did not show up or actively participate in the process, there should be a mechanism in place to remove and replace them.

Assemblyman Goedhart:

A formula could include a certain number of consecutive, scheduled meetings that were missed.

Tom Roberts:

That is just one example; there could be other things. I have not really thought that through; this morning is the first time I have seen this amendment

Chair Kirkpatrick:

I will find out what the current process is for a county board to remove members who do not show up.

Assemblyman Settlemeyer:

On the two-year term limit, I can see problems arising. What if someone is arrested for embezzlement? You could not kick them off the board—a board

that is dealing with money—because it would not be voluntary. I can see many issues that would be problematic.

Chair Kirkpatrick:

Longevity might be beneficial on a board that deals with so much money; \$549 million is not a drop in the bucket. There has got to be a way to get rid of bad apples on a board. We have seen it with state boards. Are you amenable to the two-year limit?

Tom Roberts:

I do not believe that it would be mandatory that a member be rotated off after two years. Councilman Reese has been a member of the Fiscal Affairs Committee for several years; so was Councilman Brown, who now represents the county. I believe, like you, that there is a lot of benefit to having folks in these seats who have experience. It is just like the Legislature where some members have served for an extended period of time. They are up to speed on the issues. I do not believe we should tie ourselves to a mandatory rotation. I may have misspoken earlier. As it is now, they can review and reexamine the situation every two years and see if they want to reappoint that member or not.

Assemblyman Claborn:

The way Mr. Kallas explained that to me is that when he negotiated with the "A" negotiators, and there were "B" negotiators as well, you would come up with a tentative agreement with "A" and then you have to go back to "B" for a mini-ratification. That could come under National Labor Relations Board (NLRB) charges as bargaining in bad faith.

Sabra Smith-Newby, representing Clark County, Las Vegas, Nevada:

I agree with the statements previously made by my colleagues here at the table with me. I think it is important to point out that, unlike negotiating with a private contractor or a private entity, we are talking about a publicly elected board and a public entity. The responsibility becomes many responsibilities: ensuring the fiscal stability of the entire organization, considering the thousands of employees employed by the organization and consideration to the taxpayers—the voters.

From our perspective this issue boils down to two things: accountability and transparency. There needs to be accountability to the voters who voted for the Commissioners to be in place and who have a right to be heard and to see the contract. They should have the right to vote someone out of office if they do not like what he has done through his voting record.

The second responsibility is transparency. The voters and the taxpayers need the opportunity to see an agreement before it is finalized, voted upon, and pushed through. This is an awful lot of money. It is more than that. Money equals how much and where the policy decisions get made. From our perspective, our voters—our taxpayers—have a right to view that. This bill, as currently written, would not allow that to happen. That is our main concern.

To preemptively answer your question, Madam Chairwoman, two years would be okay. However, I agree with some of the other concerns about extenuating circumstances that may arise. Currently Clark County changes its board appointments every two years. Under normal circumstances this would be right in line with what we are currently doing.

To preemptively answer your question, Assemblywoman Mastroluca, with respect to our lobbying activities up here, our team and certainly I, never forget that I report to my boss, yes, but we also have seven elected Commissioners. Every week before the County Commission meeting they get a list of the bills we are tracking and our position on those bills. We have a statement resolution, which the board approved, saying that the Commissioners, for any reason, at any time, can bring up any of these bills and make a statement about it. They can have a vote on the record regarding how they feel about any bill. We take direction from the Commissioners on these bills.

Assemblyman Claborn:

With all due respect, I have never negotiated a contract with the city, county, or state; it has always been an individual contractor, and maybe that is why I look at the process differently.

Chair Kirkpatrick:

We are going to bring Mr. Kallas back up. Does anyone have any questions?

Assemblywoman Spiegel:

I have a question for everyone. In the amendment that Mr. Kallas distributed, it said "a two-year term, unless they voluntarily discontinued participation." If it were modified to say "unless they voluntarily discontinue participation or are removed for cause," would you all support that?

Tom Roberts:

That would be okay as long as we did not limit that person to two years for a mandatory rotation. As I stated before, I believe there is a benefit to having some tenure on those boards. We still have issues with the rest of the bill.

Assemblywoman Mastroluca:

I know that you do not want to deal with what we keep asking questions about—the two-year, but it is the easiest thing to do right now. What if it was a minimum of two years? I think that would answer Mr. Roberts' concern and would still work with the county.

Chair Kirkpatrick:

You have time to deliberate about that and then get back to the Committee or at least the individual Committee members.

David Kallas:

Thank you, Madam Chair.

Chair Kirkpatrick:

Does anyone else have any questions? [There were none.] Would anyone else like to testify in opposition? [There were none.] Is there anyone who is neutral on A.B. 130? [There were none.]

Mr. Kallas, would you like to come back up for a final few comments?

David Kallas:

I would like to address three issues raised today. First is the issue that Assemblywoman Pierce and Assemblyman Claborn spoke about regarding the involvement of the parties in the negotiations. I think it would be hard for any of the entities to deny that they meet on a regular basis in what they call "closed personnel sessions." Those sessions include the designated representatives that sit in on negotiations, the two people from the city and county. They meet with their county and city representatives, along with Metro representatives, in closed personnel sessions to specifically discuss the negotiations and the parameters under which they can negotiate.

It is impractical for anyone to believe that our organization—the five, six, seven representatives that we have in negotiations—could or would meet on a regular basis with the 2,700 or 2,800 officers we represent, because we would never get anything done. That is why the negotiations are held in the manner in which they have been held.

For clarification purposes, on the matter Assemblyman Goedhart brought up, I can assure you that those county and city representatives in that negotiation room are meeting on a regular basis and advising their elected officials as to what is going on, and they are receiving directions from them. They could not enter into even a tentative agreement unless they received some sort of tacit

direction from those elected officials. There has to be some conversation going on. As I said, it is impractical for us to do that.

One of the other issues, and I appreciate it being brought up, was accountability to the taxpayers. We could not agree more. Because of the way the Metropolitan Police Department and its funding policy are set up, this is unique: we negotiate, and those entities are in that room. If they are not, it is because they would rather designate someone to sit in negotiations, and I can understand why. But because they do meet with the representatives regularly, and they are brought up to speed on what is going on in there, that accountability factor is in place. It is even more in place when the Sheriff presents his budget publicly to that Fiscal Affairs Committee. Included in that budget, as Mr. Olivas said, is the 87 percent worth of salary and compensation to the rest of the employees. The budget is discussed with the County Commission and the City Council acting in the capacity of the Fiscal Affairs Committee. They fully understand where the monies are going. They fully understand being involved with the negotiation process in that room. The additional purpose for them being involved in both is that they can make sure the Sheriff is not giving his employees compensation and benefits that they might not be entitled to at the expense of law enforcement in the county, for which he is responsible.

The Sheriff brings that budget in front of them, by statute, on May 1 of every year, and they look at that budget line by line, item by item, to ensure that the money he is asking for is being spent properly. Included is a review of the contracts that those cities and counties have to finance with that budget. For someone to sit here and say that it needs to be about accountability and transparency, it could not be any more transparent. There is no other employee/employer relationship in which the officials who are responsible for financing are actually involved in the negotiations and then get to review it again in the budgetary process. They are asking you to have us add that additional step that was never included in the original legislation, which is to bring it back again in front of the Fiscal Affairs Committee, which already sees it during the budget process.

I am amenable to the changes in the two-year-minimum term, and involuntary discontinuation or removal for cause, but I believe it is important to, once and for all, let the city and county know how far the responsibility goes. There can be too much oversight and too much bureaucracy. In this case, I think that is what it is.

Chair Kirkpatrick:

Does anyone else have any questions for Mr. Kallas? [There were none.]

David Kallas:

Thank you very much.

Chair Kirkpatrick:

Would anyone else like to testify on A.B. 130? [There were none.] We are going to close the hearing on A.B. 130. Is there any public comment? [There was none.]

We received 31 bills yesterday, so from Monday after next forward we are meeting at 8:00 in the morning. [The Chair reviewed hearing plans.]

Is there anything from anyone else? [There was none.]

[Meeting was adjourned at 10:53 a.m.]

RESPECTFULLY SUBMITTED:

J. Renee Ekleberry
Committee Secretary

Patricia Blackburn
Editing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 17, 2009

Time of Meeting: 9:02 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 305 and A.B. 306	C	Assemblyman Mortenson	"Protectors of Tule Springs" brochure
A.B. 305 and A.B. 306	D	Assemblyman Mortenson	Letter of support, Sandy Croteau, "Protectors of Tule Springs"
A.B. 305 and A.B. 306	E	Assemblyman Mortenson	Letter of support, Wanda J. Taylor, Interim Dean, College of Sciences, UNLV
A.B. 305 and A.B. 306	F	Assemblyman Mortenson	Letter of support, Arthur H. Wolf, Wolf Consulting, Las Vegas, Nevada
A.B. 305 and A.B. 306	G	Assemblyman Mortenson	Letter of support, Shana Baker, Department Chair, Science Center Facilitator, Dr. William H. "Bob" Bailey Middle School
A.B. 305	H	Susan Scholley	Mock-up of proposed amendment to A.B. 305
A.B. 305	I	Michael Fischer	Prepared testimony
A.B. 130	J	David F. Kallas	Proposed amendment
A.B. 130	K	David F. Kallas	<i>Las Vegas Sun</i> article
A.B. 130	L	David F. Kallas	Statement entitled "Finances."