MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS

Seventy-third Session
April 12, 2005

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara Cegavske at 2:07 p.m. on Tuesday, April 12, 2005, in Room 2144 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Barbara Cegavske, Chair
Senator William J. Raggio, Vice Chair
Senator Warren B. Hardy II
Senator Bob Beers
Senator Dina Titus
Senator Bernice Mathews
Senator Valerie Wiener

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Michael Stewart, Committee Policy Analyst
Elisabeth Williams, Committee Secretary

OTHERS PRESENT:

Renee Parker, Chief Deputy Secretary of State, Office of the Secretary of State
Christina Dugan, Las Vegas Chamber of Commerce
John L. Wagner, Burke Consortium of Carson City
Janine Hansen, Nevada Eagle Forum; Independent American Party
Larry Lomax, Registrar of Voters, Elections, Clark County
Barbara Reed, Clerk/Treasurer, Douglas County
Richard L. Siegel, American Civil Liberties Union of Nevada
Raymond Bacon, Nevada Manufacturers Association
Cheri L. Edelman, City of Las Vegas
Nicole J. Lamboley, City of Reno
J. David Fraser, Nevada League of Cities and Municipalities
Derek Morse, Regional Transportation Commission of Washoe County

Alan Glover, Clerk/Recorder, Carson City

CHAIR CEGAVSKE:
Committee, we have a work session to do first. You have a packet in front of you (Exhibit C). We are going to start with Senate Bill (S.B.) 125. I am going to have Mr. Stewart briefly go over the amendments which have been offered.

SENATE BILL 125: Increases period of residency required to qualify as candidate for public office. (BDR 24-153)

MICHAEL STEWART (Committee Policy Analyst):
You will see S.B. 125 before you in your work session document. You will recall this bill was brought to the Committee by Senator Schneider. It increases the period of residency required to qualify as a candidate for office. The residency increase proposed in the bill is one year before the last date to file a declaration of candidacy for the office. Discussion of this measure focused on the length of time a candidate should be a resident in his or her district before filing for public office. Some witnesses noted the one-year requirement set forth in the measure may be too long. Therefore, the following two amendments have been offered. One amendment would essentially change the one-year requirement to six months, and that was proposed by Senator Schneider. His amendment is on page 1b of Exhibit C. For discussion purposes, Chair Cegavske suggested we consider three months as well.

CHAIR CEGAVSKE:
The reason we put in the three months was because several witnesses testified on that. That is why we have both the six-month amendment and the three-month amendment.

SENATOR RAGGIO:
It is a worthwhile measure. There should be a longer period of residency before you file than the existing 30 days. There ought to be a little more familiarity with the area the candidate is supposed to represent. I would think six months prior to filing is a good suggestion. It would move, of course, if the filing date is ever changed. That would be my suggestion.

SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 125.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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MR. STEWART:
Senate Bill 220 is the next bill in Exhibit C.

SENATE BILL 220: Revises provisions governing voting by public officers. (BDR 23-1179)

MR. STEWART:
You will recall, this is the bill we had in Committee on Thursday. There have been no changes to what was proposed on Thursday. This bill revised provisions governing voting by public officers. Basically, it provides that a public officer would only vote in an instance where more than 50 percent of the members of the public body on which the public officer serves were also not benefited to a greater degree than other members of the group to which they belong. It eliminates the presumption of independence of judgment of a reasonable person as it relates to being materially affected by a pecuniary interest or commitment in a private capacity if the resulting benefit or detriment accruing to him or her or to the person to whom he is committed is not greater than that accruing to any other member of the general business, profession, occupation or group.

The amendments are on page 5 of Exhibit C. The first amendment is to page 3, section 2, lines 1 through 10. Senator Care has suggested we restore this existing language in the *Nevada Revised Statutes* (NRS). Basically, there would be no amendment to this part of page 3, section 2, lines 1 through 10. He wants to just restore that to the original language in NRS 281.501.

SENATOR RAGGIO:
Are there any changes in the existing NRS 281.501?

MR. STEWART:
Yes, there are. That is in one of the later amendments.

CHAIR CEGAVSKE:
It looked like it included lines 13 and 14 to be restored to the original language.

MR. STEWART:
The first amendment I described is section 2, lines 1 through 10. The next amendment proposed is also in section 2, lines 13 and 14. This amendment was proposed by Senator Raggio and Chair Cegavske during the hearing. It concerns whether or not a person can participate in discussion if they indeed have some sort of conflict. You will see in Amendment No. 2 and Amendment No. 3 on page 5 of Exhibit C, it is mutually exclusive. The first amendment proposed by Senator Raggio and Chair Cegavske basically proposes to restore the original language as it is in NRS. It would make no amendment to NRS 281.501, subsection 2. The amendment proposed by Senator Care is to leave the language in section 2, lines 13 and 14, as currently drafted in the bill. I would characterize those two amendments as a policy choice for the Committee.

The fourth amendment is from Senator Care. It would amend page 3, section 2, lines 21 through 31. It would restore that existing language in NRS 281.501, subsection 2. Basically, that would mean there are no deletions or strikeouts on that part of NRS 281.501. The fifth amendment is also on page three at the bottom and continues on to page four at the top of the page. It is the same concept. It would retain the language in NRS 281.501; it would not be deleted in the bill. That amendment was proposed by Senator Care. Also on page 4, section 2, lines 9, 22 and 24 reference the word “or employee.” Senator Care indicated he wanted to retain the language, “or employee” in the existing law. There would be no changes to existing law there either. Finally, Amendment No. 7 would amend page 4, section 2, by deleting lines 31 through 37. This is something which has not been addressed in any sort of amendments Senator Care proposed in the bill. Senator Care has requested that be deleted. That particular amendment addresses the reduction of a quorum if somebody abstains from voting because of the requirements of this section in terms of a conflict. His proposal is to delete that language so there would not be a reduction in a quorum if a conflict is declared. You will note on page 5, section 3, that would remain the same as in S.B. 220.

SENATOR RAGGIO:
If I can go through the bill, I am not sure that, in the opinion of this member, it leaves much for consideration. I certainly support the proposal. If you want to

look at these amendments in order, the first numbered amendment on page 5 of Exhibit C would restore the existing language on page 3, section 2, lines 1 through 10 of S.B. 220. In other words, it would leave the law as it is. I would support Amendment No. 2; it restores the existing language in the bill. There would be no change. As I discussed with the Committee before, we shape this law over many Sessions. The present law allows that a person, particularly a Legislator, should not, after indicating whatever conflict is involved, vote on or advocate the passage or failure of a bill. That is the existing law, and I agree with that. If you strike out the language we put in there, for reasons that are apparent, that a person may otherwise participate in the consideration of the matter, as I indicated, there are a lot of times when that Legislator would have to sit mute. It would be the same thing for the city council. A person should at least be able to give some information on the issue that everyone needs to have. I would not change the existing law. In my opinion, that would mean we would not accept Amendment No. 3. Amendment Nos. 4, 5 and 6 are those which would retain the existing language in the law. The one amendment I have particular concerns about, and I have expressed it as succinctly as I can, is changing the existing provision on page 4 of S.B. 220, lines 31 through 37. That is the determination of a quorum. We would be ill-advised to change that, even though I understand the Senator's concerns. I do not think we should create a situation where, potentially, if two or three of those people declare a conflict, the body would not be able to do the business required. I am not sure, based on that analysis, that it leaves anything to process in the bill.

CHAIR CEGAVSKE:
I have had several people talk to me in reference to page 4, section 2, lines 31 through 37. That means whatever the proposal is, it would not be voted on and would then die.

SENATOR RAGGIO:
That is what I am saying.

CHAIR CEGAVSKE:
I am trying to understand why that would be an issue. If something comes up and the recommended number of votes cannot take care of the matter, then the bill, or whatever the situation is they are voting on, dies. This is for all entities.

SENATOR RAGGIO:
That is the reason we changed the law before to put in the existing law, which is subsection 5 of that section. You could have a situation in a small county, for example, where you were trying to pass a budget. If there are five members on the council and three of the members do business with the city, they would have to declare a conflict. The committee would never pass the budget. Having gone through it, I am not sure it leaves anything to process.

SENATOR WIENER:
Section 3 of S.B. 220 still has some strikeouts. Could Mr. Stewart explain, if we do everything else, is there still something there we need to address?

MR. STEWART:
Section 3 of the bill makes reference to subsection 5 of NRS 281.501. In Senator Care's proposed amendment, if you did actually delete section 5 of NRS 281.501, the reference in section 3 of S.B. 220 would remain deleted. It might just be a policy choice on the Committee's part if you wanted to retain the language in section 3 as either deleted or not deleted. If I recall, in the Senate Committee on Government Affairs last Session, NRS 241.0355 was an issue. Senator Care was one of the authors of subsection 2 of section 3 in the bill, and it basically says you need to get an opinion in writing if you are going to declare a conflict. That is existing law.

SENATOR RAGGIO:
I do not know how many people on the Committee agree with me, but if that is the case, I do not think it is necessary to process the bill.

SENATOR RAGGIO MOVED TO INDEFINITELY POSTPONE S.B. 220.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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CHAIR CEGAVSKE:
Committee members let us move on to S.B. 224.

SENATE BILL 224: Revises provisions relating to elections. (BDR 24-698)

MR. STEWART:
Senate Bill 224 makes a couple of changes to elections. It was brought to the Committee by Senator Townsend, and we heard it April 5. It primarily does two things. It requires a nonprofit organization to submit the names and addresses of its officers to the Secretary of State before soliciting, receiving or making contributions designed to affect the outcome of an election. It also requires an initiative or a referendum petition to include one subject. We have had a lot of discussion during this Session concerning single subject. It also provides that petitions violating these requirements are void. There is a lot of discussion on this, and one formal amendment was submitted by Senator Townsend. It was to amend line 8 and line 10 of S.B. 224 by deleting the term, "or intending to make." The effect of that would basically mean such nonprofit corporations would only need to submit their names and addresses if they made some sort of political activity, not necessarily if they were intending to make one. That was his suggestion.

I did point out in the work session document that Senator Raggio had inquired about single-subject requirements in other states and the method in which they are cited. I was able to send an e-mail to someone I know at the National Conference of State Legislatures. She sent me an informal response concerning how other states reference single-subject issues. In general, most of these single-subject references are pretty straightforward. They basically say an initiative or a referendum petition is limited to a single subject. There were some questions during the hearing about how one knows what a single subject is. We were trying to find that out by looking at other states. The answer might be something left up to a later interpretation. The states generally say it has to embrace one subject and may not be multiple issues. I included that informal e-mail in the work session document, Exhibit C, for your reference.

CHAIR CEGAVSKE:
We will also be talking about the single-subject issue in the resolution.

MR. STEWART:
We had talked about, maybe, splitting up that question. I believe there was a single-subject provision in S.B. 222. For the Committee's reference, the Assembly is considering a couple of single-subject bills, as well.

SENATOR BEERS:
A number of these statements on page 7 of Exhibit C appear to reference legislative action. Is Alaska's language about single subjects under the statute for initiatives or under the statute as a requirement for the legislature? Arizona appears to be the same way.

MR. STEWART:
I would have to go and actually look at these. The e-mail came through just yesterday, so we have not had time to actually go back and check every single reference. I would be happy to figure out which ones are specific to the legislature versus the initiative. California, Colorado, Missouri, Wyoming and Oregon reference an initiative.

CHAIR CEGAVSKE:
Senator Beers, did the amendment take care of your concerns in section 1, line 10?

SENATOR BEERS:
That was the sponsor's amendment.

CHAIR CEGAVSKE:
Section 2 is the issue we need to clarify. That was what we had talked about before, and that was when Senator Raggio had asked to look for the language in the other states.

SENATOR RAGGIO:
Since I made the request, I am going to tell you what I feel about this. It is difficult to be more precise. The *Constitution of the State of Nevada* requires any bill we pass out of the Legislature to contain a single subject. What we are looking at with the initiative or the referendum is equivalence. If it is going to be a constitutional amendment, referendum or an initiative issue, it has the effect of law. I see no reason why we would not require an initiative or a referendum issue to also embrace, as in this bill, but one subject. That means whoever is going to sponsor an initiative or a referendum must tailor it to embrace one subject. We had some examples of this in past elections, where they deviated from this. It is confusing to the electorate and to those people signing petitions.

As you can see, there is no way to define it from this list. Other states simply say the same thing, embrace but one, single-subject matter. That means the

court is going to look at it, but in the last election process, we kept the courts busy looking at all these things for lots of different reasons. Whether we implicitly trust the courts or not, I do not know of a better legal process than that, unless you appoint a dictator, and I do not think we are going to endorse that. I would suggest we do make this equivalent to what the Nevada Constitution requires the Legislature to do. It will mean, in some instances, a court will look at it and determine the petition does not embrace a single subject. We have to be careful drafting bills, and they have to be careful when they draft bills. It is not a chilling of the process. It recognizes that is what our Constitution generally says about law.

The other issue is one which bothers me. What I am after is everybody who gets out there, whether they are a political action committee (PAC) or somebody who registers as a nonprofit. I would like to see a face and an identity on that group. I have been kicking around here long enough, and I have seen these outfits come and go. They last during an election process, and they have no identity, no name and no composition. They sound good, and then they disappear, and nobody can ask them who they are. I do not know if we can do it in this bill, because I would like to see some requirement which says somebody who comes up with a name that always sounds good, and it may be good, has somebody whose name, address and contact information is available. Then, somebody could call them and ask a question. Maybe I have gone too far, but that is how I feel about it.

SENATOR HARDY:
I want to follow up on Senator Raggio's comments. I do not pretend to be a constitutional historian or even a historian of the State. I do not know how active referendums and initiatives were when the Nevada Constitution was framed, but the fact that the framers went so far as to put in the Constitution that legislative acts should deal with one subject says a great deal. It tells me the intent of the framers of the Constitution was that laws should be enacted in that manner. Whenever the referendum and initiative process started becoming actively used, that is a way to process a law in this State. The original intent of the Constitution was to deal with these one subject at a time. I am going to vote accordingly. The intent of the framers would be that any mechanism for passing a law in this State would be dealt with in such a manner. I am going to vote along those lines.

CHAIR CEGAVSKE:
You will find several of us in agreement. I was talking with staff on this issue, and that is exactly what a lot of these states do. They referred to exactly what you were saying.

SENATOR BEERS:
I have a brain which makes uncommon connections, but I appear to be the only one who finds it highly ironic that we are going to enact a single-issue rule for initiatives in a bill which covers two issues.

MR. STEWART:
We had talked about this with Senate Joint Resolution (S.J.R.) 8; it was a constitutional amendment. I spoke with Ms. Erdoes about this issue of multiple subjects when we are talking about single subjects. The one thing the Committee might want to consider when we talk about S.J.R. 8 is it encompasses initiative and referendum in total, even though there are three separate issues within that subject. With S.B. 224, if you wanted to split the bill out, there are a couple of options, but the bill deadline for requesting new bills has passed.

BRENDA J. ERDOES (Committee Counsel):
It is true the bill deadline has passed. As a bill drafter, I would suggest for your consideration the basis for this rule. If you read the constitutional debates, was the idea that subjects would not be combined and hidden from the voters so they were not confused? When you look at the issue of whether there is one subject in S.B. 224 or not, I would suggest to you that it is a bill about elections. In the process, if you determine that one subject means the bill has just one of these phrases in the title and does just one thing, then that definition is actually different than one subject. Should you choose to do that, you might want to think about the effect on the overall process. We have the State Printing Office now, so I am happy to print out as many bills as you would like. Is it disruptive to the process to take each one of these as a separate subject, or is the subject of S.B. 224 elections and all things related thereto?

SENATOR BEERS:
That is my concern. This is wide open to interpretation. After the Supreme Court interpretation of 2003, I am a little nervous with that.

CHAIR CEGAVSKE:
This is my fifth Session. I have found that everything is up for interpretation, and it can go from one end to the other.

SENATOR MATHEWS:
I was going to agree with Senator Raggio. Whether this bill passes or not, we need it somewhere that these groups must provide a real name and address. I would support that.

CHAIR CEGAVSKE:
Senator Titus had to testify in another hearing, but she wanted me to state on the record she is supportive of Senator Raggio's amendment for S.B. 224.

SENATOR RAGGIO:
I did not make an amendment, but I will. I would leave the language for section 2, which does indicate that a "petition for (referendum or) initiative must embrace but one subject and matters necessarily connected therewith and pertaining thereto." The language is okay. I would recommend some amendment to section 1. We need amendment guidance as to what is permissible to require that any organization wanting to advocate an election, whether it is a nonprofit corporation or a PAC, provide a name, address and contact information of whoever represents the group. I am conscious of the fact there are some limits to what you can do, free-speech wise. Whatever is legal that would require a name, address and contact information of whoever represents that group would be good.

CHAIR CEGAVSKE:
Senator Raggio, do you want the officers to be reported, or do you just want one representative?

SENATOR RAGGIO:
It should be someone a person can contact to identify the organization or group. If free speech bars that, then I have a different understanding of free speech.

MR. STEWART:
Just for clarification, the second point Senator Raggio was making about the address and contact information is with regard to the filing the nonprofit corporation intends to make, or are we talking about petition proponents?

MS. ERDOES:
I understood it to mean for each petition filed, there needs to be a contact person who can explain who is behind the petition. Amendment No. 1 would allow for that. It also needs to address the issue that it might not be a corporation that is putting it forward at all.

SENATOR RAGGIO:
No, I am talking about these groups which are not nonprofit. A lot of them are groups with high-sounding names, and I am not saying that in a pejorative way, such as the Committee to Save America and the Committee to Outlaw Sin. I would just like a contact who can tell whoever wants to know who they are and who comprises that organization. I do not know who would object to that because, if the group is legitimate and has a real purpose, they ought to stand up and identify themselves.

SENATOR BEERS:
I heard Ms. Erdoes describe proposing language specific to groups that filed petitions. Senate Bill 224 is much broader. It is groups that engage in any sort of political advocacy. If I am not mistaken, all Nevada nonprofit corporations already file their lists with the Secretary of State, and that is successful. I would presume the problem would be with out-of-State nonprofits that come into Nevada and engage in political speech because they may not have to disclose that information. There are also groups that are not even nonprofit corporations. I do not know how we could get the language to encompass everybody.

MS. ERDOES:
I had it in mind to say whoever the proponent of the petition is, whether it is a group, a person, a corporation or anyone who is putting it forward. That way, it would apply across the board, and it would also allow the bill to work in the same way.

SENATOR BEERS:
For example, in my last campaign, the Committee for Political Truth formed. They did no activity other than send out mailers to my district. They were not interested in a ballot question at all. I want to make sure the final language is broad and will cover that situation.

MS. ERDOES:
If I could qualify that, it will be as broad as the First Amendment cases will allow. That is an area where you do get into some First Amendment restrictions on what can be required and what cannot.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED S.B. 224.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR BEERS VOTED NO.)

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MR. STEWART:
You will recall we heard S.B. 430 on April 7.

SENATE BILL 430: Revises provisions governing removal of public officer from office other than by impeachment or accusation. (BDR 23-918)

MR. STEWART:
It was brought to the Senate Committee on Government Affairs by the Nevada District Attorneys Association. It revises provisions governing the removal of a public officer from office other than by impeachment or by accusation. The amendments were extensive in the sense that, in the first amendment, it deletes sections 1 through 13 and retains the repeal of NRS 283.440. If the Committee were to proceed with this particular amendment, the references which specifically relate to NRS 283.440, which would be repealed if you chose to do that, would need to be removed in their appropriate referring statutes. I know our bill drafters will take care of that.

The second amendment was brought to us by Senator Beers. On section 6, subsection 5, there is a requirement that the Nevada Commission on Ethics must refer to the Legislature any willful violation by a public officer who is subject to impeachment. The proposal then would essentially remove this requirement. I am not sure if the Committee would want to discuss other ways to handle how the Commission would address such violations, but those are the two amendments proposed.

SENATOR BEERS:
I was not terribly compelled by the argument for making the change this bill originally proposed. I do like taking out the automatic referral for impeachment. The mechanism already exists for an impeachment to take place without that automatic referral. That would leave the Ethics Commission the significant fines as a tool for punishment.

CHAIR CEGAVSKE:
Senator Beers, did you respond to the first proposed amendment, which would delete sections 1 through 14? Is that what you were referring to? You did not know if that should remain or not?

SENATOR BEERS:
Yes. I would actually leave everything in, but remove section 6, subsection 5. Section 14 is the piece which removes the provision of law allowing that pursuit against an officer. I was not compelled that it needed to go away. A couple cases cited where it had been abused by angry citizens, but a couple other cases cited where it had been used justifiably.

CHAIR CEGAVSKE:
Here they are asking to delete sections 1 through 14.

SENATOR BEERS:
That process is in NRS 283.430. Section 14 deletes it.

SENATOR HARDY:
I was just going to concur with Senator Beers. I am not sure there was a compelling argument made to remove that process, but I do agree with him in regard to section 6, subsection 5, paragraph (a). It requires an automatic referral for impeachment.

SENATOR RAGGIO:
I would like to ask our legal counsel a question. Is that the only reference requiring a willful violation by a constitutional or a public officer must be referred for impeachment?

MS. ERDOES:
Yes, Senator Raggio, I believe it is.

SENATOR RAGGIO:
I would concur. That should not be there.

SENATOR BEERS:
Nevada Revised Statute 283.440 is the process. I would leave that in. I would not make any of the amendments suggested in this bill, but instead amend section 6, subsection 5, paragraph (a) of S.B. 430 by eliminating them, which would take out the language forcing an automatic referral for impeachment to the Legislature for violations.

> SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 430.
>
> SENATOR HARDY SECONDED THE MOTION.

SENATOR HARDY:
I want to make sure we are not removing that as an option. We do not want to mandate the Commission has to refer for impeachment, but they could still recommend that.

SENATOR BEERS:
I was wondering if we could have our legislative counsel explain to us what the existing mechanisms are for an impeachment to take place. How could an impeachment happen?

MS. ERDOES:
The answer is we could find no mechanism out there for any entity to recommend an impeachment proceeding. I would say there is no prohibition. Therefore, if somebody wished to come forward, I believe anybody can come forward to suggest to the Legislature an impeachment be brought forward. I would tell you, if you wanted, you could leave this and put "may" in instead of "shall." That would simply say to the Ethics Commission it has an invitation to do this that is not out there for anyone else. Anybody could come forward and ask the Legislature to start impeachment proceedings.

CHAIR CEGAVSKE:
If we remove this, it still gives an avenue for someone to do this if they choose. By removing this, we are not giving them the "shall."

SENATOR HARDY:
I am not sure there is any reason to have a special invitation for the Ethics Commission. I want to make sure we are not eliminating that as a recommendation from the Ethics Commission.

SENATOR BEERS:
Is it possible by leaving this in with a "may" instead of a "shall" we close the door on anybody but the Ethics Commission to bring forward such a request?

MS. ERDOES:
I do not believe it completely closes the door, but it may be the perception because that is the only place you would see somebody invited to come forward. Because it is in the Constitution, I do not think anyone would be absolutely prohibited. Can I point out something? You said section 6, subsection 5, paragraph (a). Do you want to take out section 6, subsection 5, paragraphs (b) and (c), also?

SENATOR BEERS:
Yes.

> SENATOR BEERS MOVED TO MODIFY THE MOTION TO AMEND AND DO PASS AS AMENDED S.B. 430 BY DELETING SECTION 6, SUBSECTION 5.
>
> SENATOR HARDY SECONDED THE MOTION.

SENATOR HARDY:
Given the clarification from our legal counsel, I have no concern with taking it out completely. I do not think there needs to be a special invitation.

SENATOR MATHEWS:
I want to know what we have left. Could somebody go over that briefly?

CHAIR CEGAVSKE:
We are not going to accept the first amendment proposed on page 9 of Exhibit C. The only amendment to the language removes section 6, subsection 5.

SENATOR RAGGIO:
I wanted to make this comment for the record. I can support this amendment or I could support an amendment which would not make it mandatory for the Ethics Commission to do this. I am drawing upon our experience in the recent impeachment proceedings. If the Committee will recall, the State Controller, who was under impeachment, had stipulated to willful violations. The problem was that by doing so, it triggered automatic referral to the Assembly for impeachment. I could support it even if we agreed to make it permissive. What we have heard in that testimony was the Ethics Commission had no option. They probably would have been satisfied, and this whole issue could not have occurred had they been allowed to impose their sanctions upon a stipulation or whatever hearing takes place. The complication was, they had no alternative but to refer it.

For the record, I could support it either way. I could support the amendment which has been suggested, which would remove that capability, or I could support making it permissive. We also heard, in that situation, the State Controller would have offered to resign except for the fact that the Attorney General wanted this to go to the Ethics Commission. That triggered the situation because the Ethics Commission then had the hearing. Once there are three willful violations stipulated to, which were required to avoid criminal prosecution, it had to go to the Assembly. We could solve it if we wanted to make it permissive. I could do either here.

SENATOR HARDY:
Even by removing the language, my understanding is it is still permissible. It can still be done, but it is not giving the Ethics Commission a special invitation nobody else has. Presumably, the Attorney General's Office, the Legislature or anybody else could recommend impeachment, so I would share Senator Beers' concerns. If we did leave the language permissive at "may," it may appear the legislative intent is only for the Ethics Commission to have that option. That is why I support the full removal of the language.

CHAIR CEGAVSKE:
I want the Committee to understand nothing in this bill would stay. The only thing this bill will do is remove section 6, subsection 5.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

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MR. STEWART:
You recall that Senate Joint Resolution 8 makes a couple changes to the Nevada Constitution concerning initiatives and referendums.

SENATE JOINT RESOLUTION 8: Proposes to amend Nevada Constitution to make various changes concerning initiatives and referenda. (BDR C-298)

First, it proposes to amend the Constitution to provide that provisions of an initiative petition and referendum are not severable. If one part of the petition is unconstitutional, the whole petition would be unconstitutional. It requires the petitions for referendum will be filed with the Secretary of State no less than 165 days before the next general election. It provides for the Legislature to make certain changes to certain statutes or resolutions approved by a majority of voters after a certain period of time. This triggered a lot of discussion on several fronts. There might have been one amendment which concerned the moving of the days from 165 days before the next general election. Some wondered if that should be applied to initiatives, too. The one thing we talked about earlier was the topic of splitting S.J.R. 8 into three separate resolutions because of discussion about single subjects.

CHAIR CEGAVSKE:
We will do it as three different amendments or part of the bill. You indicated you talked to legal counsel, and we were not able to do that.

MR. STEWART:
I want to make sure before we move on that I characterized the 165-day provision correctly. That might have been an amendment which was not included here; I want to make sure.

RENEE PARKER (Chief Deputy Secretary of State, Office of the Secretary of State):
The Secretary of State's Office has that provision in our bill, but we did not ask for it on S.J.R. 8. One of the suggestions was to make three different ballot questions, and you could do that in S.J.R. 8 without splitting it out. You could

amend it to say it shall be presented to the voters in three different ballot questions as we suggested in the hearing. That way, you do not have the problem of splitting it out into three Senate joint resolutions.

MS. ERDOES:
That is something I would need to research. I am not sure I could commit that we could do that, but I will certainly look into it.

MR. STEWART:
I wanted to make sure we did not miss that. Essentially, there were no formal amendments submitted, although there was discussion about whether we wanted to handle these issues separately or not. I know Ms. Lusk testified on how to address the fiscal impact. I did point out some fiscal note requirements in NRS chapters 218 and 293. Those say fiscal notes must be drawn up for proposed ballot questions.

CHAIR CEGAVSKE:
Would you go over the three issues in S.J.R. 8 to refresh the Committee?

MR. STEWART:
In S.J.R. 8, a new Article 19, section 7, to the Nevada Constitution is what we had talked about previously in terms of the severability.

> If any provision of a measure proposed by an initiative petition or referred by a referendum petition is declared to be contrary to this Constitution or the Constitution of the United States, the entire initiative petition or referendum petition must be declared to be contrary to this Constitution or the Constitution of the United States ... .

That is the first change.

The second change affects Article 19, section 1, of the Nevada Constitution. The first item changes the date of filing with the Secretary of State of a referendum petition from 120 days to 165 days. It also talks about, in section 4 of S.J.R. 8, the time frame during which the Legislature can go back and "amend, annul, repeal, set aside, suspend or make inoperative the approved statute or resolution or any part thereof relating to taxation or requiring the

expenditure of money." You will see the time frame is three years. The second part of this change in section 1, subsection 4, says,

> The provisions of this subsection shall have retroactive effect upon each previous approval such that, 3 years from the date the previous approval took effect, the Legislature may amend, annul, repeal, set aside, suspend or make inoperative the approved statute or resolution or any part thereof relating to taxation or requiring the expenditure of money.

It basically makes this three-year provision apply to taxation and expenditure issues.

SENATOR RAGGIO:
If the Committee will recall, several people spoke to this. At first blush, this would appear to be drastic, but the problem is you need to be careful about changing any procedure the voters have put into the Constitution. The problem is brought forth this time because of the major effort that is going across the nation to deal with what is called the streamlined sales tax project. It is an important issue to all the states because if Nevada is the only state out of whack on how to deal with the sales tax issue, then it could be a serious impediment to our economy. I am not the salesman on this; I am just indicating what was presented in Committee. The major thrust of this and the reason for the retroactive effect is we need to come into conformity, and that would require some changes mandated under whatever is finally agreed to. Ms. Erdoes could probably be more helpful than I am on the nationwide sales tax. There is a moratorium in Congress that will expire, and then they will be passing, across this nation, legislation which will authorize sameness across the country in terms of sales tax collected on the Internet, and so forth. We cannot change the 2-cent part of the existing sales tax.

MS. ERDOES:
I can add the fact that when I was working with the people from streamlined sales tax group, they were laughing at us. We had a referred measure to deal with, in terms of the sales tax, the Internet and trying to make it all work. The laughter was based on the fact that they were unsure we could ever make it work. This Legislature has made it work, but there are possibilities down the line for having severe problems and not continuing to collect that Internet sales tax revenue, even if we address it right away.

SENATOR RAGGIO:
This limits that ability of the Legislature to change within three years. Is the retroactive portion the only part which refers to taxation or requiring the expenditure of money? Is it the whole section? Section 1, subsection 4, says, "a provision that establishes a rate of taxation, or requiring the expenditure of money." It limits it to that. Is that right?

MS. ERDOES:
Yes, it does. Section 1, subsection 4, would limit it to "relating to taxation or requiring the expenditure of money." That is what the retroactive effect is limited to.

CHAIR CEGAVSKE:
Staff has just pointed out it is also in section 1, subsection 4, line 42.

SENATOR BEERS:
It looks as if this would not apply to a constitutional amendment. Is that right?

MS. ERDOES:
I do not understand. Senate Joint Resolution 8 is a constitutional amendment.

SENATOR BEERS:
It does not look like a constitutional amendment could be overridden by the Legislature after three years, just a statutory provision.

MS. ERDOES:
Right, just a statutory provision came forward as a referendum that can be overridden. That is the way the law is currently, as well.

MR. STEWART:
The last amendment to the Constitution proposed in S.J.R. 8 is to section 6 of Article 19. Currently, that section:

> Does not permit the proposal of any statute or statutory amendment which makes an appropriation or otherwise requires the expenditure of money, unless such statute or amendment also

> imposes a sufficient tax, not prohibited by the Constitution or otherwise constitutionally provides for the raising of necessary revenue.

What this basically does is add a constitutional amendment to this prohibition.

SENATOR RAGGIO:
This resolution has to be enacted. Does this have to be enacted by two successive Legislative Sessions? Then is it sent to the voters?

MS. ERDOES:
That is correct.

> SENATOR RAGGIO MOVED TO DO PASS S.J.R. 8.

SENATOR BEERS:
Do you want to entertain breaking S.J.R. 8 into three questions on the ballot?

SENATOR RAGGIO:
No.

> SENATOR HARDY SECONDED THE MOTION.

SENATOR MATHEWS:
Looking at this bill at this moment, I will support it, but I may not support it on the Senate Floor. I want to put that on the record.

> THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR CEGAVSKE:
The next bill on our work session is Assembly Joint Resolution (A.J.R.) 13 of the 72nd Session.

ASSEMBLY JOINT RESOLUTION 13 of the 72nd Session: Proposes to amend Nevada Constitution to revise provisions regarding special sessions of Legislature. (BDR C-313)

This was presented to us by Assemblyman Mortenson. It has already passed both Houses once. I do not know if there is any need for an explanation, but Mr. Stewart, go ahead and give a brief summary.

MR. STEWART:
You will recall A.J.R. 13 of the 72nd Session proposes to amend the Constitution to allow the Legislature to call itself into a special session. That is the short version.

> SENATOR HARDY MOVED TO DO PASS A.J.R. 13 OF THE 72ND SESSION.
>
> SENATOR WIENER SECONDED THE MOTION.
>
> THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR CEGAVSKE:
There was one other bill we wanted to add to the work session. It is S.B. 346, Senator Lee's bill.

SENATE BILL 346: Revises provisions relating to Legislators' Retirement System. (BDR 17-970)

MR. STEWART:
This bill provides that a Legislator may voluntarily opt out of participation in the Legislators' Retirement System. Senator Lee presented this bill on April 7.

> SENATOR HARDY MOVED TO DO PASS S.B. 346.
>
> SENATOR BEERS SECONDED THE MOTION.

CHAIR CEGAVSKE:
There were no amendments to this bill, Committee.

SENATOR RAGGIO:
I will support the motion. This bill indicates a Legislator who terminates, as a member of the system, is not eligible thereafter to participate. We have an issue

going on in the Senate Committee on Finance, right now, on the Public Employees' Benefits Program situation with health benefits. A provision discussed now recommended in that bill is if members elect not to participate or opt out, they cannot come back in. It is a big issue. I want to make sure we know, in this bill, if a Legislator does this and he or she gets elected and stays here long enough, they cannot come back in. I have no conflict on this bill.

CHAIR CEGAVSKE:
That is a good point.

SENATOR HARDY:
It is still the option of the Legislator.

CHAIR CEGAVSKE:
It is not an option if you want to go back in.

SENATOR HARDY:
I understand when you finish your service, it is not an option.

CHAIR CEGAVSKE:
Once a Legislator leaves the system, he or she cannot get back into it. I do not know if everybody knew that. I have to say, I thought there was the option to come back in.

SENATOR HARDY:
Legislators elect to go out of the system understanding they cannot come back in.

CHAIR CEGAVSKE:
That is correct.

THE MOTION CARRIED. (SENATORS MATHEWS AND WIENER VOTED NO. SENATOR TITUS WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR CEGAVSKE:
We will open the hearing on S.B. 385. We have some information, and there is an amendment which will be coming Thursday from Ms. Hansen (Exhibit D).

SENATE BILL 385: Revises provisions relating to campaign finance. (BDR 24-575)

MS. PARKER:
We have distributed a section-by-section summary of S.B. 385 (Exhibit E). We have also passed out an amendment sheet (Exhibit F). This bill was butting up against a time frame for Committee introduction. We were not able to review it before it was introduced, so we do have some changes.

Senate Bill 385 addresses the campaign finance laws found in NRS 294A. It is mainly cleanup to address several issues which arose during this last Session, with the exception of one change that would require the reporting of contributions of $1,000 or more within 24 hours of receipt. Other than that, the rest of this bill is cleanup and adding definitions. One of the issues is the registration of ballot advocacy groups (BAGs), which addresses part of Senator Raggio's concern on Senator Townsend's bill, S.B. 224. This bill would require BAGs, advocating the passage or defeat of a ballot question, to report from the time the petition is filed with us. That is one new change. Previously, those groups did not have to register. That will capture some of those groups Senator Raggio is concerned about, although it will not capture all of them. His concern will be addressed in the other bill.

SENATOR RAGGIO:
Does it tell us the information I was seeking, such as who they are, where they are and how to contact them?

MS. PARKER:
Senate Bill 385 would require them to file that information. It is only going to capture those who are advocating the passage or defeat of a ballot question. The Committee that sent out leaflets on Senator Beers would not be captured because it was advocating the defeat or the support of a candidate. Yes, this would require those types of filings.

MS. PARKER:
I will proceed section by section. Section 2 of the bill adds a definition of making "an expenditure on behalf of the candidate or group." This goes to the independent expenditures statutes. We have had several groups come to us to ask whether certain activities they engage in are presumed to be contributions or independent expenditures on behalf of the candidate. For example, some

groups have a candidate come to speak, and then people made contributions. Is that a contribution or an independent expenditure on behalf of the candidate? In some circumstances, it may be presumed a contribution if you ascertain certain information from the candidate or you are doing it in consultation with the candidate's representatives. In other circumstances, it is an independent expenditure, and there has been much confusion about people making independent expenditures and asking our office what category it falls in.

We did some research in some other states; these definitions came out of California. We had some consultations with the representatives of the casinos which do these kinds of independent expenditures. They felt this clarification would help them identify the circumstances for making an independent expenditure and the circumstance for making a contribution. The purpose of section 2, subsection 2, says, "The term does not include making an expenditure." That means if you engage in the activities specified in section 2, subsection 2, paragraphs (a) through (e), you are making a contribution to the candidate. You are not falling under making an independent expenditure.

Independent expenditures are expenditures not made on behalf of a candidate. Those who give independent expenditures do not consult with a candidate, and the expenditures are made without the candidate's knowledge. For example, if I went to put up billboards for a candidate's reelection, but the candidate did not know I was doing this because I did not tell the candidate, that is an independent expenditure. I have to report that. There is a lot of confusion about certain activities.

CHAIR CEGAVSKE:
How would you know to report that?

MS. PARKER:
The statutes require me to report it, and that is part of the problem. That is the purpose of this clarification. There are certain expenditures people do not know to report, and people do not know if they are actually making a contribution.

CHAIR CEGAVSKE:
I am confused. If I am a candidate and somebody is putting up billboards on my behalf, but I do not know about it, how can I know to report it?

MS. PARKER:
You do not report it. The person who put up the signs and billboards on your behalf has to report it. It is an independent expenditure. The person who makes the expenditure has to do it.

SENATOR BEERS:
Section 2 is proposing to be inserted in the definition sections of NRS 294A?

MS. PARKER:
That is how the Legislative Counsel Bureau (LCB) drafted it. Our intent was to clarify the circumstance we have seen where you are making an expenditure or actually presumed to be making a contribution. The statute does not currently clarify that. The Legal Department thought it was best to put it in the definition section.

SENATOR BEERS:
I am still a little fuzzy on the problem we are fixing.

MS. PARKER:
Let me give you an example. Section 2, subsection 1, paragraph (a), says it is an independent expenditure if you "make an expenditure after listening to a candidate or a group of candidates make a general request for support which does not require a specific method for providing such support." For example, say a candidate has a town hall meeting and somebody goes to the town hall meeting to hear him talk about the policies he supports and is opposed to. If that person makes an independent expenditure on that candidate's behalf, that is an independent expenditure. It is not a contribution to the candidate. It would not be deemed an in-kind contribution if the person put up billboards. The candidate did not ask them to do it. They did not do it in consultation with the candidate; they just liked the candidate. People are getting confused about whether that has to be reported by a candidate. Senator Cegavske asked how a candidate would know. We had some candidates who thought if they found out about something like that, they would have to report it as a contribution. We are trying to clarify the candidate does not have to report it because it was an independent expenditure by that person who chose to develop pamphlets on the candidate's behalf or put up billboards without consulting him.

SENATOR MATHEWS:
This could end up being a nice place for me to raise $300,000 or $400,000.

CHAIR CEGAVSKE:
I do not see that happening.

SENATOR MATHEWS:
This is a place for a candidate to raise that kind of money.

CHAIR CEGAVSKE:
Are you saying the candidate could just say he or she did not know anything about it?

SENATOR MATHEWS:
A candidate could raise a lot of money, even though the candidate did not ask the people to do it. It could be $25 or $2. How much can a person raise this way?

MS. PARKER:
All these election issues are confusing. Independent expenditures are in the statute, right now. *Nevada Revised Statute* 294A.210 says, "Every person who is not under the direction or control of a candidate ... who makes an expenditure on behalf of the candidate ...," the transaction must be reported as an independent expenditure. A person can spend money on behalf of a candidate, and it is an independent expenditure. It is subject to the limits.

SENATOR MATHEWS:
It is subject to the limits?

MS. PARKER:
Yes.

CHAIR CEGAVSKE:
I had somebody who went out, unbeknownst to me, and sent out flyers against my opponent. I had no idea until after everything was done. In a sense, you look at it as somebody doing something for the candidate, but because the candidate never knew about it, he or she is not required to file. How are you going to make the assumption? Anybody could say they did not know about it, but maybe they did know about it or had heard about it.

MS. PARKER:
It is in there, now.

CHAIR CEGAVSKE:
I know, but it is still confusing.

MS. PARKER:
Section 2, subsection 2, paragraph (a), may help you. This is saying it is not an independent expenditure. If you make an independent expenditure "Based on information about the specific needs of a candidate or group of candidates provided by the candidate or group of candidates or a representative of the candidate or group or candidates." If the candidate comes to a person and says she needs pamphlets and wants that person to do them, that is a contribution. What we are trying to do is clarify and address that confusion because we get these scenarios. Senator Mathews suggested that someone could abuse this. They cannot because if the candidate is asking someone to do it, the candidate is going to be on the hook. Can I prove the candidate asked them to do it? Maybe not, but we are always in court over those things anyway.

SENATOR BEERS:
Are we fixing the problem having to do with you having to answer too many questions?

MS. PARKER:
This is our interpretation. If you cross line A, it is an independent expenditure. If you cross line B, you are making a contribution to a candidate. There are no specifics in the statutes. The only specifics in the statute say if you are not under the direct control of a candidate, you are making an independent expenditure. Many of the people who make independent expenditures have come to us and said they want more clarification in the statutes. The Secretary of State interprets it as A and B. The groups who came and asked us said they were okay with these; they are similar to the definitions in California. The groups liked those definitions because it gave them clarity. Otherwise, it is the Secretary of State's interpretation. Then somebody could go to court and say that interpretation is not in the statute. It does not say specifically this is an independent expenditure and this is not.

SENATOR BEERS:
Do both kinds of expenditures get reported in similar fashion? We are not getting to campaign expenditures, regardless of who is doing them, that are not being reported. We are deciding if they get reported on the candidate's form or on the independent expenditure organization's form.

MS. PARKER:
Correct, and that is what is confusing. The candidates are confused and they want to know if they should be reporting it. People making independent expenditures do not know where that line is. We are telling them where the line is. Right now, we tell the candidates it is better to err on the side of being conservative. We do not have a specific answer we can point to in statute. We can say this is what we think, but we do not have the statute to back us up if we want to enforce it.

SENATOR BEERS:
I want to talk about the limits and how they apply here. Can an organization give me direct support for the $10,000 maximum and then do an independent expenditure for $10,000 on my behalf without my knowledge?

MS. PARKER:
Arguably, yes, they could. If they personally make a contribution to a candidate, and then they go out and make an independent expenditure. Arguably, the way the statutes are written, they could do that.

SENATOR BEERS:
They are limited in their independent expenditure at $10,000.

MS. PARKER:
Yes.

SENATOR WIENER:
Ms. Parker, you could still have knowledge of it as long as you do not have influence over it. Is it correct it has to be at arm's length? Is that a standard? You could know about it, but you could have no input or control. You could know about it and still not influence it. Is that right?

MS. PARKER:
Yes, Senator Wiener, that is correct. If you look at section 2, subsection 1, paragraph (f), it says, "Informing a candidate or group of candidates that an expenditure was made on behalf of the candidate or group of candidates without the approval of the candidate or group of candidates." That is still an independent expenditure.

Section 3 adds the definition of personal use. As you know, in the last election cycle, we came up against several concerns that the statutes prohibit a candidate from using political contributions for personal use, but there is no definition of personal use. An Attorney General opinion from several years back creates a "but for" test that means, "but for being a Legislator, you would not have to make this expense." If true, that expense is not personal use. We are incorporating the Attorney General's "but for" test we have been applying. Also, we went to the federal law, which listed out several circumstances that said personal use means x, y and z and includes these things. We are trying to give more clarity to the candidates, so they do not receive complaints saying they used their contributions for personal use. We have nothing to go to other than a test set out in an Attorney General opinion. We are trying to incorporate that into the statute.

SENATOR BEERS:
What problem are we fixing here? What has come up which has prompted this?

MS. PARKER:
The same problem we had when Assemblyman Christensen was fined. There were complaints he was using his campaign contributions for personal use by going to a fast-food restaurant. We are trying to close that loophole and say we can identify certain circumstances as personal use because they are not identified in the statute. A candidate is prohibited from using campaign contributions for personal use, but the statute does not tell you what personal use is. The Secretary of State is in a position similar to the previous concern. When we receive a complaint, we do not know how to move forward because we do not have a definition of personal use. Some things are obviously personal use, such as if you make your home mortgage payment. We are trying to put some of the obvious things and some of the not-so-obvious things in here. That way, we have something in statute if somebody comes in and says a Legislator made her home mortgage payment, and they ask if that is personal use. The Legislator might somehow try to argue it was related to her campaign. This language would allow us to say these are the things the Legislature has identified as clearly going beyond that "but for" test, and these are identified as personal use.

CHAIR CEGAVSKE:
Section 3, subsection 3, says "An expense for an automobile that is not directly related to a campaign activity." It is okay to buy an automobile if it has to do with your campaign?

MS. PARKER:
You could interpret it that way. It is an expense related to an automobile. For example, if a Legislator comes to Carson City and rents a car to drive from Reno to Carson City, that is related to the person's service as a Legislator. Campaign contributions could pay for that.

CHAIR CEGAVSKE:
What if you are going to a national conference? When we go on these national conferences, we rent cars and we have expenses in hotels. Some will go on the trip and connect it to a vacation. I am just throwing these out because I do not know how you are going to know.

MS. PARKER:
That is the purpose of the definition. Personal use means "commitment, obligation, purchase or expense that would exist irrespective of the campaign of a candidate or the duties of holding a state, district, county, city or township office ... ." If a Legislator goes on a family vacation, that expense is going to exist irrespective of the office the Legislator held. If the Legislator goes to the National Conference of State Legislatures, the expenses related to that conference are not going to exist irrespective of the Legislator holding that office. Section 3, subsections 1 through 9, merely try to identify circumstances everybody can agree are personal use. This mirrors the federal definition.

CHAIR CEGAVSKE:
Are these areas where you have seen abuse?

MS. PARKER:
These are areas where we have seen potential abuse or confusion. Is this or is this not personal use? Yes, we identify these nine items would be personal use. Then the definition says, if you would be making the expense irrespective of the campaign of a candidate, it is personal use. That definition will be put into law so the Secretary of State's Office can enforce that. If a Legislator goes to Hawaii on vacation, so they are not going to a conference, but they use their campaign contributions, we can say it is irrespective of their service. We do not

have that now. We have an Attorney General opinion that creates this "but for" test, but we do not have anything in the statutes to enforce it.

CHAIR CEGAVSKE:
The only way you are finding out about any of these situations is if somebody turns another person in or is based on reporting.

SENATOR RAGGIO:
This is a good attempt. Some of these are so obvious I would not think they would have to be put into the law. Using campaign funds to make a contribution to a 501(c)(3) charitable organization is in the law and allowable. What would concern me is the definition that might affect that. Section 3, subsection 8, says, "the payment for admission to a sporting event, concert, theater, or other form of entertainment that is not directly related to a campaign activity." For example, a candidate attends a Nevada Cancer Society or a Red Cross event where the candidate can legally make a contribution from their campaign fund, but it is not directly related to a campaign activity. There is a bit of a conflict there. I would not want to do that to some of these organizations that would expect to receive and should not. Legislators ought to be allowed to contribute, and I know a lot of us do. That is one area we need to take a look at. Under S.B. 385, a Legislator could pay to go to a high-priced lunch or a dinner for the Republican Party or the Democratic Party, and that would not be a violation. If the Legislator paid to go to a dinner put on by the American Cancer Society, which the Legislator can otherwise contribute to, the Legislator would be in violation. We need to either strike subsection 8 or fix it.

MS. PARKER:
I agree with you, Senator. We pulled this from the federal definitions because they have some interpretations we can look at. I see what you are saying. Either strike that or say if it is otherwise allowable by law.

SENATOR BEERS:
I am not sure I understood that last statement. You were talking about amending section 3, subsection 8?

MS. PARKER:
Senator Raggio suggested striking section 3, subsection 8, because that would, arguably, encompass what you are legally allowed to make contributions to or pay for from campaign contributions, such as entry to an American Cancer

Society dinner. Somebody could say that is not really directly related to the Legislator's campaign.

SENATOR RAGGIO:
You ought to add the language which is in the law, now. If it is a 501(c)(3) nonprofit charity, which is a permissible expenditure to fund, that is not considered personal use.

MS. PARKER:
That is a good suggestion.

SENATOR BEERS:
I recall a story last Session about an Assemblyman who bought suits with his campaign funds. That clearly passed the "but for" test because this Assemblyman worked in jeans his whole life.

MS. PARKER:
That was the LCB's opinion. Yes, that did pass a "but for" test.

SENATOR BEERS:
Are you suggesting the LCB's opinion is wrong?

MS. PARKER:
No, this would incorporate the "but for" test into the law. If that Assemblyman would not have to purchase suits but for an Assembly rule which says suits must be worn on the Assembly Floor, then he could purchase suits for that.

SENATOR BEERS:
I guess I am not reading this right.

CHAIR CEGAVSKE:
Section 3, subsection 2, says "The purchase of clothing." It is clear.

MS. PARKER:
"Personal use means a commitment, obligation, purchase or expense that would exist irrespective of the campaign of a candidate or the duties of holding a state, district, county, city or township office, including, without limitation." Our intent in drafting the bill was to include the "but for" test plus a list of

items. If any of these items fell in the “but for” test, they were supposed to be excluded. Maybe, we did not do that.

MS. ERDOES:
We can work with the Secretary of State’s Office to clarify that, because it did not come out quite the way it should have.

MS. PARKER:
The intent was the “but for” test and an additional list of items. If they do not fall in the “but for” test, they are definitely excluded.

Section 4 adds the definition of “proceedings are commenced to place a question on the ballot.” This goes toward the issue we currently have with BAGs making expenditures to defeat or support a ballot question. The current statutes say a question on the ballot. The problem we had this last election cycle was the people making expenditures for what they thought would be a question on the ballot, but when reporting came, the question did not pass the signature verification. Those BAGs did not have to report any of the money they spent trying to get that through. We are trying to say that from the time the proceedings are commenced to place a question on the ballot, those reporting requirements are triggered. This definition was put in here now because later on the language is changed in the BAG section.

Section 5 requires a candidate or a public officer to report the receipt of a contribution in excess of $1,000 in a single reporting period within 24 hours of receipt. This is just to enhance disclosure. We get questions, and we get people complaining that the candidates can go out and raise large amounts of money within that certain time frame before the election or that they do not get to see it until their first report. The federal government has a threshold on candidates’ fundraising, and we are trying to capture certain contributions to put more disclosure out to the public within 24 hours.

We do have an amendment to the language “within 24 hours of receipt.” If you look in section 5, subsection 4, paragraph (a), it is deemed filed with our office, “on the date it is postmarked if it was sent by regular mail.” We are requesting that be deleted because the statutes say it has to be sent by certified mail or you get the postmark when it is received in our office. This did not conform to how the other reports are handled.

CHAIR CEGAVSKE:
Do the political action committees (PACs) also have to abide by this, as well? Is this just for candidates and public officers?

MS. PARKER:
This start is just for the candidates. We are happy to expand it to PACs, but it was drafted for just the candidates.

SENATOR TITUS:
I am still trying to get into the modern age and learn about computers. I understand you might want more accountability, and I would support maybe changing the dates for when a candidate has to file compared to the election, but having to report every single check within 24 hours is going to be incredible.

CHAIR CEGAVSKE:
Several of us have voiced our concern about this. It is beyond the means of some of us.

SENATOR BEERS:
I was going to add to Senator Titus's statements, it would also be on an electronic web form designed by the Secretary of State.

MS. PARKER:
No, this does not do that.

SENATOR BEERS:
It is a paper form?

MS. PARKER:
It lets you do it on paper.

I referred to section 6 earlier. We are trying to make the BAGs register. Right now, they do not have to register. This would provide that if a group is formally or informally organized and they advocate the passage or the defeat of a question or a group of questions on the ballot, the group must file a form similar to what a PAC files with our office.

SENATOR BEERS:
Would it be easier to expand the definition of PAC to include BAGs? That way we would not have to call them BAGs, we could expand the definition of a PAC.

MS. PARKER:
We could; I do not see any reason why we could not do that. The problem is that right now there are two criteria to qualify under the definition of a PAC. One, you have to solicit or receive contributions and, second, you have to give them out at the other end. A PAC has to solicit or receive contributions from someone else. That "and" excludes a lot of people from the definition of a PAC because if a group is just making expenses, it does not fall under the PAC definition. It also excludes any business entity organized under Title 7, which would be a corporation and a nonprofit.

SENATOR BEERS:
Could that be changed?

MS. PARKER:
Yes, it could.

SENATOR BEERS:
Many pages are being added here.

MS. PARKER:
Whatever your pleasure, we want to make the BAGs register as the PACs do.

Section 7 is for the BAGs who register. If they register, they have to appoint a resident agent. That is so people are put on notice as to where to serve process. Section 8 puts some definitions from this bill into the statute. It is a conforming change.

Next is section 9. Right now, in statute, the contribution limits are $5,000 for the primary and $5,000 for the general election. Somehow, when we adopted the statutes, we left out special elections. We had a special election for a recall. We had people calling the Secretary of State to ask if they could contribute $10,000 or only $5,000. Our interpretation was the special election was just one election like a primary election or a general election. However, we did not have anything to fall back on. We received a complaint, but we could not go

forward with it because nothing specific in the statute said the limit was only $5,000 for the special election.

CHAIR CEGAVSKE:
One of the other areas Senator Care has talked about, and I think he has talked to Ms. Erdoes, is in reference to having PACs only allowed to accept a certain amount. Is this an area where that could be included? The PACs can take endless amounts, from what I understand.

MS. PARKER:
Yes, but you might run into trouble with the federal law on that.

MS. ERDOES:
There is a constitutional concern about limiting PACs. It is a First Amendment issue. I would be happy to look into it and give you the confines of it if you would like.

CHAIR CEGAVSKE:
Senator Care told me that when he approached it. He was trying to find some clarification, and he was unhappy there is no resolution for us.

MS. ERDOES:
He was frustrated.

MS. PARKER:
Section 10 adds a requirement that candidates and elected officials were just trying to clarify. There was an argument last Session when we added the annual report because it said candidate. Arguably, you are a candidate from the time you are elected through your term of office. That was the opinion last Session when we tried to say candidates and elected officials must file this report. Since then, in the interim, there was somebody who was arguably a candidate, but did not get any contributions in the intervening year. However, he did in the next year. He had a six-year term, and did not have to report on that January filing. When we consulted with our counsel, they said it was a loophole. We wanted to close the loophole and say if you are a candidate or you are an elected public officer, you have to file these reports.

CHAIR CEGAVSKE:
Is that whether you receive anything or not?

MS. PARKER:
Yes, and the statute clearly states that whether you make or receive a contribution or make an expenditure. The problem was the language said "candidate." The definition of candidate is you have to receive $100. If a person did not receive $100 in the intervening year, there was an argument that they were not a candidate, so they did not have to report. The Attorney General's Office advised us we could not enforce that, and we had better clarify the language.

SENATOR RAGGIO:
Does this bill require us, in the Legislature, to file any more reports than we are already filing?

MS. PARKER:
No.

SENATOR RAGGIO:
What about the daily reports Senator Titus referenced?

MS. PARKER:
I am sorry, S.B. 385 would require you to report the contributions within the 24 hours. Other than that, no, there are no other requirements.

SENATOR RAGGIO:
Maybe I am not the one most affected, but I will tell you we are constantly preparing and filing reports as it is.

CHAIR CEGAVSKE:
Most of us have to pay somebody to do these reports because they are so thorough.

MS. PARKER:
This is not adding any additional reporting requirements other than the $1,000, 24-hour requirement.

CHAIR CEGAVSKE:
That is an additional reporting requirement, though.

MS. PARKER:
I know; I said there is nothing additional besides that in this bill.

CHAIR CEGAVSKE:
Right, but that is a huge additional requirement.

MS. PARKER:
I know.

The only other issue in section 10 is subsection 10. It allows for an amended report which we currently do not have. We allow people to amend their reports, but we do not have anything in the statutes which says amending the reports can be done or not be done. We are trying to put the provision for an amended report in there. As you will see in the amendment we handed you, Exhibit F, we do have a general amendment. When we requested the amended report be put in the statute, we also requested it be clear an amended report cannot cure a violation of statute. For example, someone intentionally, at the last minute, realizes a report is due the next day. I am not saying any of the Committee members would do that. We had a situation on a county commission seat which made up numbers on a report, just to get it in on time. That is a violation, and they cannot amend the report and vitiate that illegal conduct in the first false report. That is all we want to say.

CHAIR CEGAVSKE:
An amendment is for something such as an error on one line or something mistakenly not added.

MS. PARKER:
We like to give everybody the opportunity to amend that. Another example would be mistakenly giving the wrong telephone number. We do allow amendments for that, but we do not have any statutory authority which specifically says that is allowed.

Section 11 adds language in subsection 2. The law currently says, “Each form must be signed by the candidate under penalty of perjury.” We have had people argue and say the meaning of that is they just have to have an intent to lie. I do not really have to do anything to make sure what I am giving the Secretary of State’s Office is true, as long as I was not intending to lie. We are trying to say candidates need to verify that reasonable diligence was used in preparing the

form. It would be on the same form, it is not a new form. You are signing the form, "under penalty of perjury, verifying that the report was completed with reasonable diligence and is true and complete."

CHAIR CEGAVSKE:
I hope my certified public accountant (CPA) does not quit after this Session. Are you going to give our CPAs classes?

MS. PARKER:
We do give classes on the Contribution and Expense (C&E) Reports.

Section 12 is a conforming change. It adds the reporting of $1,000 within 24 hours.

SENATOR RAGGIO:
The converse is that anyone, person, group or otherwise, who contributes more than $1,000 to a campaign, has to file a report within 24 hours. This is a serious requirement.

MS. PARKER:
I meant it is the same change, it just requires reporting within 24 hours for independent expenditures.

CHAIR CEGAVSKE:
Senator Raggio is right. You were making it sound as if it was the same as the last section. I asked before if there were any requirements of the people who are giving us money. Section 12 is where that comes in.

MS. PARKER:
Nevada Revised Statute 294A.140 is related to independent expenditures. It would be persons who are making independent expenditures of $1,000 or more. They have to report that within 24 hours. Those are not the people contributing directly to a candidate. This refers to the people making the independent expenditures we were discussing earlier.

If I were to make a contribution to Senator Raggio, section 12, subsection 8, does not require me to report. If I make an independent expenditure that is $1,000 or more by putting up billboards without telling Senator Raggio, then I have to report that. We are not putting any reporting requirements on the

people who are contributing to you. Section 5 requires the candidates to report the $1,000 within 24 hours; that only applies to the candidates. Section 12 requires those who give independent expenditures to report. Later on, there is a section which applies to the PACs.

CHAIR CEGAVSKE:
In S.B. 385, are you requesting anything from the contributor?

MS. PARKER:
No, not unless it is a PAC. If a PAC is giving you money, it has its own reporting requirements. That would apply to them.

CHAIR CEGAVSKE:
Do they have to do that within 24 hours?

MS. PARKER:
You will see that later in the bill. Yes, they would have to report on $1,000 or more.

Section 13 is the change which goes along with the definition in section 6 for BAGs. This change says they have to report campaign contributions each year and within a certain time frame after "which the proceedings are commenced to place a question on the ballot for which the person or group advocates passage or defeat." None of them report the year in which the question is on the ballot because you do not know if the question is on the ballot until the election. The BAGs say they do not know if it is a question on the ballot and because of that, they argue, they do not have to report.

Section 14 deals with a situation we have encountered in the past. If a candidate resigns from office or is removed from office, the candidate does not have to report the disposal of campaign contributions until what would have been the end of his or her term. That is the way the statute is written. What section 14 does is require the candidate to dispose of and report that disposition within so many days of the candidate's resignation or removal from office. That is a loophole, right now.

CHAIR CEGAVSKE:
How many days is that? What is the time frame?

MS. PARKER:
It is “not later than the 15th day of the second month after he resigns or is removed from office.” It is just to get that report. You do not get it now until the end of the term and somebody else is already in that seat.

SENATOR MATHEWS:
I am concerned. Usually, if somebody leaves office, it takes a few weeks to get everything settled down, and they may not have any clue as to the disposal of the money. The fifteenth of the second month is just too soon.

CHAIR CEGAVSKE:
You are right. I helped someone who recently lost an election. The person was waiting for all the bills to come in and waiting to find out how much to pay the people doing the accounting. That process was not considered in the time frame of what you are allowing. It is not easy to reconcile all of that once you are closing everything out.

MS. PARKER:
The only reason for that time frame is because it is consistent with the rest of NRS 294A.160. We wanted to make the time consistent. We want the report before the end of the term. If it is later, that is fine.

CHAIR CEGAVSKE:
Senator Mathews is correct.

SENATOR TITUS:
What about the candidate who does not run again? When does that kick in? Is it at the close of filing?

MS. PARKER:
If you look in section 14, subsection 6, of this bill, we are not changing that section, but if you are a public officer and you do not run for reelection and you do not run for another office, then it is the fifteenth day of the second month after the expiration of the term of office.

SENATOR TITUS:
When would that be for a Legislator?

MS. PARKER:
It would be January 15.

Section 15 and some of the following sections are the expense side of some of the reporting changes we were trying to make. The first one begins with capturing candidates as well as elected officials for having to report the expenses. That is in section 15, subsection 1. It separates out if you are a candidate or an elected official. It makes it clear that both types of people have to report. Section 15, subsection 5 is on our amendment sheet, Exhibit F. We are asking that section 15, subsection 5, be deleted. We do not know how that got inserted into the bill. I cannot explain that provision to you.

CHAIR CEGAVSKE:
Where are you right now? Are you still on section 15?

MS. PARKER:
I am on section 15. Subsection 1 adds a requirement that public officers report the annual filing if they are elected officials, as well as candidates. All those sections do is make a conforming change that the candidates and the elected officials have to report.

Section 15, subsection 2, of S.B. 385, discussed on page 4 of Exhibit E, requires a public officer and a candidate who is not elected to report their expenses in excess of $100 within the 2 months after the resignation, removal or nonelection. The rest of section 15 is conforming changes for candidates versus elected officials.

CHAIR CEGAVSKE:
Senator Mathews would like you to review the third bullet point under the summary from section 15 on Exhibit E.

MS. PARKER:
If an elected official resigns or is removed from office and is not a candidate for another office, the elected official has to report expenses incurred on the thirtieth day after the second month after the resignation or removal from office.

SENATOR MATHEWS:
I am looking at page 4 of Exhibit E. Please explain the third bullet point under the summary of section 15. Where is that in the bill?

MS. PARKER:
That is the equivalent of section 15, subsection 2, in S.B. 385.

SENATOR MATHEWS:
That is not the way it reads in subsection 2. It is confusing.

MS. PARKER:
On Exhibit E, the third bullet under the summary of section 15 explains section 15, subsection 2 and subsection 5 in S.B. 385. We are asking to delete section 15, subsection 5. The confusion is we did not ask to delete subsection 2 in our amendment page. Those should be deleted.

CHAIR CEGAVSKE:
Subsection 2 of section 15 should be deleted?

MS. PARKER:
That is correct. This is the disposition we discussed earlier about the fifteenth day of the second month. For some reason when the bill came out, it was put in here within the thirtieth day of the second month, and in the disposition section, it is the fifteenth day of the second month. We can clarify it if we can leave it in the disposition section and take it out of this section. Subsection 2 of section 15 should be deleted along with subsection 5 of section 15.

CHAIR CEGAVSKE:
That is the first one you explained.

MS. PARKER:
Right. Subsection 2 got deleted from our amendment page, Exhibit F.

There are similar changes in section 15 to add the amended report. In section 16, all the deletions of the language: "the form designed and provided by the Secretary of State" were done by the LCB. Then, they put the form later in that section of statute, so that language is not repeated in every section. Those are conforming LCB changes. They later say it has to be the form designated under NRS 294A.373.

Section 16, subsection 7, is where the changes begin. This speaks to the independent expenditures people make. We have several casinos in the State that make independent expenditures. Some of those casinos own other casinos;

they are under the direction or control of another entity or they own three entities. I will use Station Casinos and Mandalay Bay Casinos as an example. Mandalay Bay Casinos own stock in other casinos. They have asked whether they have to file an independent expenditure report for every one of the entities or if they could aggregate it. They said California law provides specific provisions on aggregating, and they would like to see them in these statutes. We are concerned because the way the statute is now, the Secretary of State's Office could not enforce anything. If a casino owns two entities, they try to arbitrarily say that since they control a certain amount of another entity, just one report could be made. If there is not control over a certain amount of another entity, three reports have to be made. Section 16, subsection 7, defines if you aggregate control of an entity, under what circumstances you only make one report and under what circumstances three different reports based on three different casinos are required.

CHAIR CEGAVSKE:
What was your decision?

MS. PARKER:
The decision was that a single report is filed if the corporation is owned by a single, natural person. For example, if one person owns a casino, just one report is filed.

CHAIR CEGAVSKE:
What do you do about the employees and the executives who give personal contributions?

MS. PARKER:
Those would either be contributions, depending on whether they are making a contribution, or an expense of the employee if they went out and made an independent expenditure. The issue here is there is no definition in the statutes about how to determine control or ownership when making an independent expenditure. If several different entities are owned by one entity, right now, we tell them to report them all. If an entity is owned by one person and the entity is making the expenditure, it can make one report and identify the different entities on that one report.

SENATOR TITUS:
This is related to the old issue of bundling. The Station hotels own about five or six different hotels. Steve Wynn has 20 different corporations. All of these are different legal entities that can all give the maximum. Now, you are saying they could all still give the maximum, but they could file just one report?

MS. PARKER:
Yes, they can file one report.

SENATOR TITUS:
They can all still give the maximum amount. It is just going to be on one report. I was thinking about the last election when a lot of gaming money went into independent expenditures in a couple of the races. This move to one report, could that mean moving toward one cap on contributions?

MS. PARKER:
You can. Senate Bill 385 does not affect the cap the way it is drafted. Section 16, subsection 7, is trying to say who needs to report:

> Every person ... shall file a single report ... if the persons, committees or political parties are: (a) Controlled by a single, natural person; (b) Controlled by a majority of the same group of natural persons; or (c) Owned by a single natural person or group of natural persons who hold not less than a majority of the ownership in the persons, committees or political parties, unless the persons, committees or political parties are independently controlled and act independently.

It is not trying to allow bundling. We are trying to say that under certain circumstances, one report can be filed. What we are saying is they have to be aggregated. For some reason, it appeared as though that was not allowed because it came back not requiring them to be aggregated, but allowing one report. We were trying to say independent expenditures of an entity and the entities it owns should be aggregated. It came out this way because, for some reason, the Legal Department determined we could not aggregate it that way. We were trying to aggregate it so you could only be subject to the one cap, but it is not drafted that way because there was an issue with that in Legal.

SENATOR TITUS:
I thought that was what was happening. What about section 16, subsection 8? Does this have to do with parties or tax? Who is that aimed at?

MS. PARKER:
Section 16, section 8, says the reports have to be filed on the form we create.

SENATOR TITUS:
Who files these reports? Is this still the independent expenditures statute, or is this something else?

MS. PARKER:
This is still independent expenditure statutes. This section deals with those people who are not under the control of a candidate, a group of candidates or anybody involved in the campaign, but make an expenditure on behalf of the candidate. It also covers PACs, independent expenditures and political parties.

SENATOR TITUS:
It also talks about parties and caucuses. There is a lot here we need to talk about. It includes PACs, parties and caucuses. This is new language, what are we making them do?

MS. PARKER:
What we were trying to do is address the independent expenditures. When we turned the proposal for this bill into the LCB, we tried to limit it to independent expenditures, because the independent expenditures are in the same statutes with PACs and the political parties. It probably would not apply to the PACs and the political parties because they are not under the control of another entity, generally. Arguably, they could be, but it is my understanding that it had to apply to all of them because they are all in the same section. We had to apply it equally for independent expenditures and for the PACs and political parties. What we were trying to do is aggregate the expense. We wanted to say that if an entity owns another entity 100 percent, then all the expenses have to be aggregated on one form.

SENATOR TITUS:
Are you telling me the casinos were all supportive of this?

MS. PARKER:
They wanted some clarity on it. California does it that way and so does the federal government, so they asked for some clarity on when and how they would know to aggregate. I am looking at what we submitted and comparing it to the bill. We thought the bill did that, but with your question on aggregating, it does not really do what we were trying to address. All it does is make it report on one form.

SENATOR BEERS:
Putting that information on one form would be difficult. They all account for their operations separately. They would have an easy electronic method to generate your reporting forms for one entity, but I would not think anyone would coordinate multiple entities at multiple locations.

MS. PARKER:
They asked us to put some of the California aggregation rules in the statutes. We looked at those rules and decided they made enough sense. If one entity is under full control of another entity, they should really be aggregating, and they should be subject to the $10,000 cap.

SENATOR BEERS:
The 17 properties that are currently Mirage Resorts will soon be MGM/Mirage Resorts. Are you saying that, together, they would only be able to contribute $10,000?

MS. PARKER:
We were trying to get at if they made an independent expenditure, not if they made a contribution. This statute deals with independent expenditures. You have to remember a contribution to a candidate is one thing. Making an independent expenditure on behalf of the candidate is another thing. A person goes out and does not contribute to your campaign, but makes independent expenditures without consulting you. That person is not under your control. Some activities would be deemed as a contribution to you, like we discussed earlier. With a true independent expenditure, they are wondering if there is a way to get around the caps. Yes, like Senator Titus was saying, a true independent expenditure from one entity which totally controls three other entities, arguably, could give $10,000 apiece. California law makes them

aggregated under certain circumstances. We did not put all of it in here. We tried to limit it and start with one area. They are not certain whether they have to aggregate or not. Right now, the answer would be no.

SENATOR BEERS:
I imagine they would want to know the rules because if they are determined enough, they will figure out a way to get around them.

MS. PARKER:
They wanted the rules and there are no rules on it. We could go get an Attorney General's Opinion (AGO) and interpret it, but how are we supposed to enforce the AGO if it does not say, the way it does now, if you are not under the direct control of the candidate and making an independent expenditure?

SENATOR BEERS:
Some of them were going to come here and testify that they wanted aggregation?

MS. PARKER:
They sent me the bill and asked to put the clarity in the law on how to report the independent expenditures.

CHAIR CEGAVSKE:
I would love to see it, and I would imagine the rest of the Committee would love to see it.

MS. PARKER:
Section 17 is the expense side of the BAGs. The BAGs have to report their campaign expenses within a certain time frame after the "...proceedings are commenced to place a question on the ballot." This is similar to what we discussed in an earlier section about the contribution side. This issue arose in the last election. Many people did not know how much certain ballot advocacy groups expended because they said they did not have to report until it became a question on the ballot. Axe the Tax is a perfect example. There were arguments that they did not have to report. They went out and circulated petitions and expended a lot of money. The question did not make it on the ballot because of the signature verification. There was a concern that they did not have to report where they expended those funds for the year they spent trying to circulate it.

CHAIR CEGAVSKE:
Has that been resolved?

MS. PARKER:
If you adopt these changes, it will be resolved. At least in the future, it will be resolved. At a previous hearing, Ms. Carole Vilardo mentioned she did not know if she had to report the efforts to defeat that ballot question because it says in the statutes, a question on the ballot. The Nevada Taxpayers Association spent a lot of money trying to defeat that question. The Nevada Taxpayers Association filed the reports anyway. The way the law is written now, it says a question on the ballot. It is vague, and an interpretation that maybe these groups do not have to file unless the question makes it to the ballot. That, of course, comes after the reporting period. You are rolling the dice if the question makes it on the ballot and your group did not file reports.

CHAIR CEGAVSKE:
If you put this into law now, will you require the Axe the Tax campaign to file?

MS. PARKER:
No, this is not retroactive. This would be for those questions in the future.

Section 17 makes a lot of conforming changes. Most of the language in this section is conforming changes; they move the report to the end of the section of statute. It is not changing any of the dates, and it is not making any other requirement to file, other than clarifying that once the proceedings to place the question on the ballot have commenced, the filing must occur. Section 17, subsection 7, was only intended to cover independent expenditures. When it came out, it covered everything. That should be deleted. It is not supposed to be under the BAGs statute.

For most sections in S.B. 385 addressing PACs, independent expenditures and BAGs, we added section 17, subsection 8 about the changed forms. It puts the form in one section of that statute. Then it says under section 17, subsection 8, paragraph (a), that if the report is filed by a natural person, it must be signed under penalty of perjury by the natural person filing the report. Section 17, subsection 8, paragraph (b) says, “If the report is filed by a person other than a natural person, signed under penalty of perjury by a responsible officer of the person or by an attorney or certified public accountant acting as the agent for the person.“ We are trying to add provisions to say who should sign because

we do get a lot of questions about that. There is nothing in the statute. We say it should be the person, such as the treasurer of the PAC or the person, if he or she is the candidate. There is no specificity in the statute, so we added paragraphs (a), (b) and (c) of subsection 8 of section 17 to the bill.

CHAIR CEGAVSKE:
This is how we confuse not only ourselves, but anyone who runs for office or anyone giving money.

MS. PARKER:
It is confusing because of the way it is laid out in the statutes. The first set we were looking at in here were contributions. The reports are laid out in contributions and expenses. *Nevada Revised Statute* 294A.100 deals with contributions to a candidate and NRS 294A.200 deals with the expenses, but that all goes on one report. It is confusing the way the statutes are laid out.

CHAIR CEGAVSKE:
You are doing this because you feel you need to clean up legislation the Secretary of State's Office is adding. Do you have any idea how confusing and convoluted the appearance of this bill is?

MS. PARKER:
We are clarifying who should sign, that both candidates and elected officials should file reports and that disposals of money from officers who are removed from office or resign must be done and filed by the end of their terms. I recognize it is confusing. You go through the sections, and at first, you are dealing with contributions and then you are dealing with expenses later.

CHAIR CEGAVSKE:
I want to make sure we are on the same page. We are confused and so are you.

MS. PARKER:
I am not confused about what it is doing. What it is doing is simple.

CHAIR CEGAVSKE:
Nothing is simple about this. It may be to you, but I do not think it is to us.

MS. PARKER:
Section 18 is adding a requirement that a committee to recall a public officer must report contributions even if the petition it circulates does not receive a sufficient number of signatures. We had a recall against the Governor. The way the statute reads now, to recall a public officer you have to file a notice of intent to recall. If you do not, you have a certain time frame to go out and get your signatures. If you do not file the petition to recall before the expiration of the notice of intent, the contributions still have to be filed. There is a loophole though. If there are not enough signatures, the contributions do not have to be filed. The group or whoever is trying to recall the Governor did not gather enough signatures to recall the public officer, so the statute does not capture that scenario.

CHAIR CEGAVSKE:
Is that a bad thing?

MS. PARKER:
Yes, because they have been out there receiving contributions or expending money to recall a public officer. In this case, it was one against the Governor. The group that tried to recall him never had to report what they expended to do that. We think it is a bad thing, you may disagree.

Section 19 is an expense equivalent. In this case, the statutes on contributions and expenses are back-to-back. Section 19 requires reporting the expenses, the other one was reporting the contribution. The two together make up the report that the candidates and public officers file.

Section 20 addresses the same issue we talked about earlier, where candidates and public officers have to file their reports. Section 20 adds the requirement that if elected, the person is in office, but not technically a candidate because he did not receive $100 in an intervening year and he would still have to file a report. We are trying to clarify that the officer still has to file a report. I can see what you are saying, we are deleting a lot of sections.

CHAIR CEGAVSKE:
You are also putting in a lot. You are not just deleting, you are adding a lot into this bill.

MS. PARKER:
Section 20, subsection 2, should be deleted. That removal disposition issue got pulled into the general statute. We do not know why.

CHAIR CEGAVSKE:
Ms. Hansen is not here, right now. She was going to explain her amendment, and this was the area she wanted amended. She gave us some information in Exhibit D, but it is not the amendment. That language still needs to be drafted.

SENATOR TITUS:
There is all of this about the candidate and the officer. We get sent reports that we file every year from the time we are in office. I thought I already do an annual filing as an elected official.

MS. PARKER:
You do, and that is how we interpret that you do. You probably raised money in the interim.

SENATOR TITUS:
Even if we did not raise money, we would still have to file.

MS. PARKER:
That was our intent last Session, but the way the statute was drafted, there were arguments that it only said candidates have to file the January 15 report. There are two different interpretations. Our counsel said we had better clarify the language because there could be a situation where a person may not be a candidate if they did not raise $100 in the interim. The LCB had a different opinion.

SENATOR TITUS:
The form said to check whether you are a public officer or a candidate.

MS. PARKER:
The financial disclosure form does. The C&E report just says candidate, BAG, PAC or elected official.

SENATOR TITUS:
What are we going to have to file additionally every year?

MS. PARKER:
Nothing. You file the financial disclosure forms annually. The intent was that every candidate and elected official file annually. The LCB agreed; they think we did that last Session. We are trying to clarify that is what we really did, because others think we did not do that. The language says candidate, and it only applies to candidates. We had people call and say they were not a candidate because they did not raise $100 in the interim. Those people argued they did not have to file even though they were in office. None of the members of the Legislature are doing this because you are so used to filing. It is more on the lower levels that people are getting confused because it says candidate.

Section 21 is the definition from section 5. It is a conforming change. Section 22 tries to expand the list of expenses to a category of the expense, the amount of expense, which you do now, and then a brief description of the expense or expenditure. We ran into a problem during the interim. A candidate put a $1,000 expense on a Visa credit card. We get a lot of complaints about whether or not we would know if that was not a personal use of campaign funds. How do we know you went to Office Depot and charged office supplies on the Visa card? No one knows because there is no disclosure of that expense.

CHAIR CEGAVSKE:
It is a category of office expenses or supplies the Secretary of State has put out for us. We have to disclose where that payment goes.

MS. PARKER:
We receive a lot of complaints from the general public. They want to know what the category means. It may be office supplies, and it is put in the office supply category, but what did they purchase? The point of the brief explanation is for the official to say he purchased a computer and paper.

CHAIR CEGAVSKE:
You want disclosure on everything on the Visa card or other credit card charge.

MS. PARKER:
No. A brief description is needed saying, a new computer and paper.

CHAIR CEGAVSKE:
If it is in the category of office supplies or whatever other category, that tells you what it is. Are there those who want to know if the official has bought a pencil or paper?

MS. PARKER:
I will give you a situation that involved a computer. That large expense item was charged as office supplies. It was a large expense. Questions were raised as to what office supplies meant. It was a new computer for a firm which was unrelated to a campaign or legislative duties. There was a question as to whether that charge had to be reimbursed. What was the computer used for? I could not tell that anyone purchased a new computer because it was in the category of office supplies. We could not determine that unless we tried to subpoena receipts, which we do not have the authority to do. This was an attempt to say we want an explanation as to whether it is a computer, paper or whatever else, in the category of office supplies.

CHAIR CEGAVSKE:
You are going to be asking for a new form. The form will have to be changed again to have a portion for explanations.

MS. PARKER:
It would be the same form with a new line on it for expenses. There is going to be one C&E form. This form will have this additional line for a description.

Section 22, subsection 2, paragraph (j) adds that the disposition can be put on the one form so there is not a new form. Right now on that expense form, you can put in your disposition of unspent contributions, but it is not specifically provided in the category of expenses in the statute. We needed to add it. It is in the form which was approved by the Legislative Commission, but it is not specifically provided as a category.

CHAIR CEGAVSKE:
What about section 22, subsection 2, paragraph (k)?

MS. PARKER:
That is now on the form. Section 22, subsection 2, paragraph (k), is disposition of unspent contributions.

SENATOR MATHEWS:
Does this mean we can continue to pay the volunteers on the campaign? Maybe I should not have been paying them in the first place.

MS. PARKER:
You can pay them. This does not change that.

CHAIR CEGAVSKE:
The question is, with the new provision to add the categories to the forms, does that change the fact that she can pay volunteers?

MS. PARKER:
No, it just asks for disposition of unspent contributions on the form. It does not address that.

SENATOR TITUS:
Usually, that disposition of unspent funds is a separate form that we used to send in once a year, right?

MS. PARKER:
Right; we combined it last Session, but we did not add a specific category. We actually put it on the form you received this year as category k. It was in a separate form. Last Session, we deleted it as a separate form, and we put it in as part of the annual form.

SENATOR TITUS:
The annual form is like the financial disclosure form? In January, I filed a form which was combined. What were the expenditures? Was it from the election to the final form?

MS. PARKER:
You have the three reports during the election cycle. In between the election cycle, you have an annual form which covers the entire previous year.

SENATOR TITUS:
Where does this unspent campaign contribution go?

MS. PARKER:
It is on the annual form as an expense item, so you do not have to do a separate form. You have to file an annual form, anyway. If you are filing a disposition, you can put it as category k on that form, so we do not have to have a separate form.

SENATOR TITUS:
When I file my third report in an election year, this goes in there so I know how much is left over after the campaign? What is that?

MS. PARKER:
That is the annual report. If you are required to file the disposition of unspent contributions, that report you used to file as a separate report, you can put it in as a category on the annual report. It is due when the annual reports are due. We combined it into one report last Session. We just forgot to put the category on there. The Legislative Commission approved the report with the category k; this is just a cleanup to say we can put category k on the report.

SENATOR TITUS:
It now rolls into this cash on hand. I am trying to figure out the difference in the amount on the unspent contribution form and the cash on hand. I am also trying to figure out the difference between the amount raised and the amount spent in any election year. Now you have three of those figures. Are they all supposed to balance out?

MS. PARKER:
They should balance out at the end. You start with a beginning balance, then the contributions and the expenses, and then you have an ending balance. That ending balance should carry forward as the beginning balance on the next form. Then, when you do a disposition, that would be an expense item on that last form. Whatever contributions you have disposed of would be listed in that expense. It should all balance out from cash on hand to the end.

SENATOR TITUS:
Here is the problem. Somebody starts running and collecting time for the time spent running for 2004, but there is some money left over from the campaign in 2000. The whole time, the money has been rolling over. Where does that money roll over? The unspent goes back and reports on what is collected in the last cycle and not spent. Now, you have the difference between what you

collected in this cycle and what you spent. There is going to be cash on hand which is a combination of what was left over from every one of the previous elections plus the difference in the current election. Will that give the balance for the cash on hand?

MS. PARKER:
No, once you dispose of it, it is not part of the cash on hand. It is going to be subtracted out as an expense.

SENATOR TITUS:
It may not all get spent, there may be some left over.

MS. PARKER:
To the extent you have not spent it, it is going to be in that cash on hand number.

Senator Titus was referring to section 23. It incorporates cash on hand beginning and ending balances into the form. Sections 24 and 25 add the definitions from the earlier part of the bill into the respective statutes where they apply.

SENATOR TITUS:
Is the cash on hand just for candidates and officers? Does this apply for PACs, caucuses and other groups?

MS. PARKER:
It is for everybody. This form is referenced in all the other statutes per NRS 294A.373.

CHAIR CEGAVSKE:
Did you say there were no penalties, or that you have no teeth or law to make them file these?

MS. PARKER:
We cannot enforce currently. We tried to get the cash on hand at the beginning and the end of the period on the form we have out there, now. The Legislative Commission said it could not approve it because the statutory authority did not allow us to request that information.

Section 27 is just a cleanup change to clarify the penalties for a late report. If the report is filed "not more than 7 days after the applicable deadline set forth in subsection 1 of NRS 281.559 or subsection 1 of NRS 281.561, $25 for each day after the first day the statement is due that the statement is." It is to clarify and make the ethics reports and fines for the financial disclosure the same as those penalties for the C&E reports. Right now, we are calculating different fines for financial disclosures and C&E reports. The time frame before each amount triggers is different. If a C&E report is 7 days late, it is $25 per day for the C&E reports. Currently, the ethics financial disclosure penalties do not trigger for ten days, and it is a different fine. Last Session you put the enforcement of the ethics financial disclosure penalties in our office. We are asking that the penalties and time frames be equivalent to the C&Es.

CHAIR CEGAVSKE:
As elected officials looking at the additions and the deletions, it is quite cumbersome because we have to relearn everything. Friday is our deadline for the bills to go out. This is a huge bill. I do not know how we are going to dissect this bill, go through all of it and have it out by Friday. We have your amendments, Exhibit F. We also have an amendment from Ms. Hansen as I indicated.

SENATOR MATHEWS:
This is going to have a cost because the Secretary of State's Office will need additional staff to do this. If we are reporting something every day, are they not going to need more staff?

MS. PARKER:
Senator Mathews is referring to the contributions of $1,000 or more within 24 hours. We do not anticipate the need for additional staff for that at this time. It is that $1,000 threshold, not every contribution you receive.

SENATOR MATHEWS:
Some of us report everything. If it has to be reported within 24 hours, you will get everything I have, whether it is $2 or not.

MS. PARKER:
I understand your concerns about S.B. 385. It is confusing with the contributions and the expenses in different areas. Entities had come to us and asked for clarification. There are some definition changes we need. If I could

work with you over the next day to explain the sections we really need, that may help.

CHAIR CEGAVSKE:
I was going to recommend that. If you could give me your highlighted list of the most important portions of this bill which would help the Secretary of State's Office, we can entertain those. Due to the time frame we have, there is no way we can get through this. I do not know if the Committee agrees or disagrees with this Chair, but that is my feeling.

SENATOR TITUS:
Yes, that is appropriate. One of the things I would hope you would include on that list is cleaning up the penalties so those are standardized. That is something which would be easy.

MS. PARKER:
It is mainly the cleanup of the penalties and some definitions that we need.

CHAIR CEGAVSKE:
We will work with staff on that. I am now going to open the public testimony on S.B. 385.

CHRISTINA DUGAN (Las Vegas Chamber of Commerce):
The Las Vegas Chamber of Commerce is an organization committed to good government, open dialogue and discussion of our electoral process. That said, we are neutral on this bill, but we have a series of questions, some concerns and sections which we think are improvements to the current language.

With respect to the 24-hour, $1,000-reporting requirement, I formerly worked for an oil company. I was in charge of its political affairs activities and doing reports throughout the United States for the various local and state organizations. One of the things, with respect to the 24-hour reporting, was that it went into effect after you had already filed the initial report. For example, the report is due 7 or 15 days prior to the election. You may want to consider doing the 24-hour reporting period after the original hard copy has already been put forward. That way, individuals know what is transpiring in the election as it goes through the early-voting period, but you are not under the same onus of having to report in a 24-hour period before that because you would be putting it

on your original filing. That may be a potential solution this Committee can live with. It would also keep the aspect of open government.

With respect to the issues of an independent expenditure, we, too, believe there is some need for clarification on those parts of the law. Certainly, we have looked at California for the actions we have taken in the past, with respect to our PAC. The appropriate decision for this Committee to what constitutes an independent expenditure is certainly a policy decision. We would encourage having something either in statute or regulation to help us in the process of making sure we comply with the laws. We want to do so. We feel some of the same frustration you do with respect to these forms being exceedingly complicated. It is often difficult to know what you are or are not accountable for reporting.

I would also question section 2, subsection 1, paragraph (d). It says, "Using materials provided by a candidate or group of candidates to create advertising on television, radio, billboards, poster and in newspapers" would not count as a coordinated expenditure. I question that only because section 2, subsection 2, paragraph (d), says you cannot "reprint and distribute campaign materials obtained from a candidate or group of candidates or a representative of the candidate or group of candidates." It is okay if a person or group gives a candidate material that the candidate redrafts in order to distribute it in a large media format, but if the candidate distributes something in a small format, such as a pamphlet, they are suddenly engaged in a coordinated campaign effort. An independent expenditure which occurs under the provision of section 2, subsection 1, paragraph (d), may also be potentially coordinated because a candidate would have a hand in providing some material for that effort.

We are supportive of the issue of reporting cash on hand. When we look at some of the reporting filings with respect to these C&E reports, it is difficult to backtrack and try to understand exactly what dollars are available in the accounts at certain times. Certainly, our PAC, BizPAC, would be happy to comply with those laws.

JOHN L. WAGNER (Burke Consortium of Carson City):
After hearing Ms. Parker testify, I decided S.B. 385 was not a good bill. I was neutral when I came in. After hearing Ms. Parker talk about all the reporting and other things a candidate must do, who would want to run for office under these conditions? Now, a candidate is going to have to hire an accountant and maybe

a couple of lawyers to figure all this out. As far as the $1,000 report within 24 hours, a candidate could receive $999.99 and not have to worry about reporting. I definitely am against it.

JANINE HANSEN (Independent American Party):
In 2003, the law was changed so people who did not spend $100 in the election did not have to file. Perhaps, it would be wise to say they do not have any. What happened in 2002 was that a lot of people ran, especially in our party, because my brother was killed in January 2002. My brother had written a pamphlet months before asking the Independent American Party to have 50 candidates run in the election. We had a lot of inexperienced people come forward to run for office. Some of them actually campaigned, but they did not spend any money. Some of them did not campaign. They put their names on the ballot. In Exhibit D, starting on page 7, there is a list of people who had fines from 2001. I requested the list from the Secretary of State. I put a star next to the Independent American party candidates. There are about 25 of them who are now facing fines, some as high as $15,000, but they did not spend $100. It seems unjust to me that someone who did not spend $100 in his or her campaign would have such high fines. It was the Legislature's desire, in 2003, to exempt those people from fines and from filing. It is unjust for the Attorney General's Office and the Secretary of State's Office to pursue the money, time and effort to fine these people over $15,000. Some of them, interestingly enough, have not been uniformly done: Gregory Miller and my mother, Ruth Hansen, who is 89 years old.

CHAIR CEGAVSKE:
Did your mother run?

MS. HANSEN:
She did run. At 87 years old, she was one of our greatest vote getters. She got 25,000 votes. She had a good time and was a wonderful candidate. We decided we should have been running her for years. She went to every event, and she was on the radio. She has never been notified that she owed $15,000. Gregory Miller has never been notified.

CHAIR CEGAVSKE:
She is on this list?

MS. HANSEN:
She is on this list. She owes $15,000, and she did not spend any money in her campaign.

SENATOR BEERS:
I would tell her not to pay it.

MS. HANSEN:
Let me tell you what is happening with those who have not paid the fines. Some of them are now in court and are being pursued by the Attorney General. They have to hire lawyers to defend themselves. It is a huge problem. If the fines are not paid, property can be attached. That will not matter for some of the candidates because they do not have property, but my mom owns a home. It is a problem for my son because he wants to get a contractor's license. If he has these fines hanging over his head, he cannot get a general contractor's license.

CHAIR CEGAVSKE:
Your mother is 89, and she has a $15,000 fine against her? Could they take her home?

MS. HANSEN:
They could put a lien on her home. Another person with fines is Nancy Brodie. She is retired and in her 70s. They forced and intimidated her into a collection proceeding. She was paying $50 a month. They did not cash her checks for six months. Suddenly, after that six months, they cashed all of the checks. The last check she sent in for $50 was returned from the Secretary of State's Office because they did not know why it had been sent to them. There are a lot of problems regarding this issue.

We want to say the desire of the Legislature in 2003 was to not require the people who had not spent $100 to file. It serves no justice to continue to pursue them in this way. Now, there is a bill in the Nevada Assembly which says if people did not file these reports, they could never run for political office again or they could never file a petition. There are a lot of consequences being heaped on this. Questions were repeatedly asked to the Secretary of State's Office which were not answered. Now, we see that people are being criminally prosecuted for some of these things. We are concerned. Other people are in this position besides Independent Americans. I know there is a Republican and a

Democrat on this list. I am not personally familiar with all of them, but I feel it serves no justice.

CHAIR CEGAVSKE:
Is the issue that you did not file? I know there was no money raised.

MS. HANSEN:
They did not raise money, and I do not think most of them filed. A couple of them filed. I cannot answer that question entirely because I was not familiar with every single one and how they handled it. There might be some differences in there I am not aware of as to how they handled it. I believe the law says if $100 is not raised, they are not required to file.

CHAIR CEGAVSKE:
You filed and paid the $100, is that part of the report which says you spent $100?

MS. HANSEN:
As far as I know, the spending of the filing fee is not included in the $100 of raised zero dollars. I do not believe it is counted in there.

CHAIR CEGAVSKE:
Somebody is saying it is not counted. If all they spent was the $100 and they raised zero dollars, is there something in the law which says if the candidate raised no money, they do not have to file? Or do they have to file even if they do not raise anything?

MS. ERDOES:
I believe they still must file because they have to show they did not raise any money. Otherwise they would not know.

CHAIR CEGAVSKE:
The law states you must file. If you do not, you will be fined. Is that correct?

MS. ERDOES:
Yes, I believe that is correct.

CHAIR CEGAVSKE:
Your amendment would be to make the current 2003 law retroactive so the fines are waived. If we did that, would everybody be willing to file a report to comply with the law?

MS. HANSEN:
I guess if they did not, they would still have the fines. I cannot answer for 25 people. Would the candidates have to file and say they received no contributions and did not spend any money?

CHAIR CEGAVSKE:
Would your mother, at 89 years old, be willing to fill out the form stating she spent no money to get the $15,000 fine waived?

MS. HANSEN:
My mother will sign it. I will be sure she does because I am responsible for her. She is going to be living with me. The issue is that these serve no purpose because they did not raise any money, and they did not save it.

CHAIR CEGAVSKE:
The legal counsel is telling us these forms must be filed, by law. I understand those candidates did not raise any money. All they were asking is that they fill out the form to say they did not receive any money. I understand a constitutional issue has been raised.

SENATOR HARDY:
I want to understand the circumstances. As I recall, some candidates did not file because it was an act of civil disobedience to prove a point. There was not a lack of understanding that this form needed to be filed.

MS. HANSEN:
That is only true for some people. For others, it was a lack of understanding, and for some, it was an act of civil disobedience which we have pursued with the Secretary of State. Some of them are pursuing it in court. That is true because we have significant problems. Many of them submitted lists of questions for the Secretary of State which were never answered. This is one of the reasons these things need to be appealed. You are right; some of them were acts of civil disobedience. If they want to continue on and do not want to take this opportunity, they might lose it.

SENATOR HARDY:
I do not disagree with you, and I would participate in supporting legislation to clear up what you have talked about with regard to not spending money. However, the law is the law. I do not think we can excuse it because $150,000 or zero dollars was spent. An act of civil disobedience has certainly brought some good things throughout the years. They have been used to prove and illustrate points, but there is a cost associated. People are experiencing the consequences of their actions of civil disobedience. I am disinclined to support anything which would be retroactive. I would support language going forward to clarify the law on this, so people can understand. I do not think it is appropriate for the Legislature to say in retrospect, these people disobeyed the law, but since it was only $100, we should not worry about it. Disobeying the law is disobeying the law.

MS. HANSEN:
That would apply to all the people from the conservation district. There are 175 of them ready to resign because they failed to fill out their financial disclosures. They are not paid any money.

SENATOR HARDY:
The alternative is to petition the Legislature to indicate how stupid that is so the Legislature can change it.

MS. HANSEN:
That is what they have done, and that is what I am doing. They have petitioned the Legislature to do the same.

SENATOR HARDY:
I would be happy to be a cosponsor and participate, in any way, in correcting those kinds of things. Part of what you brought to our attention is legitimate and ought to be fixed legislatively. In some of these cases there was civil disobedience. The law was intentionally broken. I would have a hard time supporting something which would remove the consequences of someone's actions. That defeats the purpose of civil disobedience which has some merit in certain cases.

MS. HANSEN:
The people from the conservation district face fines of up to $12,000 apiece. If the legislation to retroactively remove those fines is not agreed to, then all 175

of them are going to resign according to testimony which I heard in the Nevada Assembly. The legislation was passed, but did not comply. The people from the conservation district are ready to resign.

It is true that some of our candidates did this as an act of civil disobedience, but others did it unknowingly. Many of them were running as a result of my brother's death. There are a few who knowingly did it. Most of them were trying to, perhaps on poor advice, make an issue of the constitutional question. What public purpose does it serve besides punishing them? The intent of the Legislature was changed in 2003, so people who did not raise $100 would not have to be doing the same thing. The law was changed in 2003, if they had run in 2004 instead of 2002, they would not have had all these fines.

SENATOR HARDY:
The only public purpose it would serve is protecting the integrity of the statutes and the laws of the State of Nevada.

MS. HANSEN:
The statute was changed. There was no integrity in it.

SENATOR BEERS:
For Senator Hardy, this appears to be a case where the punishment far exceeds any reasonable measure of the crime or damage.

SENATOR TITUS:
That was the direction I was going. If you need to protect the integrity of the law to make the protest worth something, maybe we could look at a different kind of fine, such as community service. Something instead of these dollar fines for those cases where it might apply. It should be something in between, it does not have to be an all-or-nothing situation.

MS. HANSEN:
The law only allows a $100 fine if the form is not filed and the candidate did not have any contributions.

SENATOR TITUS:
A $100 fine would be better than these $5,000 fines.

MS. HANSEN:
That is more reasonable. Most of the candidates would be willing to comply.

CHAIR CEGAVSKE:
I will work with Ms. Hansen and staff on her recommendations.

SENATOR HARDY:
I do not disagree with Senator Beers and Senator Titus. The extent to which these people have been fined has been outrageous. I do not want us to have a discussion about how it was inappropriate to take some action.

MS. HANSEN:
I have a couple of issues about S.B. 385. Section 5 requires the candidate to report contributions in excess of $1,000 within 24 hours. They do not have to report to the Secretary of State for ten working days. It is also on ballot committees. You might not even pick up your mail for several days after that. You might not even open the mail. All kinds of issues might be there. You might not be able to do it within 24 hours, so I have concerns with that.

CHAIR CEGAVSKE:
We had several Committee members who have addressed those issues.

MS. HANSEN:
My next concern is section 23, subsection 2, paragraph (c), says the Secretary of State, "May request any other information the Secretary of State deems appropriate." I do not know how many members of the Committee were running for office in the last election. On the information he sent out for the reports which were required by the Legislature, he suggested that although some of these things were not in the law, people should send them in anyway. I find that objectionable. If the law is made here, it ought to be made here and not by the Secretary of State. This sentence gives him the option to do absolutely anything he wants and to require anything from candidates who do not comply with the law. It is outrageous to assume that he would make the law instead of the Legislature.

CHAIR CEGAVSKE:
I do have to say that nobody else picked that up. Thank you.

MS. HANSEN:
We have been dealing with the Secretary of State's Office, so that was important to me. Under section 9, subsection 4, it discusses the issue of a Category E felony. I am concerned as to what that applies. I am assuming it applies when someone gives more than $5,000. Then that person could be guilty of a Category E felony. A new portion of the law in section 9, subsection 2, says, "A person shall not make a contribution or contributions to a candidate for any office, except a federal office, in an amount which exceeds $5,000 for or a special election to determine whether a public officer will be recalled, regardless of the number of candidates for the office." Why is that added if it is already in the law?

CHAIR CEGAVSKE:
Mr. Stewart is saying it would apply.

MS. ERDOES:
As you pointed out, the penalty is already existing language, but the new act, under section 9, subsection 2, would now be applicable. In other words, "A person who willfully violates any provision of the section is guilty of a category E felony," but this bill adds, section 9, subsection 2, which says, "A person shall not make a contribution or contributions to a candidate for any office, except a federal office, in an amount which exceeds $5,000 for or a special election to determine whether a public officer will be recalled, regardless of the number of candidates for the office." Section 9, subsection 2 is something new to which the Category E felony would apply.

MS. HANSEN:
Is this for all elections and candidates? I do not know; maybe someone can get that answer for me.

I worry about charging people with Category E felonies for these things because they will be tainted with that for life. Would anyone actually charge them with a Category E felony? If there is something more enforceable at a lower penalty, would a judge charge somebody with that? I think it is unworkable.

CHAIR CEGAVSKE:
We are going to close the hearing on S.B. 385. We are going to open the hearing on S.B. 386.

SENATE BILL 386: Makes various changes to provisions governing elections. (BDR 24-311)

CHAIR CEGAVSKE:
Do you have an amendment to S.B. 386? It has the beautiful Clark County seal on it (Exhibit G).

LARRY LOMAX (Registrar of Voters, Elections, Clark County):
Senate Bill 386 is a bill essentially from the clerks in the State of Nevada. We are trying to address issues which arose in the last election to make things run more smoothly.

CHAIR CEGAVSKE:
You did bring those issues up when you testified at the first meeting of this Committee, early in the Session. We have been apprised of the concerns that you and the clerks had. A brief summary of S.B. 386 will refresh our memories.

MR. LOMAX:
I am going to address the changes. When they do the bill drafting, they move existing statutes into other sections. Section 4, essentially, moves provisions currently in the *Nevada Administrative Code* (NAC) into the NRS. It addresses poll watchers. It defines what a poll watcher can do.

CHAIR CEGAVSKE:
Is this the provision which would prohibit anyone who is not a Nevada resident from being a poll watcher?

MR. LOMAX:
This would state that to be a poll watcher, you have to be a registered voter in the State of Nevada. On the top of page 3, the first 3 paragraphs are new language. They simply pin down and define what a poll watcher can do when they are in the polling place. It tries to limit them to one part of the polling place and not allow them to roam around and interfere with the election. They are allowed to observe what is going on. We were sued on this issue. We would allow them to stay in the polling place after the polls were closed and watch us shut down, but they could not interfere with the process.

CHAIR CEGAVSKE:
That is what you got sued on? They wanted to be a part of it?

MR. LOMAX:
They wanted to go around and copy down numbers off of the machines.

CHAIR CEGAVSKE:
Does this clarify it?

MR. LOMAX:
This clarifies it. It also would limit a party or a candidate who is appointing a poll watcher to one person per polling place. In the last election, I was well aware of 5 or 10 people from the same party as poll watchers at a polling place because many volunteers from California came over in the 2004 election. They put multiple people in polling places. We do not see any purpose in that.

CHAIR CEGAVSKE:
The only thing Nevada gained was more room tax paid because of the hotels they stayed in.

MR. LOMAX:
Section 5 moves what is currently in the NAC into the statutes. It discusses making voter registration forms available to individuals and how we would go about it. It all exists in the NAC now, with the exception of section 5, subsection 5. When people come to sign our voter registration forms, we would also give them a pamphlet or a handout with the rules for registering voters to help clarify things.

Section 6, subsection 1, subparagraphs (a), (b) and (c) are new. That section would require if the person who registers a voter keeps the form to turn it in himself, that he give the voter the receipt. The voter is supposed to maintain that anyway. It would make it clear they are supposed to do that. It would require them to inform the voters they are not registered to vote until that form is turned in. Obviously, it is not enforceable, but it would encourage them to do it, and it would require them to turn in those forms to us within five days. Currently, it is ten days. This provision would cut that time in half.

Section 6, subparagraph 2, are common-sense things. It says if you are going to register voters, you should not be influencing the party they are going to register in; you should not discourage a voter from registering in what you consider to be the wrong party; you should not alter the face of the form, and

you should not accept any monetary compensation from the voter. These are all things which were going on in the last election. We are trying to put into statute that they cannot do that.

CHAIR CEGAVSKE:
Do you believe we will be able to actually file charges with this language? I hope if what happened during the last election happens again, we would be able to exercise this.

MR. LOMAX:
As you and I have discussed, it is out of my hands. Somebody is going to have to come to grips with this.

CHAIR CEGAVSKE:
Did we do anything to help facilitate matters so that one of the entities you would go to would pursue it?

MR. LOMAX:
I do not know how to do that. I guess I did not.

There are areas I am going to refer to as cleanup. We no longer use punch card ballots in the State of Nevada. Everybody is using the touch screen machines. That language is cleaned up. Also, throughout the law, they alternately refer to the roster book, the book you sign your signature on, as a poll book or a roster book. We have made it consistent as a roster book.

On page 5, there is one thing which is not cleanup. Right now, it says the sample ballot will have a facsimile of the ballot. You can no longer have a facsimile of the ballot with a touch screen machine, since you are scrolling through it. We are now going to have a representation, which will list all the contests and everything. It will be clear to the voter, but it will not be a facsimile of the ballot.

Page 6 is cleanup. On pages 7 and 8, there are some statements which say we are supposed to finish our training 5 days prior to the election. We do not have to train all the workers, only the person in charge of the polling place. This changes that. It will allow us to train people right up to the last day, because that is what we have to do. We do not necessarily have it all done five days

before the election. We also change it so everybody will be trained, not just the person in charge of the polling place. Other than that, it is just cleanup.

I will let Ms. Reed address page 10.

BARBARA REED (Clerk/Treasurer, Douglas County):
The language in lines 36 through 38 in section 20, subsection 5, paragraph (b), brings this part of the statute into conformance with 2 other sections. They are improvement districts; chapter 318 of NRS already has this provision. Another section under the town advisory boards really applies to the ones in Clark County. They are able to do this. We would like to bring this so it is in conformance with the other two sections. That applies to page 10 and the top of page 11.

MR. LOMAX:
The rest of page 11 is cleanup. On page 12, there is a clarification. In a polling place, there are poll watchers and a public viewing area where anybody from the public area can watch what is going on. This provision defines what those people can do, which is essentially stand, watch and stay out of the way. They have a right to be there and observe.

When a voter requests assistance, there is a prohibition of assistance from his employer or a union member. We would also like to add a candidate cannot assist a voter in a voting booth. That is a problem we have experienced in past elections. It is a terrible perception to the people in the polling place, and we get a lot of complaints about that. Candidates should not be doing that. The bottom of that page, page 13, is cleanup.

Page 14 is cleanup. We have an amendment to something on page 15.

MR. LOMAX:
A person who cannot read or has difficulty with the language can request assistance in the voting booth. We have had candidates personally bring people in to vote who have said they want the candidate to help them. They will not be allowed to do this if this is inserted. Page 15, section 31, subsection 2, is not the way we intended it to be written. We wanted to make it clear that, “A person at a polling place shall not cast a provisional ballot in an election to vote for a candidate for federal office if the person is registered to vote and … .” We want to delete the language on lines 22 through 25. Instead, we want to insert,

"the person's name appears in the precinct roster at another polling place." We think a person who is already registered to vote should have to go to his or her polling place on Election Day. They should not be able to use provisional voting as an excuse to go anywhere. I know that is not shared by people in this audience, but if anyone can vote anywhere, we are going to have a chaotic Election Day. We had a pretty chaotic Election Day in 2004, and they could only vote provisionally at the federal level. If a voter could vote the full ballot anywhere and only has the races which do not apply to that particular district thrown out, that is going to create a lot of issues in conducting an orderly election.

CHAIR CEGAVSKE:
The amendment is the first proposed amendment in Exhibit G.

MR. LOMAX:
On page 16, it is conforming language. In section 34, subsection 4, paragraph (b), we did not intend for that to be inserted. That should be deleted.

CHAIR CEGAVSKE:
Should the whole thing, section 34, subsection 4, paragraph (b), be deleted?

MR. LOMAX:
Yes. Page 18 is cleanup in section 37, subsections 5 through 37. Subsection 8 addresses a certain issue which occurred during the last week of the election. Individuals confined in a nursing home or who cannot mark or fill out their own ballots can get statements from their physicians allowing someone else to come in, pick up their ballots, take them back to the voters, mark their ballots for them and sign their ballots for them. In the last election, a lot of people caught onto this. We got a lot of telephone calls. People wanted to make sure they understood it correctly. If they went to a nursing home and could get 20 requests from people signed by a physician, then they could come and pick up 20 ballots to take them to the people and then turn them in. All we have tried to add in here is to say that the person requesting the ballot is cognizant of what he or she is requesting. We ran into this in the election. We had just conducted the primary and the municipal election where an individual came in with about seven requests from an Alzheimer's facility. Each one was signed with an x. I sent one of my employees to that facility to verify these people really requested these ballots. There was not a single individual there who even knew they had requested it.

CHAIR CEGAVSKE:
What did you do with those ballots?

MR. LOMAX:
We did not provide the individuals with the ballots. The idea is to get a physician to acknowledge these people have a legitimate concern. We are not trying to discriminate against someone who needs this help, but we want to make sure they really need it.

CHAIR CEGAVSKE:
I asked my brother the same question. My mother is in a nursing home in Minnesota. I asked him if anyone had come by to ask if my mother could vote. With my mom, unfortunately, it is like the movie *Groundhog Day* every day. I could see someone going in to ask her if she wanted to vote; she would say yes. If they told her who she was going to vote for, she would say yes. If you came in and asked her the next day if she voted, she would not remember. It is a concern.

MR. LOMAX:
It is a touchy issue, and I understand that.

CHAIR CEGAVSKE:
If something is signed by a physician, will it take care of that problem?

MR. LOMAX:
It is already required that it is signed by a physician. What we want is in section 37, subsection 8, paragraph (b), which says, "The registered voter is able to direct the person designated in a request submitted pursuant to subsection 1 to mark the ballot in accordance with his intentions."

CHAIR CEGAVSKE:
Will you still verify when you have a question like you mentioned from the last election? Were you able to find the person who did those seven ballots?

MR. LOMAX:
No, I cannot prove it. I know who came in and asked for the ballots. I do not know if the Alzheimer patients made the x and did not remember if they did or did not make the x.

The items at the bottom of page 20 and page 21 are cleanup. On page 22, and this will appear a little later, when we are reading our absentee ballots, we would like the ability to start processing them 4 working days prior to the election. Those Committee members from Clark County know we did not finish with our mail ballots until 6 a.m. the day after the election. It took us all night before the final results were ready. That is because optical scan and punch card ballots take a lot more time to process. If we could start processing them four working days ahead, it will allow us to get the data into the computer. We will not know the results, the computer does not tell us anything.

Pages 23 and 24 are cleanup. There is a change on page 25 under section 45, subsection 3, paragraph (b). This change is focused on the rural counties. It will give them some flexibility in the times they are open for early voting. This would not apply to Clark County which is always open. This change would help the rural counties. The bottom of page 25 is cleanup.

In section 47, lines 13 through 30 should be left as is. This is the second part of the amendment from Exhibit G.

CHAIR CEGAVSKE:
Do you want the new section NRS 293.7_ from Exhibit G inserted there instead? “No loitering near any polling place.”

MR. LOMAX:
That is correct.

CHAIR CEGAVSKE:
Will paragraphs (a), (b) and (c) on the bottom of Exhibit G be inserted in section 47?

MR. LOMAX:
Essentially, yes. I might have to ask Mr. Stewart to determine exactly where it should go because of some rearranging they have done.

Right now, there is a prohibition against electioneering. We were trying to modify that and make it clear that not only should there not be electioneering within 100 feet of the polling place, but there should not be anyone else within 100 feet claiming they were helping voters or doing other things. We do not know what people are doing in there, and we cannot enforce it. We tried some

language, which is in this bill, but it became clear it was not going to work because it says no one is supposed to talk to anyone about election-related subjects. That language captures two voters just walking in and talking. We did not want to do that. We put together this loitering language. This is pulled directly from language in place in other states. Hopefully, it will pass muster.

Our intent is not only prohibiting electioneering within 100 feet but to eliminate a particular argument we have received. We had a partisan organization that endorsed one of the presidential candidates and one of the questions in Clark County. They claimed they wanted to be within the 100 feet to help voters. We almost went to court over this. We cannot enforce what they are saying. We do not know whether they are helping voters or, by wearing certain T-shirts and being in there, whether they are going to influence voters. This would prohibit anyone from remaining in there.

MS. ERDOES:
This language works well, but I have one other question. When you say notices are continuously posted, since this is something which could possibly be violated, we may need more specific language in regard to the word "continuously." Do you really mean "continuously," or do you mean within a certain amount of space? Usually, posting notices has a provision for so many feet.

MR. LOMAX:
The law requires us to post a distance marker at 100 feet. This language is not attempting to change that. This language is attempting to post the distance marker 100 feet from the entrance to the polling place. When I use the word "continuously," I mean throughout Election Day, not throughout the year. These things go up in the morning and come down at night, at the end of the day.

The bottom of page 26 is existing statute, but it has been moved. Pages 27 through 29 are cleanup. Page 30 readdresses allowing us to start processing the mail-in ballots 4 working days prior to the election. Page 31 is cleanup. There is a change on page 32. New language in section 57, subsection 4 seeks to clarify the law which says we have to provide a complete list of all the registered voters 4 times a year. We have interpreted that to mean to the State and county party. Some other counties interpreted that law as meaning just the State party or just the county party would get the list, but not both. This is to clarify that both the State and the county parties get the list.

There is a change in section 58, subsection 3. Right now, groups can request 50 applications to register to vote by mail. It does not specify within any certain period. Some of the small counties were complaining people would come in every day and ask for 49 forms. They wanted to put a time period on that. This does not impact Clark County.

CHAIR CEGAVSKE:
Have we done anything in the bill about the numbers on the forms? The numbers you check out, they are yours, you are responsible and you turn them in. Is that something you put in here?

MR. LOMAX:
No, I do not think that ended up in here.

CHAIR CEGAVSKE:
It might be something we should address.

MR. LOMAX:
Page 34 addresses another issue. In the last election we discovered, for the first time, there is nothing that says who is going to assign a county question a question number on the ballot. Section 60, subsection 3, says the county clerk will assign the number. It does not matter to me who assigns the number and who does not, but it ought to say who does.

Pages 35 and 36 are cleanup. On page 37, section 62, subsection 5, paragraph (b), we are attempting to clarify when an individual is registered to vote. It is already perfectly clear in the law, but this provision attempts to make it clearer. A person is registered to vote if that person mails the form in on the date it is postmarked or if it is delivered to the election department on the day it is hand-delivered. This was a huge issue with petition gatherers.

Page 39, section 63, subsection 1, paragraph (a), addresses a similar issue we discussed earlier. This language will not work. The loitering law we have an amendment for might work instead. This addresses the same issue for early-voting sites as opposed to Election Day voting sites. I would like that loitering rule to apply here instead of this language.

On page 40, most of that language was moved to a different location. In fact, it is in the front of the bill. Everything in this bill, from here on, with the exception

of page 67, is either cleanup or doing the same changes to the city codes we have already discussed. The language on page 67, section 111, subsection 2, paragraphs (a) through (c), repeats on the following pages. Right now, campaign C&E reports are due seven days before the primary election and the general election. That is killing us because it is also the last day to request a mail-in ballot. We get inundated with last minute, mail-ballot requests while, at the same time, you are turning your forms in to us. You and all the reporters want that information on the Internet that night. All we are trying to do with this section is to make the deadline a week earlier for you to turn those forms into us. It would make our life a little easier. We could deal with all this stuff at the same time. For the primary and the general elections, those C&E reports are due 14 days before the election instead of 7 days before the election.

SENATOR TITUS:
At the end of a campaign, we have to calculate all those reports. Moving the due date back gives us breathing room. Also, then people have the information a little earlier before the election.

MR. LOMAX:
That is what S.B. 386 does.

CHAIR CEGAVSKE:
Do you have all your amendments in there?

MR. LOMAX:
Everything is in there from us.

SENATOR BEERS:
I learned from my opponent that you could mail your C&E report from Ohio. It took a long time to get here, and you cannot actually see it by Election Day. They would not be able to do that anymore with this amendment on page 67.

CHAIR CEGAVSKE:
You both have done an excellent job in preparing this bill and putting it together. I think you have everything in this bill. The only thing that might be missing is some way to fine people, and to be honest, I do not know how to put the teeth in the law. I know your staff works hard in the elections.

I will now open up the public hearing on S.B. 386.

RICHARD L. SIEGEL (American Civil Liberties Union of Nevada):
The American Civil Liberties Union (ACLU) has been working with the county clerks, registrars and the Secretary of State since the formation of the Help America Vote Act (HAVA) committee two years ago. We have become educated on many of these issues. We support over 90 percent of the suggestions which have been made. We have a limited number of things we respectfully disagree on.

In section 6 of S.B. 386, there is a reference to Category E felonies for interference with registration. We believe that is too broad. In section 6, subsection 2, paragraph (c) refers to any statement to discourage completion of the registration form. That kind of language, "Make any statement or take any action in an attempt to discourage the voter from completing a form for an application to register to vote ... ." That says, "... any statement ... to discourage the voter from completing a form." We recommend that section 6, subsection 2, paragraph (c) be taken out of the bill. It is not something which is enforceable, and it is not something which is consistent with the First Amendment of the U.S. Constitution. Let us focus on action, not on speech.

The second comment I make is in reference to the loitering language in the amendment from Mr. Lomax. I was here to testify against the other language, 500 years or more. Somebody comes to an area, but they do not have money or identification. The people we are talking about are the clients of the ACLU. They are at the polling place for one purpose; as we see it, they are there to see the voter is treated properly. They are there to speak to the voters about whether they were treated properly. We call them voter suppression workers. It is a new concept, and it comes from the 2000 election in Florida. This was a feeling by both parties. There were Republican voter suppression workers in Hispanic areas of Reno, and there were Democratic-oriented, voter suppression workers; although in both cases, they were legally nonpartisan. They are entitled to find out if anything is going wrong in the election.

Loitering is not going to work. We have killed every loitering law we have gone after. It is hard to write a loitering law which stands up. This is simply not loitering as we conceive. The law says no one can interfere, in terms of electioneering or intending to influence the way people vote. We believe the language should be left the way it is. People should be able to reach people in the 100-feet area to ask if they were treated properly. I am sorry if the election workers feel they cannot police what is or is not being said. Basically, these are

people who are leaving the voting area after they vote. That is the function, and I hope you will understand this is a vital function. What we had was a program at the primary election to interview as many voters as possible to find out if anything wrong happened. We found out whether they got a provisional ballot if they were entitled to one. If we do not have access within 100 feet, the voters get too dispersed and we cannot do that. We ask to amend or kill the amendment and leave the language the way it is. As it is, they are not allowed to interfere in terms of electioneering or telling people how to vote. That is the way it should be.

A third point has to do with being in the polling place. Language on page 47 allows for people to limit access to the polling place after the official end of voting. Mr. Lomax mentioned it in terms of being in one place in the polling place. Poll watchers need to watch polls. They need as much room as possible without interfering with people. It is fine if you want to have language about not directly interfering with the voting workers in section 77 or in other areas which mention that. If they are restricted to one part of the polling area, that means they cannot do their job. The language should be “not directly interfering.”

My final point has to do with denying provisional ballots to people who are already registered in another precinct. We directly oppose this. We believe the present law requires people be given provisional ballots if they are told they do not have the right to vote as a regular voter.

CHAIR CEGAVSKE:
Excuse me, Mr. Siegel, what section are you in?

MR. SIEGEL:
I am in section 31.

CHAIR CEGAVSKE:
What line are you talking about? Mr. Lomax is taking out lines 20 through 25 on that page. He has new language, and that is the first proposed amendment.

MR. SIEGEL:
I do not know what happened to the language. I heard him read the new language, although I have not seen it. I am referring to that section. Our position is the intent of the federal HAVA law was to allow people to have a provisional ballot if they arrive at the wrong precinct and they are not legitimately entitled

to vote at that precinct. That is the way the present law arrives. Mr. Lomax's assumption is that people are doing it for convenience. We believe the majority of these cases are people who have arrived by mistake. People make mistakes; they are advised to go to the wrong polling places; people do not have cars, they come late and are stuck in a long line. We have to accommodate the people who show up. The intent of the federal HAVA law is they be given a provisional ballot. It is our position that only the votes the voter is legitimately entitled to cast at their actual place of residence shall be counted. We hope it could be on a countywide basis, anywhere in the county, but they must be given the provisional ballot.

This issue came up during the election. The ACLU, among other groups, fought for the right to give that provisional ballot. The Secretary of State overruled the Clark County office, and everybody was supposed to have gotten a provisional ballot. We want to oppose that amendment; we want to leave the law the way it is; we want to give a maximum number of provisional ballots, and we want to count as many provisional ballots as possible for those places where people actually reside.

MS. HANSEN:
I have a couple of things to mention in S.B. 386. The first item I wanted to bring to your attention is under section 13. It discusses the new law passed last time to ensure that petitioners have the right to be in public areas. Section 13 would limit it. We already have to notify "someone in control of the operation of the building" in advance, but under this, we would have to notify them "at least 24 hours before using such area." In many cases we notified them more than 24 hours before. However, in some cases, there may not be an opportunity to notify them in advance. For example, if someone is sent to the bus depot or a paid petitioner or a volunteer is sent to a public building. The Secretary of State has a good portion of his bill on this. It provides additional protections instead of limiting them.

The bill in the Assembly has taken the language, "an area must be made available for the use of any person" and replaced "available" with "designated." It is important we have specific areas designated that people know in advance because you may have paid petitioners or nonpaid petitioners who are working. If one area is not working, then the petitioners go to another place. Those who are getting paid a minimal amount of money lose time every minute they are not getting signatures. For them, it is critical because they are getting paid

minimally. I oppose the language, "at least 24 hours before using such area." It really is not a problem. We contacted most of those places in advance. We told them we would be there between now and the election, the deadline, petitioning. So, for example, we told the Department of Motor Vehicles (DMV) we would be petitioning there every day. That is not necessary and it can work the other way.

Section 6, subsection1, paragraph (c) says these voter registration forms must be turned in "on or before 5 days after the voter completes the form." That is a good idea, but if they happen not to do it, they could possibly be charged according to section 6, subsection 3. It says, "A person who willfully violates any provision of this section is guilty of a Category E felony and shall be punished ... ." It could be a mistake. For example, the worker got the filled-out forms on Friday, but did not get them turned in on Monday; perhaps a family member got into an accident and had to go to the hospital. Of course it says "willful," so that is a bit of a protection, but that worries me. People will say to me they will not take voter registration forms anymore if they could be charged with a Category E felony because they do not get them in on time.

CHAIR CEGAVSKE:
Ms. Erdoes, did you hear Ms. Hansen's concern? Is she correct in that assumption?

MS. ERDOES:
Yes, I believe she is correct in the way she is reading the bill. However, I would add that this is the penalty and, in a court of law, it is doubtful that criminal charges would be brought against someone who was prohibited from getting the forms in. If the person could not get there, that is not the kind of situation this provision is seeking to solve. Additionally, you would go through the whole criminal system. The penalty is intended for someone who does something "willfully" or tries to interfere with the process. I am not sure saying it could happen to someone because of a death is a good way to analyze this.

MS. HANSEN:
It suppresses people's willingness to take voter registration forms. It is a little scary. I do not think our people would be doing it willfully, and that is why I see the language "willful" as a protection.

Section 57, subsection 4 states that a list of the registered voters must be given to the State and county parties. We certainly support that, and we support other portions of this bill. I am pointing out the problem areas because of time constraints.

CHAIR CEGAVSKE:
We will assume anything you do not address, you are fine with.

MS. HANSEN:
Page 37 discusses an issue addressed today in one of the Assembly bills. If a person is out petitioning and unregistered voters want to sign the petition, they cannot because they are not registered to vote. We cannot give them voter registration forms to fill out unless it can be given to the voter registration office that day by 5 p.m. Most petitioning is successful after 5 p.m., because that is when you can reach people. We cannot get their signatures. If you get their signatures on Friday at 5 p.m., you cannot get that into the registrar until maybe the following Monday morning.

Mr. Lomax says we can put it in an envelope and mail it. This may work in Clark County, but we were getting registrations turned into my office from Lyon, Churchill, Douglas, Storey and Mineral Counties. If they came into my office, they always came in after 5 p.m. We would have to race to get them to the post office. It is a big burden. Those people cannot sign the petition, and their signature is disenfranchised. If they sign it on that day and in two days it is in the voter registration office or if it is over the weekend, excluding Saturday, Sunday and holidays, then you have an opportunity to get them registered to vote, have them sign the petition and then have a little leeway for volunteers and others to get that turned in.

I disagree with this section. It is convenient for the clerks, but this is what I found during our petition campaign. Some counties counted the voter registration whatever day they signed it. Some counties did not count it until it was turned in to the voter registration office. There is a discrepancy in how it is done in the State. Perhaps that is part of the reason for this bill. It puts an additional burden on people trying to get signatures who are out there registering people to vote. Do we want more people to register to vote? Then make it easier for them to register to vote to participate and not harder. It is difficult to comply with this if you are trying to get signatures. Do you know what I would tell my people if this was the law? I would say do not register

anybody to vote; just forget about it. If they are registered to vote, they can sign the petition; if they are not, do not get them to register to vote. It is too hard to comply with the law. Then, you are limiting the number of people who are going to be registered because it is too difficult for people to comply unless they have a full-time, paid staff and they do not live in one of the rural counties.

RAYMOND BACON (Nevada Manufacturers Association):
I have one thing that I think is an oversight. There is nothing in here which addresses poll watchers during early voting. Now almost 50 percent of the voters cast their ballot during early voting. Probably someplace in this bill, poll watchers should be addressed during early voting because I anticipate they are going to start showing up during early voting. They should be, right now, if half the votes are being cast during early voting.

CHAIR CEGAVSKE:
Ms. Reed, is that addressed?

MS. REED:
Our intent was to have it addressed because we did have poll watchers showing up for early voting throughout the State. That was our intent, so if it is not clear, we should make it clear.

MR. BACON:
It may be there, but I could not find it. The other issue I had was in section 6, subsection 1, paragraph (c). It concerns the five-day time period for getting a completed voter form in to the county clerk. We are actively encouraging our membership, as we believe all responsible companies should, to register people as they employ people. If those are done six months to a year ahead of time, there is no serious time frame on that employer getting those turned in within 5 days. We would suggest that you may want to change that language to say five days, if that is 60 days or 30 days within the close of registration. If people are doing them a year ahead of time, there is no real time crunch on those things. It is only as you get close to election time that turning them in becomes a real crisis. The more employers we can get to routinely register their employees as they hire them, the better it is across the board. There is not a real problem with the time crunch on that, if it is changed to 30 days, except within that window.

MS. REED:
Our big concern with that is the petitions. People think they are registered to vote, so when they see someone circulating a petition, they sign the petition. If those affidavits are not submitted in a timely manner, we do not have them, and their signatures will not be counted. That is our big concern on those off-election stretches.

SENATOR BEERS:
The circumstance you and Ms. Hansen are trying to get to is specifically tied to petition signature gathering. Maybe there is a way we could put a tight requirement on someone who signs someone up to vote as part of a petition drive. That person would have to move quickly. Perhaps the compromise is they have to move quickly, and we count the registration on the date it was signed rather than the date it was received. If we got it quickly, it would work, right?

MS. REED:
It would work; the only problem is that if employers hold those registrations, we do not even know if they are registered or not.

SENATOR BEERS:
I am saying, when it is done in conjunction with petition gathering, that is a special circumstance and it has to happen a lot faster.

MS. REED:
That is correct.

SENATOR BEERS:
Well, at this point, it was not correct last cycle, and that is what led to some of the friction, right?

MS. REED:
Yes, it is.

SENATOR BEERS:
I see your need to have the voter on file by the time you have to verify or validate the petition. It certainly seems disenfranchising to specifically exclude someone from registering and signing a petition on the same day, which, I think, is what we were proposing somewhere in this bill.

CHAIR CEGAVSKE:
We are looking at page 4, but that is on page 37.

SENATOR BEERS:
Yes, this is a multipage problem, but that is one of the concepts. They go into the voter database, enter their record and give them a date of registration. If they do not use the date the registration was signed, but the day it is received, and that individual signed the form and the petition in the same day, you effectively prohibit someone from registering to vote and signing a petition on the same day.

CHAIR CEGAVSKE:
I thought Mr. Bacon was referring to section 6, subsection 1, paragraph (c).

MR. BACON:
I was, but they are right.

SENATOR BEERS:
This is all one big issue.

CHAIR CEGAVSKE:
The wording is different in section 62, subsection 6, paragraph (b). Am I reading it wrong?

SENATOR BEERS:
No, but it is the same issue. The issue is they want to record the date of registration as the date they got the form, is that correct?

MS. REED:
That is correct.

SENATOR BEERS:
The problem is if someone signs a petition and signs up as a registered voter on the same day, by definition, the clerk is not going to get that registration form on that day.

CHAIR CEGAVSKE:
Well, is that not why there is the five days?

SENATOR BEERS:
No, even if the registration form was submitted in the five days, that is not going to help if they record the date the clerk receives the form and not the date the person signed the form.

MS. REED:
This was a court issue through the petition process. This language reflects what the federal court order of that court.

SENATOR BEERS:
Maybe we should just write into law that people not already registered to vote are prohibited from signing initiative petitions.

MS. REED:
Well, some people think they are registered to vote. I do not think people willfully sign petitions unless they fully believe they are registered to vote.

SENATOR BEERS:
Some people sign petitions knowing they are not registered to vote, but register to vote that day.

MS. REED:
That is true. They do.

SENATOR BEERS:
Sometimes, petitions provide someone, disenfranchised through their own beliefs, a reason to register to vote.

MS. REED:
That is true, they do register to vote and sign petitions on the same day and at the same time.

SENATOR BEERS:
Under this law, do you see any way for their signatures on the petition to be counted as valid?

MS. REED:
No.

SENATOR BEERS:
Why do you not want to record the person's date of registration as the date they signed the form?

MS. REED:
The clerks do not really care. When this issue went to court, it was a federal mandate by a judge who determined what dates we would use, because not all of the county clerks, as Ms. Hansen pointed out, were following the same process. Some of the clerks were counting the date the voters signed their application. Some were saying they were registered to vote the day they received that application. It was not uniform across the State. The judge made the ruling, and this is to bring that into conformity, so we are all doing the same thing.

SENATOR BEERS:
Is the ruling that you record the date of registration on the date you receive the form?

MS. REED:
That is correct.

SENATOR BEERS:
However, the judge made that ruling because the law, which is where this issue should properly be addressed, is absent. What would happen if the law were to speak up on the matter?

MS. REED:
That would probably solve that problem.

SENATOR BEERS:
Do you think the clerks have a vested interest in it one way or the other, or are they just seeking consistency?

MS. REED:
We want consistency. I do not think we feel strongly one way or the other, but we do not want the forms out for months.

SENATOR BEERS:
If you do not have their forms by the time you validate the petition, it will not be counted.

MS. REED:
We want it consistent, and we want it clear so everybody understands those rules.

CHAIR CEGAVSKE:
Would it be just for the petition signers or for everybody?

SENATOR BEERS:
We could make something in the middle. The form would have to be to the clerks within 14 days of it being signed. Is that enough time? It says five days in this bill.

MS. REED:
As long as that is not close to the election because in 14 days, with early voting, we will not have those people. If we made it 14 days up until the 30 or 60 days before the election and then changed it to 5 days, that would work.

MR. BACON:
That would satisfy my concerns. Mailing in registrations for new employees a couple of times a month is not difficult, but doing it four, five and six times a month does not make good sense from an employer's standpoint. Getting employers on board to register employees as they bring them on is in the best interest of the State.

CHERI L. EDELMAN (City of Las Vegas):
The only thing we wanted to point out is an inconsistency. We wanted to make sure if it was an oversight, that it got taken care of. It is on page 13 in section 27 and in section 79 on page 47. You will see, under section 27, subsection 1, paragraph (c), it says, "A candidate for nomination or election or a relative of such a candidate within the second degree of consanguinity or affinity." That section has to do with those people who are present. The absentee ballot section on page 19, section 37, subsection 5 says, "(a) The voter's employer or his agent; or (b) An officer or agent of the voter's labor organization." It is missing that paragraph (c) which is under section 27 and section 79. That missing language occurs in section 37 and in section 85. We

were not sure if that missing paragraph (c) about the candidate was an oversight, missing or intentional. If it was an oversight, we think that should be corrected.

MS. ERDOES:
I would be happy to look at it.

CHAIR CEGAVSKE:
We are going to close the hearing on S.B. 386. We are going to open the hearing on S.B. 429.

SENATE BILL 429: Revises provision prohibiting governmental entity from incurring expense or making expenditure related to supporting or opposing ballot question. (BDR 23-1366)

I do want the secretary to note, we are in a subcommittee right now.

NICOLE J. LAMBOLEY (City of Reno):
We are in support of S.B. 429 because it provides some clarification in existing statutes. It says if a local governing body is given the authority, as they are in statute, to put a question on the ballot related to tax overrides or things that affect their constituents, it should be their public duty to provide information about the impact and the effect on the residents or the citizens.

As presented to you, the legislation does not expressly prohibit them from urging you to vote for it or expressly say you support or oppose a ballot question. This clarifies what is in statute and sets parameters for governing bodies that put a question on the ballot. For instance, it does say if you are going to incur a public expense, then you must disclose, at the time you discuss the ballot question, how it will be paid. It defines further what government time, property, equipment, personnel or facilities are regarding a question on the ballot. Again, this is specifically limited to ballot questions which impact the city or the governing body. I do understand there are some amendments. From our perspective, they are fine.

CHAIR CEGAVSKE:
Have you looked at the amendment the City of Las Vegas has proposed (Exhibit H)?

MS. LAMBOLEY:
Yes.

SENATOR BEERS:
It would seem appropriate that if we were going to process this bill, we would require the local government making the expenditure to file a BAG financial disclosure form. Do you have a problem with that?

MS. LAMBOLEY:
I would have to take that question back to my counsel for their consideration. It does say, in the bill, that you would declare the expense is for the purpose of disseminating information to the public. Again, how do you actually account for staff time? In the course of a professional staff is a public works staff and they are out there talking about streets and a voter override to protect streets. It is their job to talk about streets or whatever the issue. It was put into the bill for a reason, so you make the declaration that you are going to incur an expense and then you would estimate that expense. You would have to comply with current law on augmenting or amending the budget as required.

SENATOR BEERS:
The central clearing house for this information is the Secretary of State's Office. They have Web site advocates from all sides of all questions at one place.

MS. LAMBOLEY:
We are not advocates. We cannot advocate. As it says, you can only provide information about anticipated costs.

SENATOR BEERS:
It seems to me you could only do this if you passed a resolution that you support a question on the ballot.

MS. LAMBOLEY:
If you were going to go to the voters for an override, you have to have a public discussion. Your governing body has to vote that you are going to have R1 or WC-1, whatever the question. You have to have the counsel's approval to direct the staff to put the question on the ballot.

SENATOR BEERS:
Let me direct you to section 2, subsection 3, paragraph (b). I read that to say, "If the governing body enacts an ordinance or resolution to .... Support such a question on the ballot ... ." That sounds like advocacy to me.

MS. LAMBOLEY:
There is actually an amendment to withdraw section 2, subsection 3, of the bill. That would be lines 17 through 28 because that actually talks about opposing and supporting something. That is not the intent of the law.

CHAIR CEGAVSKE:
The only proposed amendment we have is Exhibit H.

MS. LAMBOLEY:
There was going to be another recommendation from someone who opposed S.B. 429, as written, because of that section.

CHAIR CEGAVSKE:
Is that an amendment you can give to us?

MS. LAMBOLEY:
No, I do not have it, but it would address it because we had the same concerns as well.

J. DAVID FRASER (Nevada League of Cities and Municipalities):
The Nevada League of Cities and Municipalities supports this legislation. It simply clarifies what a governing body can do. I would like to respond to what Senator Beers asked about section 2, subsection 3, in just a moment. Before taking this job with the Nevada League of Cities, I had the opportunity to serve in three different states as a city manager. They all seem to have similar legislation to this. For me, the crux of the issue is the governing body of a local government can put a ballot question on the ballot. Then, they need to say why they did so. You would not want to preclude them from indicating to the public why they did that.

I have some comments regarding Senator Beers' questions. Assuming that section 3 were removed, which the Nevada League of Cities would support, section 2, subsection 2 indicates, "A governmental entity shall not incur an expense or make an expenditure to expressly advocate the approval or

disapproval of a question on a ballot." In other words, it would be informational only. It would not be advocacy.

CHAIR CEGAVSKE:
Would you be telling the pros and the cons, or would it only be for supporting it? That is where Senator Beers was going with that. If you are putting this on, why would you ever tell anybody the downside?

MR. FRASER:
There could be some pro and con in there, but it would be a factual statement of what it would mean to the community and why it was put on the ballot. That is what we are aiming at clarifying here.

SENATOR BEERS:
Let us say, a hypothetical case is a local government that supports a ballot question. The con side to that discussion is already provided under the law. We have a process which appoints a committee to develop the argument for the question.

CHAIR CEGAVSKE:
They would not be advocating for the con, but for the pro argument. That is what you were asking.

SENATOR BEERS:
They would be an advocate. I am not sure I disagree with their ability to do that, but it needs to be treated as any other ballot question.

CHAIR CEGAVSKE:
That is correct. Your point is well taken, and that is what we are trying to define here. The chances of you going out and trying to defeat this or say anything negative about it are probably slim. I am debating that part with you. I am not saying whether it is right or wrong. That is the reality of it when you are looking at this as a whole.

MR. FRASER:
Clearly, if the city council put it on the ballot and they said why they did that, obviously, that would be favorable in nature because they would indicate they had a good reason for doing so.

CHAIR CEGAVSKE:
We have the question for the police and the sales tax. They were not advocating anything derogatory about that. They have been proactive on that issue. That is just one example off the top of my head.

MR. FRASER:
Cheri Edelman also has an amendment from the City of Las Vegas, Exhibit H. We are supportive of that amendment.

CHAIR CEGAVSKE:
What about the suggestions of the other possible amendment heard here?

MR. FRASER:
I support deleting lines 17 through 28 of section 2, subsection 3 of the bill.

SENATOR BEERS:
What about the BAG reporting?

MR. FRASER:
I am not sure I would be prepared to give a reaction to that immediately.

SENATOR BEERS:
Can you check with headquarters and get back to us on Thursday because that is our deadline to pass bills?

MR. FRASER:
Yes, if that is the desire of the Committee. When I was a city manager, every time I went to the grocery store, people would ask me about what was going on in the city, which naturally included any ballot question the city had put forward. In the cases where the Lions Club would ask me to come speak about it, that time would be easily measurable. In terms of it being my job to represent the positions of the city, there is an awkward line there. In large part, it is my job definition.

SENATOR BEERS:
We would have to look into the fine shade of gray used to write that section. We are not looking at your speeches before the Lions Club. When I say we, I mean the Secretary of State. We are looking for the printing, brochures and

fliers, which have dollars attached and not so much time, unless someone has been hired or contracted to specifically work that project. I would not envision it would happen too much in your situation.

MR. FRASER:
Along those lines, I may have some discussion with the Secretary of State's Office and get their feelings on that.

MS. EDELMAN:
We support this bill. We have a proposed amendment, Exhibit H, before you today. The reason for the amendment is to clarify the date in which the provision of subsection 2 would apply. I need to amend my own amendment. This would only apply to nonpartisan elections. While current language specifies that the candidacy ends on the date of the general or special election, there are several cases in which the candidacy can end well before the general or the special election. These cases might include a primary in which the candidate receives over 50 percent of the votes or a case where the incumbent is unopposed. This amendment would address those provisions.

CHAIR CEGAVSKE:
What page is this amendment on?

MS. EDELMAN:
It would be section 1, paragraph 3. It would delete "date of the general election, general city election or special election for the office for which the current public officer of the governmental entity is a candidate" and add the verbiage in Exhibit H. Again, there needs to be some wording in there for nonpartisan elections.

CHAIR CEGAVSKE:
Do you want to amend your amendment to the bill?

MS. EDELMAN:
Yes.

CHAIR CEGAVSKE:
How are you with the proposed amendment that is going to be discussed?

MS. EDELMAN:
That is acceptable to us, as well.

DEREK MORSE (Regional Transportation Commission of Washoe County):
We are in opposition to S.B. 429. We applaud any effort to define and clarify the ability and limits of government entities to provide information to the public on ballot questions, but we did find section 2, subsection 3 objectionable to the point where we could not support a bill containing that language. Therefore, we would propose an amendment to eliminate section 2, subsection 3. As pointed out in the previous discussion, it is inconsistent with the desire that governments should not explicitly advocate one way or the other on a question. As drafted, it is one-sided. You can advocate if you support, but you cannot if you oppose. That does not make a lot of sense. That is not in the public's interest.

Regarding the discussion earlier about the pros and cons, I have extensive experience with ballot questions in Nevada. I have written some of the yea and nay arguments. No one is served if you are a proponent of a particular piece of legislation by not addressing the cons of the proposal head-on. We were dismayed when someone, who was supposed to write a nay argument, did not do a good job because it leaves unanswered questions. That gives people a reason to vote no on something because those questions were not addressed. You are better off getting the information out there, even if you are a proponent of the issue. I appreciate the point you bring up, but the experienced people have learned they are better served to address it right on. The public needs a full disclosure and the full information to decide these issues. We attempt to do that in the discussions we have.

CHAIR CEGAVSKE:
I would like to restate, we are still in a subcommittee.

MS. HANSEN:
I have some significant concerns about this bill. This legislation was passed last time in order to prevent government entities from spending money in campaigns on ballot issues. I am not aware the Legislature can spend money to advocate or oppose anything they put on the ballot. The Legislature puts a lot of issues on the ballot. There is no opportunity for them, as a Legislature, to spend tax dollars to either support or oppose any particular issue on the ballot. The reason the original bill was passed was because local communities were taking tax

money and advocating particular positions on the ballot. The citizens in the community might oppose that, but their tax dollars were used to support the government's point of view.

Senate Bill 429 completely turns that idea of the original bill, which was passed last time, on its head. If you look under section 1, subsection 1, it says, "Except as otherwise provided ... a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose ..." a particular point of view. In section 2, subsection 2, it says "A governmental entity shall not incur an expense or make an expenditure to expressly advocate ... ." Those are words of art used by the Nevada Supreme Court to essentially mean the only thing it limits is saying vote for Question 3 or vote against Question 3 on the ballot. Everything else can be said about the question. That is what "expressly advocate" means. You could essentially say everything bad in the explanation of Question 3, but you did not say vote no on it. Or you could say everything good about Question 3, but you did not say vote yes on it. Those scenarios would be allowable under this bill, but it violates the whole sense of the original legislation.

Section 2 is terrible. To suggest a governmental body use government funds to advocate against its own citizens in their community is a violation of the process. Section 2, subsection 4, paragraph (a) says, "Declare that the expense is for the purpose of disseminating information to the public." This is, essentially, campaigning. What do campaigns do besides disseminate information to the public? We would use taxpayers' dollars to do this? I am not aware of any money for the Legislature to advocate their position on a constitutional amendment which goes on the ballot. No money is spent by the Legislature to do that. I do not think they have any paid people from the Legislature going out to advocate these particular things. Why should local counties use tax dollars to do that? I am against the whole thing.

CHAIR CEGAVSKE:
This was Senator Hardy's bill. He is in another meeting testifying. The originators of the legislation are not here. We will close the hearing on S.B. 429 and open the hearing on S.B. 478.

SENATE BILL 478: Revises various provisions relating to elections. (BDR 24-573)

MS. PARKER:
Section 1 adds a definition of "current and valid photographic identification." Section 1 goes along with section 4, which adds the definition of "sufficient proof of residence and identity." These issues arose because of HAVA. We had to put a definition of identification in because a voter has to show a current and valid photo ID. There was confusion about whether a college ID card could be used. These are the definitions we put in emergency regulations during the election cycle.

CHAIR CEGAVSKE:
Can you use a university ID card? We are still curious about how many got out under the last raid at one of the fraternities at the University of Nevada, Reno. Illegal IDs were made.

MS. PARKER:
I did not know about that. These two definitions comply with HAVA. There were conforming changes throughout the statutes to define sufficient proof of residence and identity which is in section 4. Under certain circumstances, you have to show residency. When you are registered to vote for the first time, you have to have a valid photo ID card and prove to the clerks that you reside where you say you do. There are conflicting definitions of proof of residence and valid ID. We are trying to put those definitions at the beginning.

CHAIR CEGAVSKE:
Does it have to have an address on it? Our legislative IDs do not have our addresses on them. We could not use this for identification to register. The IDs have our photo, name and Secretary of State Dean Heller's signature, but because they do not have addresses on them, we cannot use them for identification. Some of the airports will allow us to use this and some will not.

MS. PARKER:
Are you asking about when you are registering to vote or declaring your candidacy?

CHAIR CEGAVSKE:
No, I am talking about these forms of identification. This ID has my picture and a signature, but it does not have an address on it.

ALAN GLOVER (Clerk/Recorder, Carson City):
My understanding, and we support it, is if you have an ID with your picture on it, we would accept that. If you do not, we want one of the things listed that has your name and your address on it.

CHAIR CEGAVSKE:
It might work and it might not, depending on where I go.

MR. GLOVER:
This was an area I found confusing last election. We originally interpreted the statute to mean if you came in to register to vote, your ID needed to show your current address, but some ID cards had post office boxes on them or had an older address. Again, the requirements for IDs to register to vote and to actually vote are different. When you vote, all we want to see is your picture.

CHAIR CEGAVSKE:
At some places they did not even ask for that.

MR. GLOVER:
That is why this needs to be cleaned up. I believe, after reading S.B. 478, it does that. When you file for office, you have to show who you are.

CHAIR CEGAVSKE:
It would be nice to have the address on the photo ID. It would help determine who was who and whether the address was correct. I was curious about our personal IDs and what we are accepting. Has that been clarified in this bill?

MS. PARKER:
There is a provision that a current and valid photo ID can be anything the clerk or the registrar determines to be reliable. That is in section 2, subsection 6. That speaks to the university card or your legislative card issue. The question you have asked is hard to answer. In certain sections of the statute, a current and valid photo identification is required. We amended the section where you file for candidacy to say they specifically have to show the residential street address and the identification you showed us. As you go through this, it clarifies where it has to be.

Section 2 defines a current and valid photo ID as a photo ID issued by the government, the DMV or the sheriff. Section 4 discusses what proves residence. A utility bill can show residence.

CHAIR CEGAVSKE:
It has to have the person's name and address on it. There cannot be someone else's name on it.

MS. PARKER:
That is correct. Section 4, subsection 1, paragraph (a) says, "a utility bill." The section which discusses providing proof, the person has to provide proof of residence. This is a definition of what would show your residence. The statutes later on address your concerns.

CHAIR CEGAVSKE:
Would an income tax statement also verify all of that? I did not know they have your address and everything. Senator Beers is telling us that they do.

MS. PARKER:
As you will note, section 4 specifically excludes the voter registration card. There was a situation where people were trying to use their voter registration card as valid ID.

The constitution requires the full text of the measure proposed, and there is no definition. In section 3, we were trying to develop a definition. For example, the Axe the Tax Petition wanted to repeal the provisions in sections x and y and sections a through d of S.B. No. 8 of the 20th Special Legislative Session. Nobody knew what that meant. If they were signing the petition, there was no explanation of what you were repealing or trying to clarify. You have to show what you are trying to do. A "full text of the measure proposed" means what are you trying to do. It needs to show what area of statute needs to be amended. The voter needs to be shown that.

CHAIR CEGAVSKE:
Does a lot of this have to do with cleaning things up so you are in compliance with HAVA, or are these concerns the Secretary of State has had over issues that have come up?

MS. PARKER:
The ID provisions come from cleaning up HAVA and expanding on some of that language. This is also from a lot of the concerns the clerks ran into. We adopted emergency regulations. They have expired; so we are trying to put them into statute so it is consistent across the State.

CHAIR CEGAVSKE:
I want to make sure we all understand this is more than you changing it.

MS. PARKER:
It is for consistency across the State concerning the various forms of ID. The University of Nevada, Reno, ID was accepted, but the University of Nevada, Las Vegas (UNLV) ID was not accepted.

MS. PARKER:
Section 5 defines "residence" and "resides" as we use it throughout the statute. "Residence or resides means the place where a person is legally domiciled and maintains a permanent habitation." This came into play in several court cases. The result of the court cases was if we wanted it to be both, we needed to put it into the statute.

Section 6 adds some definitions into the statute where necessary. Section 7 deletes references to punch cards. That is cleanup. Sections 8 and 9 are the same thing. Section 10 was what Ms. Hansen was referring to earlier. We had a situation during the last cycle with petitioning in front of public buildings. What we are trying to do is require "Each public officer or employee in control of the operation of a building governed by this subsection or his designee shall be available at all times the building is open to the general public ... ." They have to designate an area for them to gather their signatures. We had situations where someone in Carson City was the designee and in the Las Vegas office, they had no idea where that space was. For several hours, petitioners could not gather signatures because no one knew where to send them. The next part is a policy decision for you. Our proposal is to provide that gatherers may not be denied the use of the designated area because they gave same-day notice of their intent to gather signatures. If the area is designated, they should be able to walk in and ask where their area is. They have to give notice, but if they give the notice that same day, it should be adequate. It also clarifies the building

official may not deny the use of the area and imposes a civil penalty for failure to designate the area. There is other regulation authority to clarify any other issues which arise.

Section 11 puts in the ID provisions and clarifies when you sign a petition. You can sign petitions after the date you are deemed registered to vote, this refers to the statutes, and if you provided the appropriate ID to register. It is clarifying you had to have met the rest of the criteria of the statute.

Section 12 is a cleanup to clarify you can only remove your name from a petition prior to the time the petition is submitted to the clerks. The clerks only have to report those names provided to them before they received the petition. Section 13 is the same thing, only timely requests to remove your signature are reported. Section 14 is the same thing. Section 15 is a similar cleanup about when you can remove your name from a petition. We are trying to make it clear, throughout the statutes, you must ask to have your name removed prior to the petition being turned into the clerks. The clerks only have to report those names they receive that request for prior to that time.

Section 16 is to clarify the time frame for which you can file an appeal of a determination that relates to signature verification. There are two separate processes. Right now, you can challenge the legal sufficiency of a petition in court. We have some other changes to put that challenge at the beginning of the process later in this bill. You also have the ability to appeal to the Secretary of State if we make a finding on signature verification. We want to make sure if you appeal that decision relating to signature verification, it gets into court and is resolved in a timely manner. It is strange the statutes provide for judicial review process when it relates to verification and then the legal sufficiency process goes through the courts. We are trying to make sure they get to court in a timely manner.

Sections 17 and 18 change dates. This bill goes in consecutive order of the statutes. The change to the primary is later. It is being changed to the second Tuesday in May. The rest of the changes in sections 17 and 18 are conforming changes to back up dates in the statute which apply to a September primary, and we are trying to make them apply to a May primary. Sections 17 and 18 are only changes if you choose to move the primary to May, then sections 17 and 18 would be conforming changes to other statutory filings and determinations which would need to be made in a timely manner.

Section 19 makes one change. Right now, you can make a change on the ballot for a general election under certain circumstances. This says to move that deadline back a month. Now, you can do that up until the second Tuesday in September. We are trying to get more time for the clerks and say they cannot change the ballot after August. If some of the changes proposed this Session to the ballot questions go through, we will have all the ballot questions at that time. Then, the clerks can send their ballots to the printers, and the overseas citizens and the military can get them on time. If they have to wait until the second Tuesday in September to make changes to the general election ballot, it is not as timely.

Sections 20 through 23 are amendments to the statutes to move filing deadlines to accommodate the change of the primary. If you adopt that, these are necessary changes to change other dates to conform to a May primary. Section 24 also accommodates the change to the primary. At the same time, this addresses one of the concerns raised earlier. The declaration-of-candidacy form in the statute references the "30 days immediately preceding the date of the close of filing of declarations of candidacy..." that a candidate resided in the district. You may clean this up in some of the other bills before you, but right now, it is not 30 days for all offices.

CHAIR CEGAVSKE:
We passed Senator Michael Schneider's bill today that requires someone to live in his or her district for six months.

MS. PARKER:
This would accommodate that because it "complies with any durational residency requirements required by law specifically for this office." Right now, they declare they were a resident for 30 days. You may be fixing this, but it would not compete with Senator Schneider's bill. It would still say if there is another requirement in the law, you are attesting you satisfy that. Section 24, subsection 3, indicates current and valid photo IDs must be presented to the filing officer. The ID must indicate a street address or the residence of the candidate.

Section 25 is another change. If you move the primary to May, we have to change some of the dates which are in some of these other statutes. That is a conforming change. In section 26, we are amending to provide that a person who wishes to challenge a candidate's qualifications for office must do so

within 12 days after the close of the candidate-filing period. Right now, it is a challenge by reference to the period where a candidate can withdraw his or her candidacy. All this would do is say you can challenge up to 12 days past the close of filing, and you do not have to worry about withdrawals. There is a specific period when the candidate filing closes if anyone wants to challenge any of you or anybody as a candidate, they only have that 12-day period. They are on notice that within those 12 days, they can. It has been confusing, right now, that it refers to when you can withdraw your candidacy. It has to be done within the 12 days of the close of filing.

CHAIR CEGAVSKE:
What was wrong with five days that is scratched out in this section?

MS. PARKER:
It was, “not later than 5 days after the last day the person may withdraw his candidacy ... .” We are changing it from withdrawing the candidacy to closing of the candidate filing.

Sections 28 through 31 are conforming changes to move the deadlines for declaring your candidacy if you adopt the move of the primary.

SENATOR TITUS:
I want to make sure if you move the primary, you are moving the filing dates.

MS. PARKER:
The dates for withdrawal all have to change, too.

SENATOR TITUS:
Is the primary now moved to the first Tuesday in May?

MS. PARKER:
Yes.

CHAIR CEGAVSKE:
The Assembly bill has the first Tuesday in June. Is there some reason why May is better than June?

MS. PARKER:
We had a situation last Session where everybody thought we should move it. Some of the clerks, such as Mr. Lomax, are just registrars of voters, but some of the clerks deal with taxes. There were issues with the schools being open. If the schools were open, that was better. If you move it later in May, you are running up against Memorial Day and vacations.

MR. GLOVER:
Mr. Lomax's concern with the June date was that schools are in finals. They are testing, and then there is Memorial Day. We support the May date.

MS. PARKER:
In section 32, we had to adopt emergency regulations to accommodate the electronic voting machines with the paper trails. The decision was that it would be better to put it in regulations because we are adopting procedures for auditing and using them in the case of a recount. As long as Mr. Lomax has one type of machine and not another, that can be difficult. We have already adopted the emergency regulations and set the audit procedures; we are asking for regulation authority to make those permanent regulations.

We put in provisions to challenge the legal sufficiency of a ballot question, but we did this later in S.B. 478 in another section. In section 33, we actually intended to ask for judicial confirmation. The bill did not come out that way, it came out as an appeal to the First Judicial District Court. We wanted it to automatically go there "not later than 5 days after the condensation, explanation, argument, rebuttal or fiscal note is prepared ..." and being finalized.

CHAIR CEGAVSKE:
Is this where you want some of the amendments?

MS. PARKER:
This is one amendment we want. We did not want this to say another person can challenge. We did want this to say that within five days the district court shall review it. The intent was judicial confirmation of all the ballot questions in a timely manner.

The intent of section 34 is to cut out the review by the Attorney General if we reject arguments and have it go straight to court. This is another change where

we are trying to speed up the process and ensure all the challenges are done earlier in the process and taken care of. Sections 35 and 36 are conforming changes to delete references to punch cards. Section 37 adds provisions for the voter-verified paper audit trail. Section 38 clarifies the ID a first-time registrant must include when mailing in an application. It refers to the definitions we adopted earlier. Section 39 addresses the comparison of the voter's signature on the roster to the signature on file in the clerk's office. This changes some of the poll books and the election board sign-in registers to the term roster throughout. Section 40 eliminates outdated language referring to handling paper ballots. It is punch card housekeeping and changes. Section 41 is the same. Section 42 clarifies what is needed in order to challenge the valid photo ID provisions at the polling place. It is pulling those earlier definitions into the statute. Section 43 is a punch card deletion.

Section 44 concerns what the Federal Voting Assistance Program recommends. We are in violation of that every year because the primary is so close to the general election. Section 44 is something you should flag if you do not adopt the primary. It should be the 45 days, but Mr. Lomax has testified that 45 days is difficult with the September primary and the November general election.

CHAIR CEGAVSKE:
What if we change that? Would it be a problem?

MS. PARKER:
If you change the primary, it will not be a problem. If you do not change the primary, we will continue to be in violation of the federal standards. Right now, they are just standards, not law.

I do not know why section 45 deletes the reference to NRS 293.272 which is voting in person. It is also repealed later in this bill because that statute requires if you are voting for the first time, you have to show up to the polls in person and cannot vote absentee.

MS. ERDOES:
It is to match something else you put in this bill that the person could be required to show ID throughout. There was something we looked at that it did not match up with. It was the result of another change you had made.

MS. PARKER:
Sections 46 and 47 were changes to the punch card and they add the ID provisions. Section 48 is a poll book-to-roster change. Section 49 is a primary election conforming change. Sections 50 through 57 are all changes for punch cards. Section 58 is a change to move the primary election. Section 59 is housekeeping. It changes the language "tallied" to "counted" because of how they count them now. Sections 60 and 61 are changes to punch cards. Section 62 is cleanup language with rosters and poll books which is similar to the clerks' bill. Section 63 and section 64 are changes to punch cards. Section 65 is moving the dates for the primary election.

Section 66 includes references to the All State Voter Registration Form prescribed by the federal government which conforms to Nevada requirements. It is more of a housekeeping change to identify the specific law at issue. Section 67 is the new, appropriate definition. Section 68 clarifies that a new registrant must submit a complete voter registration application and provide the satisfactory proof of residence to the clerk to be deemed registered to vote, eligible to sign a petition or vote for the first time on the new registration. This conforms to some of the recent court decisions. It basically says it has to be satisfactorily completed, and their ID has to be provided.

Section 69 is a similar change. It requires the application be complete before the person is deemed registered to vote. The person cannot leave something out and figure he can add that information later. Section 70 is conforming changes to the statute missed last Session. Assembly Bill No. 55 of the 72nd Session was passed last Session, and it clarified that convicted felons can have their right to vote restored. Section 70 makes the conforming changes to the election statutes. Section 71 updates the ID definitions. Section 72 relates to A.B. No. 55 of the 72nd Session and the restoration of a felon's right to vote. It makes the election statutes conform to A.B. No. 55 of the 72nd Session. Sections 73 through 78 are all punch card changes. Section 79 is a change concerning moving the primary election date. Sections 80 and 81 changes relate to punch cards. Section 82 is a similar, conforming change for cities' declaration of candidacy we discussed previously. Section 83 makes some conforming ID changes. It is an equivalent change to what we changed in the statutes relating to the city elections. Sections 83 through 86 make conforming changes to city elections we made previously in S.B. 478 with respect to ID provisions or punch cards. Section 87 is a punch card change. Section 88, a similar change Ms. Erdoes is going to research *Nevada Revised Statute* 293C.265, a statute

for voting in person in city elections, deletes the statute. I was not sure why that occurred. Section 89 is a change for punch cards. Section 90 was punch cards and ID provision changes. Section 91 replaces "poll books" with "rosters." Sections 92 through 94 are punch card changes. Section 95 is a punch card change and adds the ID definition. Section 96 deletes city statute NRS 293C.3602. Sections 97 and 99 are punch card changes. Section 100 changes "tallied" to "counted." Sections 101 and 102 are punch card changes. Sections 103 and 104 change the punch card references and change "poll books" to "rosters." Sections 105 through section 108 are all punch card changes.

You previously had a discussion about one subject. Several of us had the same concern. Section 109 says one subject for ballot questions.

SENATOR TITUS:
If we do not get the $15 million for the voting machines in Clark County, will that change anything in any of these bills?

MS. PARKER:
No, that is why we put the recount and audit procedures into regulations instead of putting them into the statute. If that happens or if we wanted to change those, we could. We would be covered either way. All the punch cards are gone, regardless.

CHAIR CEGAVSKE:
I would like to keep the machines we have. We have the money, I do not mind giving the money, but we would keep those machines. As the machines break or become unusable, they would be replaced. We would not do that all at once. I know the Secretary of State does not agree with me, but I am passionate about that.

MS. PARKER:
Sections 112 and 113 make clear the requirement of giving the full text of a measure proposed to the Secretary of State when the copy is put on file. What we were trying to do with section 114 is clarify something because there are conflicting statements in the statutes. Petitioners have to turn their petitions in to all the county clerks on the same day. There may not be as many clerks if the 13-county rule is changed and you adopt the congressional district rule, but all the signatures need to be turned in on the same day. Section 114,

subsections 2 through 4 change the time frames. This is another of those changes to address all issues earlier in the process. You can require that petitions be turned in 65 days earlier if you are using statistical sampling which the clerks do unless they have 500 or fewer signatures. We are trying to take advantage of that and move the deadlines up. The front-end filing is supposed to be moved up as well. We are not trying to close that gap. I am not sure they can start circulating earlier, but that is the intention. We want to move it up 65 days and allow for someone to start circulating 65 days earlier, and I am not sure that was done.

Section 115 is a change to make the challenges for legal sufficiency of a ballot question earlier in the process. We do not want to run into court at the eleventh hour and throw out $500,000 worth of ballots. There are also conforming changes for the word “measure” which were done by the LCB Legal Division. Section 117 is a change by Legal with the word “measure.” Section 118 is the same change I spoke of about setting out the full text of the measure proposed. It also has the “measure” cleanup.

Section 119 addresses something we do not have in statute. We do not have a procedure for a case when there is a tie between two or more presidential candidates. We took the procedure we use in the event of a tie between two candidates for the U.S. Senate and the U.S. House of Representatives. If there is a tie, NRS 293.400 says “...the Legislature shall, by joint vote of both Houses, select which nominees of a presidential and vice presidential candidate for presidential electors shall become the official presidential electors.”

Sections 120 through 125 add a reference to NRS 293.260, the statute which discusses the declaration of nominees for the party. Those are LCB conforming and clarifying changes. Section 126 deletes the reference to NRS 293B.210 for payment of claims. I am sure it is a conforming change because we no longer pay anything under that statute. Sections 127 through 133 are LCB conforming changes. Section 134 replaces “poll book” for “roster.” Section 135 is the primary date change if you move the primary date.

The sections of Section 136 are repealed because they deal with punch cards. We could repeal them, or there were some Ms. Erdoes was going to research. There is also a change that repeals the provision, NRS 293.12756, for us to prepare guides. The reason we asked for this change was the result of a court case. Our guide did not contemplate someone would turn in a change to a

statutory initiative after an intervening election. The Nevada Constitution says you base the number of signatures on the last preceding general election. We were in a quandary. We got the advice of the Attorney General who said last preceding general election is this newest election. We have a joint resolution in the Assembly which clarifies that in the Constitution, because we think it should be determined at the time you file the copy of the petition so everybody knows what it is. What happened was, we did not contemplate that scenario in our guides, and the judge says it was the last election. It was "kicked" on a due process, not a First Amendment issue, saying essentially that our guides are now allowed for legal research. You can rely on a guide, and if you rely on what the guide says or does not say, it was actually an omission, then you do not have to do any legal research on your own. It did not matter what the Constitution said. We cannot be held to that standard with our guides, if they are going to become legal doctrines. That is why we are asking for that to be repealed.

I have one other amendment on our previous bill. I want to respond to Senator Mathew's question about the caps on independent expenditures. There is no cap on expenditures; what I was referring to were contributions to a candidate. I was trying to say that contributions have a cap.

MR. GLOVER:
I have two items I want to discuss. The first concerns section 33, subsection 6. I have had informal conversations with a number of judges from around the State. They have some heartburn with judicial confirmation. You may want to have Ms. Erdoes look into that issue. They want things to come to them on a challenge, not things to be prejudged. That is an issue with them.

I have a minor suggestion for section 46, subsection 1, paragraph (a), subparagraph (c). We would like you to delete, "Supplies for marking the ballot." That means a pencil. Everybody has a pen or a pencil, and you do not want to send out a pen or a pencil with that ballot. If it breaks, it damages the ballot. It is old-fashioned and is not needed.

The clerks are in support of the bill; we desperately need a change in the primary. That would help immensely, and that is occurring around the country. There are states that have late primaries and are begging their legislatures to change those dates. It has actually had some success back East.

MS. HANSEN:
Section 3 of the bill discusses the definition of "full text of the measure." This has to do with the Axe the Tax Petition. Let me tell you the problem with this section. If we have to submit to each voter the full text of the measure when we are trying to get them to sign the petition, then we would have to have a wheelbarrow to carry our petitions around. The Axe the Tax Petition was large. We would be all right with posting the full text of the measure on a Web site that would be acceptable. We also gave people information and directed them to a Web site that had S.B. No. 8 of the 20th Special Session, so they could look at it. The Web site also posted the LCB one-page review of S.B. No. 8 of the 20th Special Session that said what it was. We handed that information out to the voters.

CHAIR CEGAVSKE:
You are not the culprit the Secretary of State is after.

MS. HANSEN:
The problem is if we have to carry around a thick full text of the measure, no one is going to read it. My suggestions are a good way for people to review the whole thing.

CHAIR CEGAVSKE:
What they are also looking for is something like a handout that can be referred to, or directions to allow someone to know where they can get the full text.

MS. HANSEN:
I am in favor of more information, but it becomes logistically impossible to carry around piles of things while petitioning. We support the information from the Secretary of State's Office on improving the law and providing a place to petition. We support their language in section 10 that protects petition rights. They should have someone available to tell people where the petitioning location is. We had a lot of hassles trying to determine who was in charge.

We talked earlier about this subject, but it is also in section 11. It was about when a person officially becomes registered to vote. They must be officially registered to vote before they can sign a petition. That means they cannot register to vote and immediately sign a petition.

I also have a problem with section 20 and moving the primary. The Independent American Party and minor parties do not have primaries, they have conventions. There has to be a convention to pick the candidates, and then they go on the ballot. If you move the primary to May and move the filing to the first two weeks of January, that means all minor parties have to have conventions in December. Who can have a political convention in December during the holidays? You could either make the primary in June and move the filing to February, or you could shorten the time between the filing and the primary. Maybe the filing could be in February. That would allow minor parties to at least, have their state conventions in January; then, they could file their candidates in February.

Section 21, subsection 4, makes minor parties file their presidential candidates in May. We do not even have our convention until August. Republicans and Democrats do not have to file their presidential candidates in May, and they do not have their convention until July or August. That does not make any sense. I think it is a mistake.

CHAIR CEGAVSKE:
Would you rather leave it in September?

MS. HANSEN:
Yes, because we have our convention in August. That date could be changed from September to the end of August. We want to work with the clerks on this.

Section 33, subsection 6, discusses judicial confirmation. Recently, there was a case in Judge Janet Berry's Department 1, Second Judicial District Court. They had an issue with the State Department of Agriculture which asked for a recommendation from the court. Judge Berry declared government agencies that ask for direction from the courts in absence of a controversy is unconstitutional. I would suggest this section is unconstitutional. They cannot get an answer from a court unless there is a controversy.

Section 68, subsection 2, essentially, says people cannot sign a petition unless they have proven their identity. They have to provide proof of residency and identity before, "Signing a petition required under the election laws of this State." That is absurd. We cannot ask every single person we ask to sign the petition to show us their ID. We can hardly get a signature now. What is the

need of it? When they are turned in to the clerk, they will know whether they are registered to vote or not when they check the petition.

CHAIR CEGAVSKE:
Perhaps the clerks are trying to save a step and would like you to verify it.

MS. HANSEN:
Having us verify it does not mean anything. We cannot verify from an ID whether they are registered to vote or not. That is meaningless, and it creates more difficulty for people. We cannot get signatures and ask them to sign a petition. They will not do it. They might think we are trying to steal their identity.

We talked about the difficulty of a one-subject rule. The part I have a problem with is in section 110. It says, "In all cases where the subject of the measure is not so expressed in the title, the measure shall be void ... ." Above that line it says, "The subject must be clearly indicated in the title." That is sufficient. We want it indicated in the title. I would delete line 7 beginning with "In all cases ..." through line 10. I would also delete the same language in section 111. It should be up to a court to decide whether the language of the title is void. Who else is going to decide whether a title should be void? It is problematic to remove it when there might be a disagreement about whether the title is actually accurate or not. It will then be a judicial controversy, and then, the judge can decide.

The dates for petitioning are discussed in section 114. If the intention is to move the date back to begin petitioning so we do not lose time for petitioning, we support that. If it does not do that, we are concerned. Ms. Parker said that was what it was supposed to do.

I wanted to mention one other thing about the same-day notice required to petition in section 10. When we asked the Regional Transportation Commission (RTC) for permission to go there and get signatures, I gave the RTC notice, as the Secretary of State requires, and they told me that they did not have to pay attention to what the Secretary of State said. I told them he is the chief enforcement officer for the election laws, and they said they did not care what the Secretary of State said.

CHAIR CEGAVSKE:
Do they understand that now? The Secretary of State is saying no.

MS. HANSEN:
I doubt it. The Secretary of State's Office is trying to resolve this, and I support them in that effort, but we are continuing our court battle with the RTC over this issue. The Secretary of State needs to have the authority to let people know they have to follow the election laws. They just ignore the law for people to petition, especially if they do not like the petition. If they like the petition, they will probably make arrangements, but if they do not like it, they will not.

CHAIR CEGAVSKE:
Is that just up north?

MS. HANSEN:
No, there were problems with the DMV and UNLV threatening to throw people off the property and arrest them. There was a problem at the Senior Citizens Center in Douglas County. There were problems at the Washoe County DMV and the RTC. There were instances in numerous places in Clark County I am not familiar with.

CHAIR CEGAVSKE:
Maybe before the next election, we need to have the Secretary of State send out letters.

MS. HANSEN:
They probably did that, but it was just ignored.

CHAIR CEGAVSKE:
I am going to close the hearing on S.B. 478.

MR. STEWART:
In all this discussion about moving the primary, I recalled that Senator Raggio asked me a question a long time ago about primary dates. He recalled there might have been a time when the primary elections were earlier. The primary elections were put into Nevada law in 1921. The 1953 Legislative Session considered S.B. No. 228 of the 39th Session which moved the primary election from the first Tuesday in September with the idea that it was for nominating presidential electors. It was basically a presidential preference primary. That

was the one time it was moved to June in 1954. They subsequently did a study and decided that, logistically, it was not working quite as well. In 1955, it was moved back to the September 1 date. That was the one time we did not have a primary election in September.

It would also be a good idea to state, for the record, the bills that are exempt. These bills deal with legislative business and Standing Rule 14.6 of the Joint Standing Rules says bills pertaining to legislative business would be exempt. That includes those bills that deal with interim studies. The following bills are exempt: S.B. 477, Senate Concurrent Resolution (S.C.R.) 12, S.C.R 13 and Senate Joint Resolution 10.

CHAIR CEGAVSKE:
I will now adjourn the Senate Committee on Legislative Operations and Elections meeting at 7:53 p.m.

RESPECTFULLY SUBMITTED:

Elisabeth Williams,
Committee Secretary

APPROVED BY:

Senator Barbara Cegavske, Chair

DATE: