

MINUTES

WAYS AND MEANS COMMITTEE

NEVADA STATE LEGISLATURE - 59th SESSION

March 11, 1977

The meeting was called to order by Chairman Mello at 8:00 a.m.

PRESENT: Chairman Mello, Mr. Bremner, Mrs. Brookman, Mr. Glover, Mr. Hickey, Mr. Kosinski, Mr. Rhoads and Mr. Serpa.

TARDY: Mr. Vergiels.

EXCUSED: Mr. Bode Howard, due to illness.

OTHERS PRESENT: John Dolan, Assembly Fiscal Analyst; Bill Bible, Budget Division; Bob Gagnier, SNEA; Bill Hancock, Public Works Board; Senator Jim Gibson; Senator Floyd Lamb; Frank Daykin, Legislative Legal Division; Dick Bortolin, NIC Appeals Officer; Assemblyman Bob Robinson; Assemblyman Jim Banner; John Duarte, Welfare Division; Jack Middleton, Mental Hygiene/Mental Retardation; Dave Edwards, Mental Hygiene/Mental Retardation; Rod Goff, Public Defender and Speaker Joe Dini.

BDR 23-464. Bob Gagnier stated this bill deals with overtime for state employees. The thrust of it is something that they introduced two years ago. At that time they found it would be in conflict with the Fair Labor Standards Act and it was withdrawn from the 1975 Session. Since that time, the Fair Labor Standards Act has been declared unconstitutional by the U.S. Supreme Court as it applies to state and local governments. The thrust of the bill is that an agency of the state would be required to pay cash for overtime rather than compensatory time off unless the employee chose to have compensatory time off in lieu of the cash. This would prevent what happens every Legislature when the Prison comes in and asks for vast sums of money to pay off their accumulated overtime.

Mrs. Brookman made a motion for introduction of BDR 23-464 by Ways and Means; seconded by Mr. Bremner. Motion approved.

A.B. 183. Provides for program of grading and certifying meats.

Mr. Hickey asked Mr. Serpa to send this bill to Ways and Means. It did pass out of Mr. Hickey's committee with a "Do Pass" unanimous.

The testimony was that there are a number of small packers at the present time that cannot compete within the state because of the grading process. If the State were to provide the funding for the grading of meat, this would allow them to compete and increase their production of Nevada beef. That is one of the reasons they thought it would be not only a service to the small packers but also to the ranchers within the area.

Mr. Rhoads said they presently have to fly in meat graders from California. It is such an expense that they have had to cut down the production. The University of Nevada will also use this meat grader if they pay out some of the money.

Mr. Bremner stated when the sub-committee took their field trip to the Prison, they learned that the Prison couldn't use their own beef because it wasn't federally inspected and graded. This bill would allow them to do that.

Mr. Kosinski stated that in looking at the fiscal note he was curious as to why the in-state travel was so high. Mr. Hickey said the problem is where the packers are located. There is one in Yerington, one in Reno and one out in the Elko area. The amount of travel is set by the distances involved. One of the problems with the grader at the present time is those distances.

Mr. Hickey stated that the packers have to have a certain size kill before they can use the grader that they bring in from California.

Mr. Kosinski asked what the costs were under the present system and what the costs might be to increase the frequency of travel. Mr. Serpa replied that at the present time the only one using the grader is People's Pack in Yerington. They are flying the grader in and paying for it themselves. They have to pay \$17.00 an hour, plus air fare.

The proposed grader would be based in Fernley. Mr. Serpa stated that at the present time it is up to the packing houses to pick up the tab.

Mr. Hickey said there is a minimum size of kill that makes it practical to bring in a grader. What they are saying is that the proposed grader will provide an increase in the kill and to the other small packers. Therefore, it becomes a valuable tool to the state, first in using its own products and second the possible increase of employment within those small packers throughout the state.

Mr. Kosinski asked if there is going to be a charge to the packer. Mr. Hickey said there will be a charge in the grading.

Mr. Bremner asked Mr. Hickey is the USDA is agreeable with this type of cooperative arrangement. Mr. Hickey replied yes. He said this is the same as federal grading. What it does is it really gives Nevada a chance to compete with the other states' meats. Mr. Bremner stated that the USDA will provide Nevada with a federal meat inspector.

A.B. 183. A motion was made by Mr. Rhoads for a "Do Pass"; seconded by Mr. Serpa. Motion approved.

Chairman Mello gave a report to the Committee. He stated that he asked why most of the large money bills went to the Senate. It has been said that it was Frank Daykin, Legislative Counsel, that had something to do with it. This was absolutely not the case. Mr. Barrett was responsible. Mr. Barrett directed the bills over to the Senate.

SCR 13 (S.B. 223). Bill Hancock stated SCR 13 would propose to allow the state Public Works Board to use a federal grant for the installation of the close circuit T.V. system in the Supreme Court chamber. The federal grant is in the total amount of \$4,900. It would also allow the Public Works Board to utilize \$616,492 in additional federal money to enlarge a project that was authorized by the 1973 Session of the Legislature in aviation support facility for the National Guard at Stead. Under the State Public Works Board Act, they are required to seek the approval of the Interim Finance Committee to utilize grants of money for projects which were not authorized by the Legislature or for which the scope has been increased. It is Mr. Hancock's understanding that during the Session of the Legislature the Interim Finance Committee does not exist and so consequently SCR 13 assumes that function.

Mr. Hancock stated there is a parallel bill with SCR 13 which is S.B. 223 which more or less legalizes that action.

S.B. 223 would in essence modify the State Public Works Board Act so that when they receive a grant that they feel the Legislature should consider during the Legislative Session, they could bring it to the Legislature and get a concurrent resolution. It also increases the scope of that activity by adding the acquisition of real property in

addition to the design and construction of buildings. It is Mr. Hancock's understanding that the land acquisition phrase was added on the Senate side because of a proposal from the Mental Hygiene Division of the Department of Human Resources to utilize Fleischmann Grants to seek land acquisition for proposed projects. This is a check and balance situation. Once the division receives the grant they could not use the grant until they came to the Public Works Board and the Board could not use the grant until it went to either the Interim Finance Committee or the Legislature.

S.B. 14. Mr. Gagnier stated that the State Employees Association would like to propose an amendment to S.B. 14. They had no opportunity to do so in the Senate because no hearing was held. The proposed amendment would simply change the out-of-state per diem by adding \$2.00 which the administration's proposal does not include and to provide for a second year increase for in-state travel of \$2.00. The bill, as written, provides only a \$2.00 in-state increase effective upon passage and approval and that would have to last the remainder of the biennium.

Since they did a study back last fall, they found the per diem rates need to go up more because hotel and particularly restaurant costs are going up at a dramatic rate.

The Administration bill did not provide for any increase in out-of-state per diem for meals. The proposed change on Line 13 would be to change the \$15.00 to \$17.00 and then to add \$32.00 effective July 1, 1978 for in-state per diem.

Mr. Gagnier stated he had no knowledge of what the out-of-state travel is so he couldn't give an estimate of how much these amendments would cost.

Mr. Gagnier stated that the \$17.00 they are proposing is for food and incidentals of food. There is no specific legal limit to the room rate. The Board of Examiners is allowed to set that by rule and they have set certain amounts, which vary. It depends upon if the person is attending a convention. If they are, they are allowed to spend a little bit more for their room because they are usually more expensive.

Chairman Mello asked Mr. Bible to estimate the additional costs with Mr. Gagnier's amendments over the present bill.

SJR 2, SJR 3. Mr. Dolan stated these are bills which were introduced in Senate Finance. Both bills are essentially the same as far as the whereases and the reasonings behind them. They just point out the fact that the size of the national debt is a great burden on the taxpayers of the United States. They indicate that this deficit financing may be one of the things that has led to the inflationary pressures and therefore in SJR 2 they propose to call a constitutional convention for the purpose of amending the U.S. Constitution that would require, in the absence of a national emergency, the total of the appropriations made by Congress for each fiscal year would not exceed the total of the estimated federal revenues for the year. In essence, SJR 2 calls for a constitutional convention to have a balanced federal budget and in SJR 3, Congress is requested to submit such an amendment to the various state Legislatures for their review.

Mr. Glover stated that no action should be taken on SJR 2. He said he was listening to a debate one evening between William F. Buckley and a Harvard Law Professor on calling a constitutional convention on the abortion issue. Mr. Glover stated that once you call a constitutional convention there is no limit on what they can do. They could completely change the whole constitution. Mr. Glover felt it would be very dangerous to do something like that. He said if the Committee accepts either one, it should be SJR 3. Mr. Glover stated that there has never been a constitutional convention.

Chairman Mello stated that what Mr. Glover is saying may be true. It is questionable whether or not if you have a constitutional convention if it does open it up to debate on the constitution or just those areas which it is called for.

Mrs. Brookman stated she feels there are many things after 200 years that could be changed and should be changed.

Mr. Glover said that's right, that if a constitutional convention was called, they could change anything in the constitution that they wanted to.

Mr. Serpa asked why SJR 2 and SJR 3 were in Ways and Means. Chairman Mello explained that he thought what the Committee was looking at is the fact that the federal government is continually spending and they are in deficit spending and it appears to Chairman Mello that the federal government is doing everything they possibly can to see that the states follow the same guidelines that they are following. If you go through the budget and look at the federal programs that are being initiated by the federal government, blackjack types of procedures of holding something over the state's head if the state doesn't go along with the program are going on.

Mr. Bremner stated he disagrees with the resolution because the word national emergency is kind of a nebulous thing. He thinks that there will be situations where deficit at the federal level is necessary. Mr. Bremner doesn't agree with a lot of the deficit spending the federal government has done, but he does think that there are going to be instances where they are going to have to use that kind of a budget and Mr. Bremner doesn't think the state should hamstring.

Chairman Mello said he agreed to some extent, although the fact is that had the federal government used better judgment, there is a possibility they wouldn't be in debt.

Chairman Mello stated he didn't think Nevada's constituents would allow Nevada to go into deficit spending, but Congress feels that they are so far removed from their constituency that they feel they can do almost anything they choose.

S.B. 18. Mr. Dolan stated that this is a bill that was introduced by Senate Finance. It changes the operations of the Interim Finance Committee. In lines 18 and 19, it used to say that when a member does not run for re-election or is defeated for re-election their position on the Interim Finance Committee would terminate on the day after the election but no vacancy is thereby created. S.B. 18 would say that their membership would continue until the next Session of the Legislature is convened. The reason for this change is that they did have a situation occur this time with three members of the Senate Finance Committee which meant that the Interim Finance Committee was reduced on the Senate side to a total of only four members. That meant that they had to get three of those four people even to hold a meeting, which made it very difficult to arrange schedules to hold a meeting. If only two or three members showed up, it gave one individual on that Committee veto power over the entire actions of the Interim Finance Committee because those two Committees vote individually and separately and there has to be a majority of both Committees, not a majority of the combined Committees to pass an item. When there were only three members in Senate Finance, if one of them cast a no vote and all nine members of the Assembly Ways and Means, plus the other members of the Senate voted yes, the vote would be 11 to 1 and the motion could be defeated.

The feeling was that they would just continue these individuals on until the Session next convenes at which time Interim Finance ceases to exist during the Session.

Mr. Kosinski asked why the proposed solution was not to provide for the selection of other elected members of the Legislature rather than admit someone who is no longer a representative of their constituents. Mr. Dolan replied he didn't attend the discussions but was simply relating what this particular bill does and the situation behind it and doesn't know why they chose that particular method.

Chairman Mello stated they probably chose this method because the people that were on the Committee before have a little more insight as to what is going on in the budget rather than someone that sits on the Floor and hasn't had the opportunity to have the input on the testimony.

Chairman Mello stated that the possibility of having a meeting of Interim Finance after the election is pretty remote. There was only one Interim Finance meeting and that was because of the Parks. They didn't get their program to the Legislature soon enough. Chairman Mello said he didn't think that is going to happen again because the Parks program wasn't approved.

Mr. Serpa quoted that "the Interim Finance Committee, composed of members of the Assembly standing Committee on Ways and Means" and said he construes that as they have to be a member of the Assembly at the time they are still in the Interim Finance Committee and as of November 3rd, they would no longer be an Assemblyman or a Senator.

Senator Lamb stated this is the only place that this rules that an Assemblyman is no longer on a Committee. Other Committees and other appointments do stay on, but on this particular Committee, they don't.

Mr. Serpa stated he thought it was NRS 285 that states that you take office the day following the General Election. Senator Lamb replied, no. Chairman Mello stated that you take office when you are sworn in. He stated that is why you take an oath of office. You are an Assemblyman-elect, but you haven't been sworn in.

Mr. Kosinski asked if it was not correct that on the Legislative Commission is someone does not seek re-election they lose their seat on the day of the election. Senator Lamb said this is the only area that this applies and stated that Interim Finance is a part of the Legislative Commission. Senator Lamb stated that it is clear in his mind because he had talked about it with Mr. Daykin, and stated that Mr. Daykin would really be the one to answer the question.

Senator Lamb stated that at one time he could have controlled anything that happened in the Interim. There were just three votes and he was the swing vote at any time and stated that isn't good. Chairman Mello agreed.

Chairman Mello explained to Mr. Daykin that the Committee wondered if after the General Election a member of either the Ways and Means Committee or Senate Finance, which makes up the Interim Finance Committee, can still be considered as an Assemblyman or a Senator. Mr. Daykin stated that he cannot, after the General Election, be considered an Assemblyman or Senator unless he was re-elected to the position that he formerly occupied. However, there is no constitutional prohibition against creating, by act of the Legislature, those particular persons as members of this Committee for this function.

Chairman Mello stated that a person is elected to an Assembly or Senate seat after the general election is not an Assemblyman or a Senator until he takes his oath of office, is he not? Mr. Daykin replied on the contrary, he is an Assemblyman or a Senator from the day next after his election. The Constitution so provides. He is not qualified to act as such until he takes the oath of office but he is a member. Mr. Daykin stated that his term begins on the day next after his election.

Chairman Mello stated that he is really not an Assemblyman or a Senator until he takes his oath of office though. He cannot carry the duties of a Senator or an Assemblyman until he takes the oath. Mr. Daykin replied

that there are no duties as an Assemblyman or Senator to be performed until the Legislature convenes. The importance of the language about terms is that if the Governor, for example, were to call a special Session of the Legislature in December, it would be those persons who would convene. They would be sworn and the Legislature would proceed. Chairman Mello asked if they would also receive their credentials. Mr. Daykin replied yes, at that point.

Mr. Serpa asked that without a swearing in ceremony, could a newly elected legislator be appointed to this Committee. Mr. Daykin replied that depends on whether the qualifications are that he must have begun his duties as a legislator because you could provide by statute that any person selected, no matter how you selected them, would serve on any statutory created Committee. Therefore, you could provide that a person newly elected could take his seat on a Committee as long as he had received a Certificate of Election or whatever proof you chose to provide in the statute. There is nothing in the Constitution to forbid it. Under present law, no one takes a seat on this Committee unless he sat on the standing Committee in the Legislature last past. That's a matter of statute under the present law.

A.B. 19. Mr. Bortolin, Appeals Officer, NIC, told the Committee about the background of the Appeals Officer.

In the 1973 Session of the Legislature an Appeals Officer was created who would act in a position above that of the NIC. The purpose was that the NIC administers the trust fund and they wanted someone to check their decisions. In essence, what you have is an equivalent to the administrative law judge on the federal level. Mr. Bortolin pioneered this position and started first hearing matters in September of 1973. Since that time he has heard over 1,000 hearings and has disposed of 459 matters. His calendar is presently at a docket of 660. The problem is that he is setting for the month of March this year 44 cases. He will hear 20 cases in Las Vegas and 20 cases in Carson City. He has to spend one week in the north. When he gets through with all of the orders that have to be written and matters that have to be taken care of, he ends up with probably less than a week to work on decisions. He has a secretary in Las Vegas and a secretary in Carson City and stated it was very difficult. He thinks the time has come when an additional Appeals Officer for the southern part of the state is in order. Mr. Bortolin could set more than 40 cases per month if he had the time. He has his calendar full through April and May and he is still setting cases.

Chairman Mello asked about the salary of the Appeals Officer. Mr. Bortolin replied that he felt it would be very difficult for a lay person to handle this position because most all of the hearings involve attorneys appearing. They raise a lot of legal issues and it is a job that generally will be done by a lawyer. Up until January 1, 1977, the Appeals Officer could have private practice. As of January 1, 1977 the Appeals Officer has lost his practice. Speaking for himself, as Appeals Officer, Mr. Bortolin stated that he was very concerned as to what would be the proper salary and the best way in which he thought to approach the problem was to look at what the Federal Administrative Law Judges were getting. Their salaries commence at approximately \$24,308 and go all the way to \$39,600.

Federal Administrative Law Judges are people who are judges who sit on the various agencies, for example the National Labor Relations Board, and they arbitrate and hear the cases. This position is similar to their position. The reason it is similar is because the Appeals Officer hears the matter after the agency has heard the matter.

Chairman Mello stated that the Attorney General is only making \$30,000 a year and his Chief is making \$29,064. The Supreme Court Justices are making \$35,000 per year. Mr. Bortolin said he was told that the District Court Judges were asking around \$40,000 and the Justices' salaries were also going to be going up. Chairman Mello stated what they are asking for and what they will get are two different things.

Chairman Mello thought it would be more realistic for Mr. Bortolin to compare himself to people within state government instead of federal government. Chairman Mello stated that Mr. Bortolin also receives benefits that the unclassified personnel receive and asked Mr. Bortolin if he was recommending that the benefits be discontinued if Mr. Bortolin is given the salary increase. Mr. Bortolin replied no.

Chairman Mello stated that this causes a definite problem with the Committee. People within state government are always trying to compare themselves with other people in state government. If Mr. Bortolin is raised up in four years to \$37,500 they everybody will be trying to say that they have the same duties, if not more than Mr. Bortolin and they will all be trying to get their salaries up to \$37,500.

Mr. Bortolin replied that he realized that. He hopes that the Committee would realize that when an individual loses his private practice, if you wish to create professionalism and quality in the people that are running government, he feels they should be paid at a proper rate. Mr. Bortolin has had the position of Appeals Officer since August 5, 1973 and he has had the opportunity to practice law until January 1, 1977 and that makes quite an impact on a lawyer when he has to choose between public service and closing down his law practice.

Mr. Hickey asked if there is anybody that is not an attorney that is a hearing officer. Mr. Bortolin replied not in this type of position.

Mr. Serpa asked if the state would lose Mr. Bortolin if this doesn't come through. Mr. Bortolin replied it is going to be a very difficult decision.

Mrs. Brookman asked if Mr. Bortolin's private practice interfered with his state work. Mr. Bortolin replied that it did not. He stated he proud of the fact that during all the time he has been in state service, he has always maintained an office separate and apart from the state and he did it on his own time.

Mr. Kosinski said Mr. Bortolin had stated that his salary is \$26,000 now. Mr. Bortolin replied yes, because of the increase for non-classified. Mr. Kosinski asked if there is a statute that provides that increase. He stated that NRS 616.542 seems to very clearly state that Mr. Bortolin's salary shall not be more than \$25,000 and was curious as to how he was able to get that increase without a statute. Mr. Bortolin said it was worked out with the Division of Administration.

Mr. Bortolin stated that if his private practice was reinstated, he wouldn't ask for an increase. He stated it is a lot more than just a salary. It's the fact that he has lost his client/attorney relationship and that means something to him.

Assemblyman Banner stated he was probably one of the few non-attorneys who appears in front of Mr. Bortolin representing claimants. Assemblyman Banner knows Mr. Bortolin's qualifications and knows what is needed in that particular job. This is the only type of a quasi-judicial system that does exist. The position does require a very competent person.

Assemblyman Robinson stated that the amendment 79(a) to A.B. 19 (Line 42, Page 3) will read: "Each Appeals Officer shall be an attorney who is licensed to practice law before all of the courts of this state."

The two year requirement is deleted because the question arose in the Board's mind that if they are looking for a new Appeals Officer they may not find one with adequate experience within the State of Nevada, but they may find an experienced highly qualified Appeals Officer in another state. He qualifies by being an attorney and if they bring him in the State, he would have to stay here for two years and be licensed here for two years. Mr. Barengo did feel that the man should be licensed in the state but he agreed that the two year period would be a big inconvenience in trying to recruit a new experienced Appeals Officer.

Chairman Mello asked Mr. Bortolin if he agreed. Mr. Bortolin stated he definitely should be licensed to practice in the State of Nevada. As to the deletion of the two years, he understands the Board's point in having an individual who is qualified from without the state coming in. Mr. Bortolin's only question is if the State wished someone who has just passed the bar, without any experience at all, to commence to be an Appeals Officer.

Chairman Mello asked who determines who the Appeals Officer is going to be. Mr. Bortolin replied the Governor appoints the officer.

Mrs. Brookman asked if, when you are going to law school, are there certain courses you can take to be an Appeals Officer. Mr. Bortolin replied no. Law school prepares one to know the rudiments of the law. You could take administrative law in law school and learn about it, but in terms of saying that when you finish law school you could be qualified as an Appeals Officer he doesn't think there is any such thing. Mr. Bortolin feels you should have some exposure.

SJR 2 and SJR 3. Senator Jim Gibson stated that these resolutions are companion resolutions. There is an effort being made across the country to get the federal government to live within its means.

SJR 2 calls for a constitutional convention according to the procedure under Article 5 of the Constitution when 2/3 of the states request it. The convention would be limited to the sole purpose of proposing a constitutional amendment requiring the federal government to live within its revenues, except for national emergencies.

SJR 3 is a normal approach through Congress where 2/3 of both houses propose the amendment. There are many experts in the country that feel that the greatest source of inflation is the unbalanced federal budget. This year they are anticipating they will be \$70 billion out of balance, which is more than the total budget used to be about 20 years ago. Senator Gibson stated at the present time the national debt is about \$600 billion. The interest rate alone is \$60 billion a year which is the third highest appropriation in the federal budget. Senator Gibson stated that the biggest pressure on the state's budgets comes from federal appropriations that require the state to enter into a program and inflationary pressures that cause a general increase in all of the state's budgets. There are about eight states now that have adopted the resolution. It is before several other states in this Legislative Session. The hope is that through building up pressure in the nature of these types of resolutions, Congress will begin to exercise a more frugal approach to federal expenditures.

Chairman Mello stated that SJR 2 was the most controversial in Ways and Means. Chairman Mello asked if you have a constitutional convention does it open it up to all issues in regard to the constitution or does it only open it up to the specified subject matter? Senator Gibson replied there has never been a constitutional convention and the game rules haven't been well laid out. He stated that the last thing Congress wants is a constitutional convention because they are not sure what might happen. They are working on proposed procedures and one of the things in the wording of this resolution which has not been in others that have been proposed in the past is the fact that the convention would be limited to the consideration of this matter alone. To Senator Gibson, the benefit of having this is the pressure it puts on Congress to look at the other avenue and he thinks that that justifies its being considered.

Mr. Kosinski asked if the state were to adopt SJR 2 and as the years sent by other states did so also and if Nevada were to have second thoughts, could Nevada rescind their resolution. Senator Gibson stated he felt Nevada could.

Mr. Bremner stated that a situation may arise where the federal government would have to deficit spent when there would be no national emergency and we are talking about an economic situation where the old idea of pump priming was necessary to limit the effects of an economic downtrend. If Nevada passes such an amendment where they could not deficit spend, the federal government might be severely hamstrung. Senator Gibson replied that it goes to the philosophy, as far as he is concerned, pump priming has never demonstrated its efficiency. All it does is add to the inflation and fuel further deficits. Senator Gibson thinks if it were true in national emergencies, then the effect would be to waive the restriction. A lot of the problems we are in now is because of false efforts in this area where they went too far too fast and couldn't stop and the effects of that carried on. Then there was inflation.

Senator Gibson stated that the thing that determines how we look at these things is what we do ourselves. In the state, if we head into economic troubles, we tighten out belt. That has proved to be very effective. Nevada has been able to maintain a surplus in the State Treasury and take care of the essential services and have maintained a strong fiscal posture. Nevada is not allowed to deficit finance. Nevada is faced with emergencies from time to time that within the state can be as great to us as things are nationally. So people feel the answer to any problem is to spend more money. Unfortunately a lot of those are in the federal government.

S.B. 176 (Page A-23 of the Executive Budget). John Duarte stated that S.B. 176 is the supplemental appropriations act to add monies for the Welfare Division for the Title XIX program for the current biennium. Welfare presently has anywhere from three to four weeks left of cash in order to finish out the year so Welfare needs the supplemental bill passed as fast as possible so that Welfare will not have to cut off payment to providers.

S.B. 177 (Page A-21). Jack Middleton stated that the Desert Developmental Center is a residential facility for the mentally retarded now under construction in Las Vegas. This was approved by the 1975 Legislature. At that time they anticipated completion in October of this year. The construction schedule is way ahead of what was anticipated and they feel it could be completed as early as May of this year. S.B. 177 provides for earlier operation of this facility. There will be approximately 35 staff, some operating money, and there is also a special equipment request for \$40,000 which consists of two vans, a tractor for 10.2 acres and some outdoor recreation equipment. The whole idea here is to get the facility operational at an earlier date.

Mr. Kosinski asked if the personnel division has already set up the classification system for this facility. Mr. Middleton replied NPD 19's were submitted with the original budget request on Page 380. All S.B. 177 is doing is starting the program prior to July 1st.

S.B. 158. Rod Goff, Public Defender, stated that what is contained in Mr. Goff's Memorandum (which is attached) is self-explanatory. There have been problems in discussing the budget with the various county units so they went back over the statistics they have available and cut out unilaterally \$45,376.00 of the Public Defender's budget to make the county fees palatable to some of the counties who were planning to go out and hire their own Public Defenders. There are some slight increases in some counties. Mr. Goff stated he has been down to Lincoln County and discussed that and also over in Ely which represented a cut.

Mr. Goff stated that Elko County had lined up several attorneys who indicated they would take this thing on on a county contract. Elko County also made attempts to get other counties up in that area to go into a regional office. Since then, Mr. Goff's deputy was up there

yesterday and they have agreed to stay with the Public Defender's Office for the amount that they are asking in this revised schedule.

Mr. Goff stated the Public Defender's Office went over with a fine tooth comb the Carson City and Douglas County contributions. There simply is no way that Mr. Goff can conscientiously tell anybody that those figures could be cut. They are receiving over a case a day in Carson City alone and the figure is over 4 3/4 cases per day in Douglas County. There is simply more than one individual can handle. The statistics would show that it's a full time at least for one Deputy and staff to handle either one of these two counties. The Public Defender doesn't feel that there is anything they can do. This budget represents the minimum. Mr. Goff feels that the travel expenses won't suffice. In the past he has transferred money, although the Bureau of the Budget has protested that practice, from one category to another to cover up those deficits and they have never ended up with a shortage at the end of the year.

Mr. Kosinski stated he was unclear as to Mr. Goff's justification of the three counties that indicated they are going to opt out, and asked Mr. Goff if he still needed these large amounts of money. Mr. Goff replied that the new amounts are attached to the distributed material. In Elko County, they are now requesting \$16,088. That was the county that was discussing hiring their own Public Defender. Mr. Goff doesn't know what Carson City and Douglas County will do.

Mr. Kosinski stated that we are talking about \$70,000 from three counties that may not want to take part in the program and that is over one-third of the entire budget. Mr. Goff replied that's right. Mr. Kosinski asked if it was possible to have these counties firm up a commitment prior to the sine die of the Legislature? Mr. Goff replied they could ask for one but that is all he can do. They have talked to Mr. Liparelli in Carson City and before the County Commissioners.

Mr. Goff stated when he first took office he read the statutes and he thought that the counties had the option under NRS 260 to set up their own public defender's system without any consent from anyone.

Mr. Bible stated that when Mr. Goff first appeared before the Committee, he provided the Committee with a pass out and Chairman Mello asked that Mr. Bible analyze it. Mr. Bible did reply to the Committee. He stated that the statutory scheme for the Public Defender's services to the counties is found in NRS 260 and NRS 260 makes it discretionary with the county as to whether or not they are going to form their own single county unit, a consolidated county unit or contract with the State Public Defender's office. Mr. Goff replied that that was his understanding, that NRS 260 gives the counties the power to withdraw.

Mr. Goff stated there has never been any written contracts. They are sent a bill and the county paid it for the amount as set by the Legislature.

Chairman Mello stated it appears to him in this bill that even if they were utilizing their own services, the Public Defender could still submit them a bill.

Mr. Serpa asked if the counties that have been raised have been notified. Mr. Goff stated he was out of the office. He talked with people in Lincoln County. They are aware of what happened. Mr. Goff talked to Ely to the White Pine County Commissioners. He talked to one county commissioner in Eureka. Mr. Goff thinks the counties have been notified. He can't swear that they have. Mr. Goff stated he would see to it and double check to make sure that the counties have been notified.

Chairman Mello stated there would be no more questions on S.B. 158 until the Public Defender himself has checked this out and notifies the Committee when he has all of the information that Ways and Means might want on this.

S.B. 160. Eliminates private practice of law by Deputy State Public Defenders.

Mr. Goff stated the Public Defender's office submitted the bill.

Chairman Mello stated that there have been some questions in regard to A.B. 183 which was passed out of Ways and Means earlier. The Committee doesn't really know how they are going to operate on their budgets. Testimony as to this was not given. There is a fiscal note in regard to it. As Chairman Mello sees it, there are no controls.

Mr. Hickey stated that UNR Dean of Agriculture is being contacted and that information will be available Monday.

Mr. Kosinski made a motion to rescind action whereby Ways and Means passed A.B. 183; seconded by Mrs. Brookman. Motion approved. Mr. Serpa voted no.

SJR 2. Requires Congress to call a constitutional convention to amend the Unites States Constitution to limit federal spending.

Mr. Kosinski stated he was in favor of the proposal itself, but is concerned about the ramifications of the Legislature adopting the resolution and then possibly at some later date becoming convinced that this could get out of hand, and then wanting to rescind. Mr. Kosinski stated that there is no case law on the ratification of an amendment nor the calling of a constitution convention.

It was the wish of the Committee to hold SJR 2.

SJR 3. Requires Congress to submit Amendment to the Unites States Constitution to limit federal spending.

Mr. Kosinski made a motion to hold SJR 3 in abeyance; seconded by Mr. Serpa. Motion approved.

S.B. 18. Provides certain members of Interim Finance Committee remain members until next session of the Legislature.

Mr. Kosinski withdrew his earlier objection to the bill.

Mr. Hickey made a motion for a "Do Pass"; seconded by Mrs. Brookman. Motion approved.

S.B. 160. Eliminates private practice in law by Deputy State Public Defenders.

Mr. Bremner made a motion for a "Do Pass"; seconded by Mr. Rhoads. Motion approved.

A.B. 19. Makes various changes in workmen's compensation laws relating to appeals officers.

Chairman Mello asked the Committee to look on Page 3, Line 37: "Each appeals officer is entitled to receive," strike after that down through Line 41 and will read "an annual salary in an amount to be determined pursuant to the provisions of NRS 284.182."

Mr. Kosinski stated that he was in favor, from a policy standpoint, of a concept which would reward longevity as this bill was intended to do. He thinks that the amount is a little uncertain.

Mr. Bremner made a motion to amend A.B. 19 to read: "an annual salary in an amount to be determined pursuant to the provisions of NRS 284.182; seconded by Mr. Rhoads. Motion approved.

Chairman Mello pointed out another amendment on Line 45. Delete "has been" and insert "is licensed to practice law." It also strikes out "for a period of at least two years."

Chairman Mello talked with Mr. Bortolin and he is not terribly concerned about the salary if he can get his private practice reinstated. That is something the Committee must think about.

Mr. Kosinski stated that several years ago the Legislature very wisely embarked on a policy to take private practice away from government attorneys. There was a great deal of time not only regarding the attorneys, but their secretaries as well, going into their private practice. Mr. Kosinski would be opposed to any proposal which would permit the appeals officer to have his private practice.

Mr. Bremner made a motion for a "Do Pass, as Amended"; seconded by Mr. Hickey. Motion approved.

Speaker Dini asked if in the testimony received on this bill was any testimony received on how slow the Appeals Officer is working in the state? Chairman Mello stated perhaps that is why NIC wants another appeals officer. Speaker Dini stated that the appeals officer is supposed to make a decision within 90 days. Right now he knows of a certain case that has been there for a year and no decision has been made yet.

Chairman Mello stated if we force them to make a decision in 90 days, that could be very detrimental to one side or the other.

Mr. Kosinski stated that if the Committee is going to consider that kind of proposal, more testimony should be heard.

After some discussion, Mr. Bremner withdrew his motion for a "Do Pass as amended" on A.B. 19. Mr. Hickey withdrew his second. The bill will be held pending further information.

SCR 13. Mrs. Brookman made a motion for a "Do Pass"; seconded by Mr. Serpa. Motion approved.

Chairman Mello stated that the Committee can move at the appropriate time on the Floor that S.B. 223 and SCR 13 be placed together on the board and the comments made will be for both.

S.B. 223. Mrs. Brookman made a motion for a "Do Pass"; seconded by Mr. Serpa. Motion approved.

S.B. 176. Mr. Hickey made a motion for a "Do Pass"; seconded by Mrs. Brookman. Motion approved.

S.B. 177. After some discussion, it was the decision of the Committee to hold S.B. 177 pending the sub-committee meeting.

DIVISION OF SOIL CONSERVATION DISTRICTS (Page 638). Mr. Rhoads made a motion for a "Do Pass-Governor's Recommendation"; seconded by Mr. Serpa. Motion approved.

STATE ENVIRONMENTAL COMMISSION DIVISION (Page 636). Chairman Mello stated that Senator Fransway called him and said that they felt they could not carry out their duties unless they receive their request for in-state travel instead of the Governor's recommendation which would give them an extra \$2,500 for each year of the biennium.

Mr. Bremner made a motion to amend the budget to increase the total in-state travel by \$2,500 each year of the biennium; seconded by Mr. Vergiels. Motion approved.

Mr. Bremner made a motion for a "Do Pass-Governor's Recommendation, as amended"; seconded by Mr. Vergiels. Motion approved.

INSURANCE EXAMINERS (Page 583). Mrs. Brookman made a motion for a "Do Pass-Governor's Recommendation"; seconded by Mr. Hickey. Motion approved.

DIVISION OF INSURANCE (Page 584). Mr. Kosinski stated there was testimony that three positions were vacant in this budget, one for at least eight months, another one for probably a year and at least one, possibly two vacant for a short period of time. One of the positions that is vacant for a long period of time is the Deputy Commissioner. Chairman Mello stated it was his understanding they will have that position filled by July 1st. Mr. Kosinski stated that the other position which was vacant for at least eight months is the Accountant and the position of Associate Actuary has been vacant for a shorter period of time. Chairman Mello said that was due to a recruiting problem.

Mr. Bremner said as best he could recall in all three of the vacant positions, they were having problems recruiting.

Chairman Mello stated he thought they had to take some of their monies in salary savings and put it in the EDP system program. Mr. Bible replied correct.

Chairman Mello stated that the Committee will send a Letter of Intent to the Commissioner telling him to fill the vacant positions.

Mrs. Brookman made a motion for a "Do Pass-Governor's Recommendation"; seconded by Mr. Hickey. Motion approved.

COMMERCE DEPARTMENT DIRECTOR (Page 574). Mr. Bremner made a motion for a "Do Pass-Governor's"; seconded by Mr. Vergiels. Motion approved.

BANKING DIVISION (Page 597). Mr. Kosinski stated this is the budget he has had correspondence with Mr. Tidvall on on the question of the examinations where the state examiner goes in with the federal examiner once in a nine month period and then again in a nine month period the state examiner goes in by himself. This has not been answered to his satisfaction. If this new position was not granted, they would have trouble keeping up that schedule. Mr. Kosinski can't see how the supervision of the banking system would be hurt by that because instead of an examination once every nine months by the state we would have one examination once a year by the state and again once every 18 months by the federal examiner.

Mr. Bible stated the position itself wasn't budgeted for the examination cycle. The new position in this budget is primarily to handle consumer complaints from collection agencies and finance companies which are duties that are assigned by statute.

Mr. Kosinski stated that as he understood it, if they did not make these two examinations every 18 months that would free-up some of the staff time that is presently being used for examinations.

Mr. Vergiels stated that he didn't see any reason why we should make them have an examination every 12 months. He feels that examinations should be made more often. It would be in the best interests of the people to have the examinations more often.

Mr. Bremner made a motion to amend the budget to delete the \$750.00 each year of the biennium from in-state travel and put it into out-of-state travel; seconded by Mr. Hickey. Motion approved.

Mr. Kosinski made a motion to amend the budget to delete the Governor's recommended new position of Assistant to the Superintendent of Banks; seconded by Mr. Serpa. Motion failed.

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Mr. Bremner made a motion for a "Do Pass-Governor's Recommendation, as amended"; seconded by Mr. Hickey. Motion approved. Mr. Serpa and Mr. Kosinski voted no.

SAVINGS & LOAN (Page 600). Mr. Bremner made a motion for a "Do Pass-Governor's Recommendation"; seconded by Mr. Vergiels. Motion approved.

HOUSING DIVISION (Page 602). Mr. Bremner made a motion for a "Do Pass-Governor's Recommendation"; seconded by Mr. Hickey. Motion approved.

The meeting adjourned at 11:30 a.m.

OFFICE OF THE
NEVADA STATE PUBLIC DEFENDER

J. T. Losinski

SB 158



P.O. Box B
CARSON CITY, NEVADA 89701
TELEPHONE 885-4880

March 3, 1977

The Honorable Donald R. Mello, Chairman
Assembly Ways and Means Committee
Nevada State Legislature
Carson City, Nevada 89701

Re: County Contributions to the Nevada State
Public Defender's Budget

Dear Chairman Mello:

When the representatives of the Office of the Nevada State Public Defender appeared before your committee recently, there was some discussion as to whether or not the counties would be able or willing to contribute to the budget of the Nevada State Public Defender as outlined in the Governor's recommendation. Since that period of time, the Nevada State Public Defender has made an attempt to contact the various jurisdictions served by his office. After some investigation we have determined that Elko County, Carson City, and Douglas County are all considering setting up their own County Public Defender's offices. The State Public Defender believes that it is necessary for the Office of the State Public Defender to continue to exist to serve all of the counties in the State of Nevada which do not have sufficient population to support a County Public Defender Office. While the recommendations of the Governor are not believed to be unreasonable by the State Public Defender, it is true that if the major counties withdraw from the State Public Defender system, the system as we know it will be put in great jeopardy. Therefore, the Nevada State Public Defender has taken the position that he would like to trim everything out of his proposed budget which is not absolutely necessary for the continued operation of the office and to readjust the county contribution figures to better coincide with the number of cases assigned to the State Public Defender in each of the jurisdictions he serves. That information can be found attached to this letter. The State Public Defender would request a hearing on the bill setting forth the county contributions and, if necessary, a further hearing on his budget so that the recommended adjustments may be made known to the Ways and Means Committee.

March 3, 1977

Any assistance which you could give us in getting this matter through the Legislature would be greatly appreciated. I am sure you realize that we are not very sophisticated in the legislative process. If you have any questions at all, please contact Horace R. Goff, Nevada State Public Defender, or J. Thomas Susich, Chief Deputy Nevada State Public Defender.

Very truly yours,

HORACE R. GOFF
Nevada State Public Defender

By J. Thomas Susich
J. THOMAS SUSICH, Chief Deputy

JTS/sz

Att.

cc: Senate Finance Committee
 Senator Floyd R. Lamb
 Senator James I. Gibson
 Senator Eugene V. Echols
 Senator Norman D. Glaser
 Senator Norman Ty Hilbrecht
 Senator Thomas R. C. Wilson
 Senator C. Clifton Young
Assembly Ways and Means Committee
 Assemblywoman Eileen B. Brookman
 Assemblyman Douglas R. Bremner
 Assemblyman Alan Glover
 Assemblyman Thomas J. Hickey
 Assemblyman James N. Kosinski ✓
 Assemblyman John Serpa
 Assemblyman John M. Vergiels
 Assemblyman Melvin Howard
Mr. Frank W. Daykin
Legislative Counsel Bureau

After analyzing his budget, the State Public Defender feels that the following reductions can be made in his budget and still be able to operate in the coming biennium. It is believed that these cuts will reduce the budget to a "bare bones" budget and therefore any additionally cuts would, in the Public Defender's opinion, be impossible.

1977-78. Under existing positions, the State Public Defender recommends that the Supervising Field Deputy position for the Elko office be reduced from a supervisory position to a straight Deputy position. This would result in a savings of \$1,066. Under new positions, the State Public Defender recommends that the position entitled Legal Research - Trial be eliminated resulting in a reduction of \$14,000. It is further recommended that the position entitled Legal Research - Appeals be made a contract position rather than a position in Category 1 and that the amount allocated to that position be reduced from \$14,000 to \$12,000, resulting in a savings of \$2,000. The Legal Research - Appeals position would then become a part of Category 4. The Deputy Field Attorney position under the Elko office should be eliminated, resulting in a savings of \$17,810. It is estimated that the savings in Category 1 would result in a reduction in fringe benefits in an amount of approximately \$4,000. In-state travel should be reduced from \$17,500 to \$13,000, resulting in a savings of \$4,500. The Category listed "Training" should be eliminated resulting in a savings of \$2,000. The reductions for fiscal year 1977-78 would result in a total reduction of \$45,376. It is recommended that the State's contribution remain at \$110,497 and that the county contribution be reduced to \$175,618 for fiscal year 1977-78.

1978-79. For fiscal year 1978-79, the Public Defender recommends that the same basic changes take place in that budget. Specifically that the Supervising Field Deputy position be reduced from a salary of \$23,468 to \$22,407 for a savings of \$1,061. That in the new positions, the Legal Research - Trial position be eliminated, resulting in a savings of \$14,000 and that the Legal Research - Appeals position be moved to Category 4 and made a contract and be reduced to a total of \$12,000 resulting in a savings of \$2,000. Further that the Deputy Field Attorney for the Elko office be eliminated resulting in a savings of \$17,742. A reduction in these changes in the fringe benefits categories, it is estimated, would be approximately \$4,000. It is recommended that in-state travel be reduced from \$17,500 to \$13,000, resulting in a savings of \$4,500 and that the training category be eliminated, resulting in a savings of \$2,000. This would result in a total savings for fiscal year 1978-79 of \$45,303. It is recommended that the State's contribution for fiscal year 1978-79 remain at \$110,208 and that the county contribution be reduced from \$220,416 to \$175,113.

Since the amount of fringe benefits to be saved is estimated, this figure may vary somewhat as well as the county contribution figures.

An examination of the number of assigned cases from each jurisdiction along with modifications based upon travel time and other factors has resulted in a change in the proportional share which each jurisdiction served by the Nevada State Public Defender should contribute to his total budget. We would request that the Legislature change the county contribution bill to reflect the following contribution figures which take into account the reductions requested by the Nevada State Public Defender in his proposed budgets, along with the modifications made in the proportional shares.

	<u>1977-78</u>	<u>1978-79</u>	
Carson City	\$ 30,592	<u>\$ 30,455</u>	\$ 23,731
Churchill	10,853	10,821	
Douglas	24,197	<u>24,085</u>	27,232
Elko	16,088	<u>16,036</u>	27,232
Esmeralda	4,119	4,119	
Eureka	4,004	4,001	
Humboldt	10,447	10,422	
Lander	6,827	6,813	
Lincoln	7,500	7,493	
Lyon	13,644	13,608	
Mineral	13,276	13,238	
Nye	10,044	10,018	
Pershing	10,810	10,799	
Storey	4,004	4,001	
White Pine	9,213	9,204	
	<u>\$175,618</u>	<u>\$175,113</u>	