

**MINUTES OF THE
JOINT MEETING OF THE ASSEMBLY COMMITTEE ON LEGISLATIVE
OPERATIONS AND ELECTIONS
AND THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-Sixth Session
June 2, 2011**

The Joint Assembly Committee on Legislative Operations and Elections and the Senate Committee on Legislative Operations and Elections was called to order by Chair Tick Segerblom at 4:24 p.m. on Thursday, June 2, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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/76th2011/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).

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblyman Tick Segerblom, Chair
Assemblywoman Lucy Flores, Vice Chair
Assemblyman Marcus Conklin
Assemblyman Richard (Skip) Daly
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Richard McArthur
Assemblyman John Ocegüera
Assemblyman James Ohrenschall
Assemblywoman Debbie Smith
Assemblyman Lynn D. Stewart

SENATE COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Moises (Mo) Denis, Vice Chair
Senator Steven A. Horsford
Senator Barbara K. Cegavske
Senator James A. Settelmeyer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Lorne J. Malkiewich, Director
Kevin Powers, Committee Counsel
Don Williams, Research Director
H. Pepper Sturm, Chief Deputy Research Director
Patrick Guinan, Committee Policy Analyst
Eileen O'Grady, Committee Counsel
Terry Horgan, Committee Secretary

OTHERS PRESENT:

None

Chair Segerblom:

[Roll was taken.] Today we will convene a joint meeting of the Assembly Legislative Operations and Elections Committee and Senate Legislative Operations and Elections Committee. Today we have four bills that are proposed by the Legislative Counsel Bureau (LCB). The first three are pretty noncontroversial.

We will take the bills in order. Mr. Malkiewich, would you start with Assembly Bill 575.

Assembly Bill 575: Makes various changes relating to the Legislature and the Legislative Counsel Bureau. (BDR 17-233)

Lorne J. Malkiewich, Director:

The first bill on your agenda is A.B. 575. Three of these bills were requested on behalf of the Legislative Commission. This one is what we call our generic bill—totally severable. It includes miscellaneous changes relating to the Legislature and the Legislative Counsel Bureau (LCB). We accumulate issues that come up and throw them all into one bill. If you do not like any of the ideas, you can take them out. I will try to explain why they are all in there and what we are trying to do with them.

Walking through the bill, in section 1 there are a couple of different changes. The first one clarifies that money in the Legislative Fund does not revert to the General Fund at the end of the fiscal year. This has been our practice. Our auditors would prefer to see something in the statute saying that. There is also a provision that makes it clear that there are other buildings than the Legislative Building. The statute refers to paying expenses for necessary improvements to the Legislative Building; we now have several more buildings in the Legislative Complex.

Section 2 of the bill: We have a lot of provisions in statute that require various reports to be submitted to the Legislature, LCB, or a committee. By this provision, in *Nevada Revised Statutes* (NRS) 218A.750, we authorize that they be submitted electronically whenever there is such a provision. It has worked very well. If you go to our webpage, you will see all the reports to the Legislature on a single link. We would like to consider strengthening this a bit to say, if practicable, you shall submit it in that format. We are trying to encourage it a little bit more and cut down on the paper. We think that is probably a better way to go.

Regarding section 3, when we required prefiling of all the local government bills, we left this provision in. This is a bit of an embarrassing provision—it is what happens when you have people who have been out of Legal for 17 years drafting bills. The provision is paragraph (c) of subsection 2 of NRS 218D.115, requiring local governments to express to the Legislative Counsel a priority of drafting bills within two weeks before session. That is approximately one month after they have all been filed, so we believe that provision is obsolete and should be taken out.

Sections 4 through 9 deal with the same problem—the fact that there are a couple of major events that have the same deadline. Local government and

state agency bills need to be prefiled on or before December 15 or they are dead. As you are aware, one of the major deadlines for requesting bills is December 15. The Legal Division is inundated with requests for bill drafts by that deadline as well as finishing up all the prefiled bills for state agencies and local governments. We have suggested moving the request deadline forward a few days to December 10 and the introduction of the prefiled bills deadline back a few days to December 20. The point is to uncouple them, and I think we would want to leave a little bit more time for the bill drafting.

Section 10 concerns National Conference of State Legislatures (NCSL) dues, and this is probably not as much of an issue. It says you "may" pay dues; the other one says you "must." We did not pay dues last year; we ended up making a tiny payment. We do have a bill in this session to start paying the dues, but this is to make it clear that you pay dues to the extent of appropriations. There is another, similar provision later in the bill.

Regarding section 11, we had an inconsistency that actually came up this past session in NRS 218E.420. If you look at paragraphs (a) and (b) of subsection 1, paragraph (a) says "the Chair of the Committee on Finance during the preceding session." Paragraph (b) said simply "the Chair of the Committee on Ways and Means" until we put this amendment in to add "during the preceding session." I have no idea why that inconsistency was in there. We are just making it consistent that the Chair of Ways and Means during the preceding session is a member of the Interim Retirement and Benefits Committee of the Legislature, just as is the case with the Chair of Finance.

Sections 12 and 13 are to give us a bit more flexibility in the structure of the Legislative Counsel Bureau. We are not proposing any changes, but these are a little restrictive. Section 12 talks about designating one of the fiscal analysts as being responsible for administration of the Fiscal Analysis Division. When virtually our entire senior management of the Fiscal Analysis Division left within about a two-year period, we looked at some possibilities to lighten the workload on Rick Combs, the Assembly Fiscal Analyst and Mark Krmpotic, the Senate Fiscal Analyst, who have done such an extraordinary job. One of the possibilities was to have someone else designated to handle the administrative matters and leave them as fiscal analysts. Although we do not intend to do that, we think we should remove statutory obstacles in case we did want to change that structure. Also, regarding the Deputy Director serving without additional compensation, there is no increase in the budget for the Deputy Director although she has taken on more and more work every year. The title was in lieu of a pay increase, but again, I just want to leave that open for the

possibility that the Deputy Director would get additional compensation for being so designated.

In section 13, the wording is changed to the "chiefs of the divisions." This reflects the fact that a chief may not be one of the fiscal analysts and also the fact that the chief of the Administrative Division is not mentioned.

Section 14 is the confidentiality statute. I think you are all familiar with the fact that when you entrust something to us, we keep it confidential unless you consent to making it not confidential. This is just making that a little bit stronger. We have had some problems with litigation involving homeowners' associations (HOAs) and their trying to subpoena information from us. We just want to make it very clear that it is confidential, privileged, and not subject to subpoena.

Section 15 of the bill is for the Legislative Police. It allows us to adopt ordinances. We would, of course, have to go to the Legislative Commission, draft the ordinances, and get them approved. It is modeled after the university provision allowing campus police to do basic traffic ordinances on university property, so we can say people cannot park here, cannot skateboard there. It would give us the authority to do that and put that in statute.

Sections 16 and 17 concern lobbyist registration. Section 16 requires a different color for the different types of lobbyists, and section 17 ties into it and creates different classifications. It includes the three we already have—paid lobbyists and unpaid lobbyists as well as veterans who do not receive any compensation—and creates a fourth classification, a paid lobbyist working for a 501(c)(3) nonprofit organization. It requires a separate classification, and therefore a separate badge color—you will have the four different badge colors to match the four different types of lobbyists—and it limits the fee for the paid lobbyists for 501(c)(3)s.

Section 18 is the other half of the provision I was talking about before. It says annual dues must be paid to the National Conference of Commissioners on Uniform State Laws out of the Legislative Fund, and this is clarifying "to the extent of appropriation." If we do not have an appropriation, we cannot pay that.

Section 19—membership of the Subcommittee to Review Regulations—is codifying the practice we have had the last couple of sessions. It says that you appoint at least three members to the Subcommittee to Review Regulations.

This says, "or alternate members." This is just to clarify we could do alternate members.

With that, Mr. Chairman, I would be glad to answer any questions concerning any of those provisions.

Assemblyman McArthur:

I am looking at section 15 at the bottom on page 11, lines 42 and 43. I just want some clarification on what a "majority" was. It says, "by affirmative vote of a majority of its members." So that means the total members and not just the people who happen to be on the committee that day?

Lorne Malkiewich:

Yes, that is exactly what it means. For your information, that is also a practice for the Legislative Commission. With 12 members on the Commission, we require 7 votes for approval of any matter by the Commission. Otherwise, if 1 member was absent, theoretically, one house could pass something 6 to 5, so the Legislative Commission requires 7 votes in any instance for passage of any action, but this is requiring it specifically in this instance.

Chair Segerblom:

Are there any other questions? Not seeing any, could you please move on to Assembly Bill 576.

Assembly Bill 576: Revises provisions relating to the Legislative Department of the State Government. (BDR 17-53)

Lorne J. Malkiewich, Director, Legislative Counsel Bureau:

Mr. Chairman, for the long bills, I am going to ask for help, so on this one, I would like Kevin Powers to walk through A.B. 576 for you.

Kevin Powers, Committee Counsel:

You have before you A.B. 576. It is a lengthy bill, but most of it is what we like to call technical, or housekeeping, changes. Under *Nevada Revised Statutes* (NRS) 220.120, the Legislative Counsel has a duty to review the (NRS) and ensure that the statutes are arranged in an orderly and logical fashion. After last session, it was determined that NRS Chapter 218, which had all the statutes dealing with the State Legislative Department, was becoming unwieldy and difficult to use. It had over 400 sections in it. Therefore, the Legislative Counsel directed that NRS Chapter 218 be broken down into Chapters 218A through 218H. That was accomplished after the codification last session, and this bill is a follow-up—to go through and to make changes that we saw were

necessary to clarify language, remove old language, and revise provisions to make them as effective and orderly as we possibly could.

I am not going to walk through every section of the bill, but I am going to highlight a few particular provisions, and there is one proposed amendment that the Chief Clerk of the Assembly communicated to me and that I will communicate to the Committee.

On the first two pages of the bill is a list of the definitions that are going to be added to the title so that all these terms are clear throughout the title.

The next change I want to point out is the one the Chief Clerk recommended at section 41 on page 7. This is an amendment to NRS 218A.400. In subsection 2, at the bottom of the page, it indicates that on the first day of each regular session at 12 p.m., noon, is when the Assembly shall convene. The Chief Clerk of the Assembly, recognizing that the Assembly does not always convene at noon on its first day of organization, would like this language to be changed so it says "On the first day of each regular session at a time that is appropriate for that regular session, the Secretary of State shall call the Assembly to order" This would allow the variation in time on that first day.

The next section I want to point out is section 103 on page 42. Oftentimes the Legislature will have provisions of a bill that will expire by limitation on a specific date. Questions have arisen as to whether the expiration occurs on the first minute of a day or the last minute of a day. In subsection 2, the new language makes it clear that when a provision of a bill expires by limitation on a specific date, that provision remains in effect until the last moment of the day on which it expires. Then if a new provision takes place, that will become effective the first minute of the next day. That makes it clear in the law that when it expires by limitation, it expires on the last moment of that day.

The next section I want to point out is section 120 on page 50. Under the *Nevada Constitution* bills must be signed by the presiding officer of each house and the Chief Clerk of the Assembly and the Secretary of the Senate after they are passed by both houses. That is in the *Constitution*. There is a Nevada Supreme Court case, *State ex rel. Cardwell v. Glenn* [18 Nev. 34, 42 (1883)]. In that case, the Nevada Supreme Court held that it was permissible for the Assistant Chief Clerk and the Assistant Secretary of the Senate to sign the bills when the Chief Clerk or the Secretary of the Senate was unavailable. This changes the statute to reflect the *Constitution* and the case law. I want to emphasize for the record that it would allow an assistant to sign a bill only if,

first, they were authorized, and second, the Chief Clerk or Secretary of the Senate were not available to perform that duty. The authorization would have to come from the Chief Clerk or the Secretary of the Senate or the house.

The next change I want to point out is in section 122 on page 50. This is to ensure that during a regular or special session that a member of the Governor's staff is available to receive bills when they are delivered to the Governor for action. Subsection 2 provides that a member of the Governor's staff has to be available during all hours that the state offices are regularly open for business. Paragraph (b) of subsection 2 also provides that the Legislative Counsel may provide notice to the Governor or the Governor's staff that a bill will be delivered after regular office hours so a member of the Governor's staff is available to receive those bills after regular office hours.

Finally, we go to the end of the bill and an amendment to NRS 220.120, the statute I mentioned initially when talking about revising the NRS to make it orderly and logical. The last significant change is in section 247 on page 125. This provides that the Legislative Counsel may "Add, revise, move or remove nonsubstantive definitions" in NRS to "improve readability or reduce repetitious or lengthy words or phrases." As we were putting together this reviser, there were some nonsubstantive definitions we could have added in codification if the Legislative Counsel had the power to do so. This way, we are making sure that it is possible. The emphasis here is that these would be nonsubstantive definitions. For example, if "Department of Health and Human Services" was a term throughout a chapter, this would allow the Legislative Counsel to provide a definition of "Department." That way, that term would not have to be repeated in its full length throughout the chapter.

That covers my overview of this legislation.

Chair Segerblom:

Any questions for Mr. Powers? [There were none.] Can you tell me what the "last moment" is?

Kevin Powers:

That would be when the day expires and the new day begins.

Chair Segerblom:

That is between that last second and the next?

Kevin Powers:

Correct. Just so it is clear on the record, regarding the last moment question, the new day begins at midnight. The last moment would be the very last moment before midnight of that new day. I want the record to be clear.

Chair Segerblom:

Mr. Ohrenschall has a legal question.

Assemblyman Ohrenschall:

My question relates to section 218 on page 110, lines 18 through 22. By definition, "Legislature" means the "Legislature or either House" or "any current or former agency, member, officer or employee of the Legislature, the Legislative Counsel Bureau or the Legislative Department." Is that a more expansive definition than we have had up to now, and how will that change the law?

Kevin Powers:

This definition applies specifically to this particular section, so the understanding is in its context. This section, NRS 218F.720, allows, on the direction of the Legislative Commission or the Chair, the Legal Division to represent the Legislature in legal actions when it is necessary to protect the official interests of the Legislature.

As the statute is drafted now, as you can see on page 108, it lists the Legislature, one or more agencies, members, officers, or employees of the Legislature, the Legislative Counsel Bureau, or the Legislative Department. What we are doing is taking this existing language and moving it into a definition. The point is that, when necessary to protect the official interests of the Legislature in litigation, this makes sure that the Legal Division can represent not just the Legislature but either of its houses or any current or former member of the Legislature or officer or employee who is being sued in that litigation in their official capacity.

Chair Segerblom:

I do not see any further questions. The next bill is Assembly Bill 577.

Assembly Bill 577: Makes various changes concerning bill draft requests.
(BDR 17-943)

Lorne J. Malkiewich, Director, Legislative Council Bureau:

Assembly Bill 577 is a request on behalf of the Legislative Commission that was submitted by the Committee to Consult with the Director. This first bill has a

couple of small changes in it. The first sections deal with the first half of it, and that is the concept of secondary deadlines. We put these in place, for session, for requests that came in during session that are covered by the Joint Rules which say you have within the first 8 days to request up to 4 bills if you are a Senator, or 2 bills if you are a member of the Assembly, and you have until day 19 to request 50 committee bills. We put in secondary deadlines, saying you are going to be putting your bills in by those deadlines, but you are not necessarily going to have all the details, so a little while later we want some of the details.

When the Committee to Consult came up with this, it kind of directed the Legislative Counsel to do this for interim requests—the ones that are covered by statute—but of course we could not change the statute. This is following up at the suggestion of the Committee to Consult with the Director to establish secondary deadlines for all your requests that are submitted by statute during the interim.

As you go through the bill, you will see that if a bill has a deadline for requests of September 1, which is the first major deadline for legislators to submit requests on their own behalf, the details need to be in by December 1. If your deadline is the general election, the details need to be in by December 10; if the deadline is December 15, the details are due by January 15; if the deadline is the first day of session, it is March 1 for the deadline for the details. You are not necessarily going to have all the details, but what we do not want is 12 bills submitted in September, 10 bills submitted in December, and the details submitted three days before the deadline for introduction. This is to try to make sure we get the rest of the details submitted. The teeth is in the same—these provisions were put into the Joint Rules for request during session. In section 2 it notes "The Legislative Counsel shall give priority to the drafting of bills and resolutions for which sufficient detail to allow complete drafting of the legislative measure was submitted within the period required by statute." So if you get your bills in by the deadline, they will get priority over measures that were submitted late.

The other change that is made in the bill is a very small one on page 4, in section 3. This is the section that talks about picking up a bill that a former legislator had requested. The Committee suggested that if you do that, it should count against your allocation. If you are allowed to have five requests and you pick up a bill that a former legislator requested, as of now, it would not count against your five. If this provision were passed, it would count against your allocation of bills. Again, both these were suggested by the Committee to Consult with the Director. Those are basically the only two changes in this bill.

Assemblywoman Smith:

Lorne, the other thing we discussed in the Committee to Consult is the idea that if you are termed out, you cannot submit bill draft requests. That would get rid of that problem versus people who lose their election.

Lorne Malkiewich:

I do not recall that that was asked, but certainly that would fit in this bill. This relates to bill drafts and is very closely tied to that provision of picking up requests from others. We could easily define someone who is not eligible to run. I do have a little bit of a concern about the possibility of a member running for the other house, so I am not quite sure how we would define it. We could, perhaps, say "as of the filing deadline." That is one of the provisions we have in statute. When our budget included money to pay for legislators' travel, we have a provision that limits that travel after the deadline for filing. If you have not filed for reelection, if you are a lame duck, you cannot travel unless you get special permission to do so. Perhaps we could model something after that—a lame duck. If you are not filed for reelection—not so much termed out, but if you are not coming back—as of that point, you would not be able to submit a bill draft request.

Assemblywoman Smith:

I know we had that discussion. It seems illogical to me that people who cannot be reelected are going to be able to submit bill draft requests, and really, even for people who are going to move from one house to the other. Isn't it a moot point, because they are going to get their bill draft requests anyway, although there would be a difference between a person who gets the additional ones because he or she is a returning member versus being a new member. It would be fine with me if we could figure out a way to define it. It would really cut down on the issues, and it would also cut down on our staff's time having to do all that work and publish everything, and then maybe no one is going to pick the bills up anyway, especially if we say it has to be part of someone else's bill draft allocation.

Senator Cegavske:

Did anybody talk about limiting the number of bills, not only per legislator, but per agency? There was talk during the interim—not in any committees—about not only limiting the agencies but having them go through either the committee chairs or a legislator to get a bill. Was any of that discussed?

Lorne Malkiewich:

We did discuss it. It was one of the issues the Committee to Consult discussed. We did not make further reductions or other changes in the bill draft

numbers. What we have been seeing over the past few sessions is that the bills are getting longer. Although we have fewer requests, we have a pretty stable number of bill draft requests—a pretty stable number of bills—but we are seeing more and more pages. If you compare 1983 statutes to 2009 statutes, you will see we passed about 400 fewer bills and have about 1,000 more pages of legislation. So in regard to reducing the numbers, one of the problems we have encountered is that we simply are getting longer and longer bills. It was looked at, but the Committee did not make any recommendations in that area.

Senator Cegavske:

What about single subject?

Lorne Malkiewich:

That is always a challenge with these long bills. It is something we will need to keep an eye on. One of the reasons you have your rule on germaneness is to try to make sure we are very careful with that. We also do have a provision in the statute that requires that measures cannot be combined in a manner that violates that the Legislative Counsel is not to accept bills that have been combined to avoid the single-subject requirement.

Senator Cegavske:

I do agree with you. It is convoluted; we do put too many items in one bill. I would like to see Leadership at least address that when we talk again in the Commission.

Senator Denis:

Do we have a rule right now that when you request a bill draft request (BDR), it remains confidential unless you allow otherwise?

Lorne Malkiewich:

Yes, we do. I mentioned our general confidentiality statute. We have specific exceptions to confidentiality. One of the exceptions, and it is a very limited exception, is the bill draft request list. It says that every week, starting July 1 before a session, we publish a list of all the bill draft requests, with the sponsor's name and a brief summary of the request. Beyond that, the bill draft request is confidential. Unless you consent to making that public, it would not be public.

Senator Denis:

I am just wondering if a change in that area would help. Sometimes, when you are working on a subject, you want to know if someone else is working on the same subject so you do not do it, but it is confidential, so they cannot tell you.

I am wondering if it would be easier to reverse that, and say that it is not confidential unless you request it be confidential, so you do not duplicate the bills.

Lorne Malkiewich:

That is another one of the limited exceptions to confidentiality. There is a provision in the statutes that says the Legislative Counsel is directed to notify you if someone has submitted a request that is the same as what you have requested. They can ask if you want to withdraw. With a limited number, you may not want to request it. Oftentimes a legislator will still want their own, because there is a slight difference or because it was one of the things you promised to do. There was a session about 15 or 20 years ago when we had about ten "notch baby" requests because everyone on the campaign trail had promised that they would introduce legislation to get rid of the "notch baby" problem.

Assemblyman Ohrenschall:

If A.B. 577 passes and becomes law, what would happen if an incumbent legislator was reelected, but perhaps a month before the beginning of the regular session, he resigns. The county commission appoints his replacement, who would probably have missed the deadlines to put in bill drafts. Under A.B. 577, would the replacement not be able to pick up the prior incumbent's bill drafts, and thereby not be able to introduce much legislation at all?

Lorne Malkiewich:

That is obviously an impractical situation. It would never occur.

Chair Segerblom:

Except for Senator Raggio.

Lorne Malkiewich:

Under the statute as written, you are correct. The legislator who was appointed, under the statute, would have missed the December 15 deadline. There is the joint rule that allows the request of a few bills at the beginning of session, so as a Senator he would be able to request four bills at the beginning of session, or two bills if he was a member of the Assembly. Under current law, he would be able to pick up the former legislator's bill; under this, he would not. The new legislator would not have a quota to count it against. Certainly, it is something we could provide an exception for if that was the desire of the Committee.

Assemblyman Ohrenschall:

That would be my fear. In that situation, unless there is an exception, the new legislator and his or her constituents might not have that same representation in terms of being able to introduce legislation.

Chair Segerblom:

Are there any further questions? Seeing none, let us go to the heart of the matter—Assembly Bill 578.

Assembly Bill 578: Revises the interim committee structure of the Legislature.
(BDR 17-942)

Lorne J. Malkiewich, Director, Legislative Counsel Bureau:

This is a big one, so I will ask for help. Don Williams and Pepper Sturm will give you some background information on this measure.

This is the other measure requested by the Committee to Consult with the Director. It shows as coming from the Legislative Commission, but the Commission requested it on behalf of its Committee to Consult with the Director, which recommended this measure.

Don Williams, Research Director, Legislative Counsel Bureau:

Appearing with me is Pepper Sturm, Chief Deputy Research Director. Assembly Bill 578 before you today has been a work in progress for the past several years. It was drafted on behalf of the Legislative Commission at the request of the Committee to Consult with the Director.

Current legislative leadership and previous legislative leaders have indicated the need for a better way to organize the interim study process and its structure. One of the issues over the years has been the number of legislators appointed to interim studies without knowledge of the topics being studied. Another issue has been the number of bill draft requests submitted by interim studies and then heard by session standing committees without members who served on those interim studies.

As early as the 1970s, the Legislature recognized the problem with our current structure—that there was a lack of continuity from session to interim to the next session. Recognizing these concerns, the Committee to Consult with the Director studied this issue during the past interim and adopted recommendations to create a new interim committee structure based on the existing session standing committee structure. That new interim committee structure is

established under the provisions of A.B. 578. Pepper Sturm will now present an overview of the new structure.

H. Pepper Sturm, Chief Deputy Research Director, Legislative Counsel Bureau:

I would like to point out the three handouts I believe you have. The first one shows the proposed interim committee structure, which is reflected on the chart you can see ([Exhibit C](#)). Another handout, with two columns, shows the last interim statutory committees, interim studies, et cetera, and how they might fit into this scheme ([Exhibit D](#)). I will be working off the third document, which is a summary of the process, how it will work, and what is in the bill ([Exhibit E](#)).

To summarize, the measure applies to certain policy committees meeting during the interim that are staffed by the Legislative Counsel Bureau (LCB). The proposal, however, does not include the Interim Finance Committee, the Economic Forum, or the Legislative Commission and all those statutory subcommittees that are affiliated with those entities.

On page 4 of the bill, section 5 really is the heart of this proposal. With the exceptions noted above, this portion creates several joint interim standing committees that parallel the jurisdiction of the session standing committees. You can see that on page 4, beginning in section 4. Section 64 of the bill has the repealers for a lot of these statutory committees.

On page 6 in section 7, you will see a portion of the bill that talks says topics would be established through legislation, or topics that are within the jurisdiction of the session standing committees would be assigned to those committees to handle as a whole or through subcommittees during the interim. There will be a required report of all the interim activities of these interim standing committees. That language is in subsection 3. Subsection 2 provides that the Commission will review the budget and work plan of each of these entities.

In some cases—and Lorne will attest to this—such as the Legislative Committee on Health Care and the Legislative Committee on Education, there are numerous references throughout the *Nevada Revised Statutes* (NRS) to those committees and how they receive certain reports and have certain statutory duties. The bulk of the bill reassigns the duties to these joint interim standing committees—mostly Health Care and Education. In fact, sections 26 through 49 are almost all the Legislative Committee on Education and changing the name to the Joint Interim Standing Committee on Education. There is another cluster for the Health Care Committee—sections 50 through 61. So from about section 12 of

the bill, all of it is the reassigning of those statutory duties that exist with our current statutory committees.

Membership: On page 4, section 5 specifies that each joint interim standing committee would consist of eight members appointed by the Legislative Commission and drawn from parallel session standing committees. In section 5, subsection 2, you will see that it would consist of five Assembly members and three Senate members. The Commission could also consider appointing other members who are not members of those standing committees. Alternates would be appointed and selected in the same manner. The Legislative Commission would then appoint the Chair and Vice Chair, and these positions would alternate between the houses for each biennium.

Quorum and voting: On page 5, in section 6, you will see that five members of a joint interim committee constitute a quorum. However, any recommended legislation must be approved by a majority of the Senate members and by a majority of the Assembly members. Other actions can be taken by a majority of those present.

On page 3, at lines 33 through 35 in section 2, each of these joint interim standing committees are allocated ten bill draft requests (BDRs). To compare it with the current model, we looked at our last interim and how many active committees we had, the average number of members on that committee, and the total number of meetings they had ([Exhibit E](#)). You can see at the bottom of the page that we calculated 413.28 "legislator days paid" for the current model, based on an average of 5.74 members meeting 72 times. The proposed model has these nine joint interim standing committees—Commerce, Labor, and Energy; Education, Government Affairs; Health and Human Services; Judiciary; Legislative Operations and Elections; Natural Resources, Agriculture and Mining; Revenue and Taxation; and Transportation. They meet five times. To illustrate, we assumed there would be a couple of permanent standing subcommittees such as Public Lands or Tahoe-Marlette in a couple of these larger committees with perhaps four meetings each. We came up with 7.63 as the average number of members meeting 53 times, with the new total of 404.39 legislator days paid. That will give you an idea of the total number of meetings and how this might work. It will be a new process.

Lorne Malkiewich:

At the very end of the bill there are a couple of items. One is the designation of the initial chairs of the joint interim standing committees. Education and Health Care, as Pepper mentioned, are virtually left alone; however, instead of being the composition that they were before, they are now joint interim

standing committees with the same duties. The chairs of those committees are scheduled to go back to the Assembly this interim, so that provision has them going back there. A couple of the other major committees—Judiciary and Government Affairs—were put in the Senate. In that section, you could set the chairs to start wherever you wanted, changing that.

Pepper also talked about the number of meetings and subcommittees. I wanted to point out the fact that the Legislative Commission is given control over these, so it would set the budgets. If this were approved, we would start in August, and the Legislative Commission would say which studies had been assigned, here is the work we want to do, here is where we think the big issues are, and this is how we are going to allocate this to the different committees. The Commission would have control of it. For example, Mr. Segerblom was talking in Committee a couple of hours ago about a proposed interim study. If this bill is not passed, you would pass the interim study and say that the Assembly was going to conduct an interim study of the Legislature and its structure and functioning. If you pass this bill, you would either say the Legislative Commission shall assign this out to one of its joint interim committees or assign it right to the joint committee—however you wanted to do that—but the Joint Interim Standing Committee on Legislative Operations and Elections would conduct that study as part of its meetings in the interim. All the committees would be reviewing the work that had been done in the last session, and preparing for the next session, so they would come in up to speed on the issues while working on any studies assigned to them in the interim.

Chair Segerblom:

So does this bill have a limitation on the number of studies that could be requested?

Lorne Malkiewich:

It does not. The idea is that the Legislative Commission would be managing the workload. We have staff limitations on how much we would be able to do. If we have some major tasks assigned to us, I think the Commission could take a look and decide if one joint interim standing committee has too much on its plate, and not give that committee a lot in the way of interim studies. The Commission could say, partway into the interim we realized we had this mortgage crisis, so we are going to direct the Commerce and Labor subcommittee to look into that. This is something that happened between the 2007 and 2009 Sessions. We had other studies scheduled and then recognized during the interim there might have been some other issues to look at. It would give the Commission a bit more flexibility to give the standing committees a little more flexibility on the studies.

Assemblywoman Kirkpatrick:

Does that take the place of committee BDRs because they would be coming out of this?

Lorne Malkiewich:

I would have to check the bill, but I do not believe the committee BDRs are affected—the provision that says you get 1 for every 15 referred to the committee in the prior session. I do not believe those sections are amended in this bill, so the committee chairs would be able to request bills on behalf of those committees. Instead of the Legislative Committee on—fill in the blank—getting ten requests, the Joint Interim Standing Committee on—fill in the blank— would get those requests.

Assemblywoman Kirkpatrick:

I think that is a lot of committee BDRs.

Chair Segerblom:

Page 3, section 2, subsection 3(a) says that each committee gets ten legislative measures.

Assemblywoman Kirkpatrick:

That is my point. If there is not a lot going on, some chairs would use every bill draft there is, so we are actually creating more bill drafts.

Lorne Malkiewich:

I would have to check it out, but I am pretty sure it would actually be less. Right now, you have a number of statutory committees that are each allowed to make that number of requests. Those all go away and you have this limited number now that each gets ten. Right now, we also have interim studies. Each of those gets to make a certain number of requests. That is all incorporated in the joint interim standing committees, so I think, between the ten per statutory committee and the five per interim study, that would actually come to more than ten for each of these joint interim standing committees.

Assemblywoman Kirkpatrick:

How would you envision giving the committees enough latitude to hear additional information? I sat on the Legislative Commission's Committee to Study Powers Delegated to Local Governments (home rule committee) last interim. Many times we headed outside what the study had directed. For the first time, would there be a mechanism so any subject could be brought up? How would you keep that Committee on track?

Lorne Malkiewich:

This is one reason why the description of the jurisdiction of these committees includes a couple of components. First, it includes anything within the jurisdiction of those standing committees. The Joint Interim Standing Committee on Government Affairs could consider any matter within the jurisdiction of the Assembly Committee on Government Affairs—it would have that latitude. It also would consider any studies assigned to it either by legislation you passed during session or by the Legislative Commission. So if something came up during the interim, the Commission could say it wanted its Joint Interim Standing Committee on Government Affairs to look into this, as well as the other things it is doing while it is looking. Again, I think they would have a little bit more latitude than the current interim studies that have specific calls within them.

Assemblywoman Kirkpatrick:

It seems as though some legislators would not get spots on any of these committees, and I do not know how beneficial that is either.

Lorne Malkiewich:

I assume we would be appointing the members the same way we do now, more or less. The members are appointed by Leadership and then the chairs are appointed by the Commission. What we do now, I would assume we would do under this bill. We would ask people to indicate what they wanted to serve on and get those names to Leadership, and then they could look to balance. They could see that if you are going to be serving as chair of the Joint Interim Government Affairs Committee, maybe they do not want to put you on more than one other one and make sure that legislators all get to serve on the different committees.

In the August or September meeting of the Legislative Commission we try to coordinate all of the appointments—not just to legislative committees but also to nonlegislative committees. In the case of the Senate, it is to spread out the workload because they tend to get overloaded. In the case of the Assembly, it is to try to make sure everybody gets a committee position. That is one of the things I tried to address with this—that general problem of Senators being overloaded and Assembly members not having enough committees to serve on. Having the five/three configuration allows more Assembly members on all these committees than Senate members. You have a better chance of all the Assembly members being represented. To avoid a five/three vote, require a dual majority for passage for approval of legislation.

Assemblyman Conklin:

I discussed this with another member who is not on this Committee. In section 63, on page 58, it reads that the Joint Interim Standing Committee on Natural Resources, Agriculture and Mining will receive a report, and one of the other items listed is the Tahoe Regional Planning Agency (TRPA). However early in the bill, it assigns the TRPA to the Government Affairs Joint Interim Standing Committee, which would be standard for our body. I would assume the TRPA will stay in the Government Affairs arena and that one of those is wrong.

Lorne Malkiewich:

That is a mistake. You are correct. Because TRPA is the primary focus of that committee and it is under the jurisdiction of the Government Affairs Committees, the intention was that the duties of TRPA/Marlette would go to the Government Affairs Joint Interim Standing Committee.

Senator Settlemeyer:

Regarding the number of studies a group could do, when I served on interim committees, it was always pretty much said that we would meet 10 or 15 times. Would there be any limitation to that, or would, as you said earlier, that be dictated by the Legislative Commission?

Lorne Malkiewich:

Yes, right now the budget of the interim committees is set by the Legislative Commission. At that first meeting we have after session, in August or September, we appoint all the members and approve the budgets for all the committees. We make the assumption that if you have eight members and five meetings, you are going to need a budget of X dollars and have the Legislative Commission approve that. We may say one committee is going to need to meet a few more times than another one and build the budgets accordingly. It will be a matter taken to the Legislative Commission for its approval, and then the budget would serve as a limitation on how much the committee would be able to meet.

Senator Settlemeyer:

Would that allow them to go to the Interim Finance Committee (IFC) and seek additional funding in case of an emergency or something came up and they wanted to have more meetings?

Lorne Malkiewich:

I do not believe we have ever gone to IFC for that purpose. For interim studies, we have a certain amount, and that would be rolled together with the money for

the statutory committees. What we normally do is allocate most of the money. If we have, say, \$200,000 to fund these committees in the first year of the biennium, we would build budgets that get us to \$180,000; so if someone needed an extra meeting, they could come back.

Sometimes we have savings. We will budget it for all legislators attending and submitting travel claims, although our budget is mostly based on videoconferencing to keep the costs down. If two-thirds or three-quarters of the way through the interim we saw that one of the committees had some savings, it could be reallocated to another committee if it was needed to have another meeting. We have generally been able to do that almost every interim.

Senator Settlemeyer:

On page 6, section 8 includes the concept of any member of a committee being able to administer an oath. The concept of being able to go within or without the state to do a deposition and the subpoena power, is that common for interim committees? I am not familiar with it.

Lorne Malkiewich:

Yes. A number of statutory committees were eliminated. Generally, we have this boilerplate language for all of them, and that language was just consolidated to say this is what joint interim standing committees can do. If you look at other committees, you will see that that language is created for all the statutory committees.

Senator Cegavske:

Two things concern me. The first is that Minority Leadership gets no appointments. I talked to our Majority Leader and mentioned that every bill we had this session has only the majority making appointments in both houses. I want to bring that up because I do have a concern about it. It does not matter what the parties are; I am looking ahead. Again, that is consistent in every bill we see.

My other concern relates to something Assemblywoman Kirkpatrick brought up. I am looking at the 4 to 1 advantages on some of these committees. That really needs to be looked at and addressed before the bill moves out. I hope there is room for discussion on those two issues.

Chair Segerblom:

That was not really a question.

Senator Cegavske:

No, I was just making a statement based on reviewing the bill.

Chair Segerblom:

Do you have an answer to that as far as the majority making all the appointments?

Lorne Malkiewich:

That is obviously a policy decision for the committees in the Legislature to make. There is a provision requiring at least one minority member, both as a regular and as an alternate, in each committee. In the Senate, where it is three members and two alternates, it would be no less than two and one and one and one.

Senator Cegavske:

I am referring to making the appointments, and there are not any of those.

Assemblyman Conklin:

I am not sure I understand the concern. In my experience, from a leadership standpoint in the majority party, we have always taken the recommendations of the Minority Leadership on who they wanted on what committees. That has been a standard practice with very few exceptions.

Senator Cegavske:

That is not how it is written.

Assemblyman Conklin:

I recognize that is not how it is written, but in practice, that is how we have always done it.

Lorne Malkiewich:

Again, these are policy matters for you to consider whether or not to include in the bill. I will confirm what Mr. Conklin said. It is not in the statute; there is not a requirement, but in general, at this meeting in August or September, we have a few appointments for the Minority Leader. There are a few specifically for the Minority Leaders of the houses. There are several that go right to the Legislative Commission. There are a large number that are Majority Leader or Speaker. In general, we do those en masse after the session is over. I know it has been a past practice for the Majority Leader, the Speaker, and the Minority Leaders to consult on those. Again, you are correct; it is not required in the statute.

Assemblyman Hickey:

My question is along the lines of Mrs. Kirkpatrick's last question about how the numbers are spread out. As I see here, there are nine proposed committees. With 5 members on each committee from the Assembly, that equals 45 committee members. With 42 Assembly members, is one to assume that each person would probably serve on one committee? This would be given whatever reasons Leadership may have to have more experienced or more new people to bring them along in this process. We have all heard that the interim is where things get done, and we have a large freshman class this time. While we have learned a lot now, we might be even better prepared next time.

Lorne Malkiewich:

There are other committees such as the Legislative Commission and the Interim Finance Committee, and there are the progeny of those committees that were excluded from this bill—the Audit Subcommittee, the Regulation Review Subcommittee, the Committee to Consult With the Director. The Interim Finance Committee has a few subcommittees, such as the Legislative Committee for the Fundamental Review of Base Budgets of State Agencies, which they do on occasion. I excluded the Prison Industries, or the Industrial Programs as it is now called, and Interim Retirement and Benefits; those have traditionally been subcommittees of IFC and under its purview. There are also nonlegislative committees such as the Advisory Board on Maternal and Child Health. These are nonlegislative committees but they have legislative members on them, so there are other opportunities for legislators to serve on committees.

Chair Segerblom:

And termed-out members could not be on committees, right?

Lorne Malkiewich:

I do not believe there is a prohibition against that, but certainly in making those decisions, since one of the points of this is to have continuity walking into the next session, I think that would be one of the things Leadership would consider in making appointments.

Assemblyman Conklin:

I was going to make the same observation Lorne just did. For my colleague, Mr. Hickey, you will be on IFC, which probably meets more often than any of the standing committees will meet. So you will be busy, not to mention any subcommittees IFC may have in the interim.

From a standing committee standpoint, there are 45 appointments for our house, and there is lots of other work that still has to get done. We will still be looking for people who want to actively participate in the interim, I would bet.

Lorne Malkiewich:

That is why I went with five and three. It is a starting point, but it is why I wanted the unbalanced committees. A lot of our interim committees now are four and four or three and three. There are four members of each house on the Legislative Committee on Education; I think you have three members of each house on the Legislative Committee on Child Welfare and Juvenile Justice, and it exacerbates that problem. I was trying to balance that by having the Assembly have more members than the Senate. As any person in leadership who has been involved in making appointments will tell you, there are plenty available.

Assemblyman Ohrenschall:

Under A.B. 578, would these new interim committees have the authority to meet somewhere other than Carson City or Las Vegas? Could they ride circuit and have a meeting in Elko or Overton?

Lorne Malkiewich:

It is strictly a budget issue and one that has been addressed somewhat in our budget. The budget for the Legislative Committee on Public Lands includes more money for travel than our budget for our other committees because we understand that Committee is going to travel. In general, last interim and this interim, we have built the budgets for interim studies lean. We have given a small amount for travel on the assumption that we will be videoconferencing and that you will be attending meetings in the Grant Sawyer State Office Building in Las Vegas or this building here in Carson City. We recognize that some of these committees are more likely to travel and have built some travel money into that. This comes back to the fact that with the Legislative Commission approving the budgets, they will be looking at whether the Joint Interim Standing Committee on Natural Resources, Agriculture and Mining might need to travel more, or something along those lines. It would be something for the Commission to determine.

Assemblyman Ohrenschall:

And it is solely a fiscal issue; the chairman or chairwoman of these interim committees could have a meeting in Ely if they wanted to discuss an issue pertaining to that area.

Lorne Malkiewich:

That is correct.

Chair Segerblom:

I do not see any further questions. Thank you very much.

We will adjourn the meeting [at 5:29 p.m.], and the Assembly Committee will stick around.

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblyman Tick Segerblom, Chair

DATE: _____

Senator David R. Parks, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Legislative Operations and Elections/Senate Committee on Legislative Operations and Elections

Date: June 2, 2011

Time of Meeting: 4:24 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 578	C	Pepper Sturm	Chart of Committees
A.B. 578	D	Pepper Sturm	New Joint Committee Details
A.B. 578	E	Pepper Sturm	Summary of A.B. 578