MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS

Seventy-third Session
April 14, 2005

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara Cegavske at 2:15 p.m. on Thursday, April 14, 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

GUEST LEGISLATORS PRESENT:

Senator Steven A. Horsford, Clark County Senatorial District No. 4

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

David Hosmer, Colonel, Chief, Nevada Highway Patrol, Department of Public Safety
John Borrowman, Administrative Services Officer, Nevada Highway Patrol, Department of Public Safety
James Wadhams, Attorney, Jones Vargas
Ellick C. Hsu, Deputy Secretary of State for Elections, Office of the Secretary of State
Alan Glover, Clerk/Recorder, Carson City

Carole Vilardo, Nevada Taxpayers Association
Janine Hansen, Independent American Party
Steve George, Public Information Officer, Office of the Secretary of State
Richard L. Siegel, American Civil Liberties Union of Nevada
Larry Lomax, Registrar of Voters, Elections, Clark County
Ronda Moore, Help America Vote Act Coordinator/Program Officer; Office of the Secretary of State

CHAIR CEGAVSKE:
I will now open the hearing on Senate Bill (S.B.) 384.

SENATE BILL 384: Revises provisions relating to Department of Public Safety. (BDR 23-404)

DAVID HOSMER (Colonel, Chief, Nevada Highway Patrol, Department of Public Safety):
The Department of Public Safety (DPS) Director George Togliatti had a prior commitment and apologizes for not being here. Senate Bill 384 is largely a cleanup bill left over from the split of the DPS from the Department of Motor Vehicles (DMV). It addresses the peace officer powers for the Nevada Highway Patrol (NHP). Imbedded within S.B. 384 concerning *Nevada Revised Statute* (NRS) chapter 480 is a request for the NHP to have a revolving account so we may have funds available. Those funds would help the people who come in to purchase copies of accident and police reports we offer. We also have an amendment (Exhibit C) that addresses NRS 484.579, subsection 7 to "allow fees generated from amber light permits to be credited to the State Highway Fund instead of the Motor Vehicle Fund."

SENATOR HARDY:
I want to understand what we are doing. Section 1 of S.B. 384 deletes the language, "appointed pursuant to subsection 2 of NRS 480.330 have the powers of a peace officer specified in NRS 480.330 and 480.360." That language is not replaced with an NRS reference, but with specific language. Why is that necessary? Are these individuals not defined under NRS 480?

COLONEL HOSMER:
Part of that is so we have full peace officer powers when we come upon crimes committed on the highways. Those specific traffic statutes have limited powers.

SENATOR HARDY:
Nevada Revised Statutes 483.330 and 480.360 were eliminated. This deletion in section 1 and the addition of the new language gives the NHP full police powers if they have the duty to enforce more than one law. I want to publicly thank Lieutenant William Bainter and let him know he is an outstanding representative of the NHP. He helped me work on a bill I had in the Senate Committee on Transportation and Homeland Security.

SENATOR RAGGIO:
Section 6 of S.B. 384 contains new language that establishes "the Nevada Highway Patrol Revolving Account." What is that used for? What does it replace or add?

JOHN BORROWMAN (Administrative Services Officer, Nevada Highway Patrol, Department of Public Safety):
When we were a part of the DMV, a fund was established at the commands to provide change and money to the public. At this time, we still have some funds from the DMV that we use. When we are authorized to have the Nevada Highway Patrol Revolving Account fund, the intent is to return the DMV funds, as appropriate. With our funds, we would be able to make change for the customers. We provide services such as accident reports. A customer may come in with a $20 bill, but their expense is $3. We provide the change for them.

SENATOR RAGGIO:
It is for that purpose only.

MR. BORROWMAN:
It is strictly for that change. It is not a petty cash fund. There should be no expenses out of it.

SENATOR RAGGIO:
You are using S.B. 384 to add a provision to NRS 484. Is that in your amendment?

MR. BORROWMAN:
If you look at section 7 of S.B. 384 and the proposed amendment, the intent is one and the same. When we split from the DMV, we did not change the

language that said any receipts are to be deposited straight to the State Highway Fund. It still says receipts are to be deposited to the Motor Vehicle Fund.

SENATOR RAGGIO:
Are these what you call amber light permit monies? Were they not covered otherwise?

MR. BORROWMAN:
Nevada Revised Statutes chapter 484 is for amber light permits. It is currently deposited into the DMV fund.

SENATOR RAGGIO:
It should go to the State Highway Fund.

MR. BORROWMAN:
Yes, it should.

SENATOR RAGGIO:
Is there no objection from any other agency on this?

MR. BORROWMAN:
No, actually the DMV agrees with this amendment.

SENATOR BEERS:
Thank you for that last question Senator Raggio. I thought the change you were seeking to make was institutional in nature. It was helpful to know the statute changed. What are amber light permits?

MR. BORROWMAN:
There are wide load escorts, and they have the pilot cars. People who drive those must get a permit for that vehicle. That is why we collect the $2 and $3 fees. We also track who has the amber light permits.

> SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED S.B. 384.
>
> SENATOR BEERS SECONDED THE MOTION.

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

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CHAIR CEGAVSKE:
I have been asked by Senator Maurice E. Washington to formally withdraw Senate Concurrent Resolution (S.C.R.) 12.

SENATE CONCURRENT RESOLUTION 12: Directs Legislative Commission to conduct interim study on feasibility of including persons employed as police officers by Indian tribe in Public Employees' Retirement System and granting them powers of peace officer. (BDR R-626)

SENATOR RAGGIO MOVED TO INDEFINITELY POSTPONE S.C.R. 12.

SENATOR HARDY SECONDED THE MOTION.

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

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CHAIR CEGAVSKE:
I will now open the hearing on S.B. 428.

SENATE BILL 428: Prohibits admission of certain persons as parties to certain administrative proceedings. (BDR 18-987)

JAMES WADHAMS (Attorney, Jones Vargas):
My practice is substantially devoted toward administrative law and licensing of entities. Senate Bill 428 is designed to have the real parties in interest involved in the hearing process for a licensing application. I have had experiences in my practice where, for example, a competitor will come before a hearing to simply, for competitive reasons, slow the process down. That is opposed to a person who has a financial interest or a direct stake in the granting or denial of the interest; this is what appears in section 1, subsection 4. The bill drafter used

more language than I had intended to put into the section, but it still manifests the individual who seeks to participate in a licensing process because he or she actually has an interest in that process.

The corresponding piece appears in section 2, subsection 5. At the end of an administrative process after the final agency decision, there can be a petition for judicial review. The purpose of this language is to ensure the party who wants to seek a petition for judicial review should have first been admitted as a party rather than just challenging the license after it has been granted.

CHAIR CEGAVSKE:
I am a little confused as to what situation this bill would seek to solve. Can you give me an example?

MR. WADHAMS:
In the past, circumstances have occurred where a health maintenance organization has sought a license from the insurance commissioner. Appearing in that licensing process was an existing competitor who preferred another competitor not be in the area. That is one example. The competitor did not have a direct financial interest in the granting or denial of that license. If they did have a direct financial interest they can demonstrate, that could be granted under the act or otherwise.

CHAIR CEGAVSKE:
Does this just concern licensing or is there anything else?

MR. WADHAMS:
Yes, this bill concerns licensing.

CHAIR CEGAVSKE:
You are referring to somebody in the same type of business, and one business comes in to oppose the other. For example, there is a McDonald's and a Burger King. One restaurant comes in to oppose the location of the other. Would this bill not allow that to happen?

MR. WADHAMS:
Senate Bill 428 would not allow that to happen unless there are circumstances of which I cannot conceive. The competitor is not likely to be able to show they

have any direct interest, other than the remote competitive interest, in the granting or denial of that license.

SENATOR RAGGIO:
I need to indicate I will abstain from this measure due to the fact that I am a shareholder in the same firm as Mr. Wadhams.

SENATOR HARDY:
Does section 1, subsection 4 regarding administrative proceedings put in rules that are similar to other areas? This seems like common sense to me. I cannot believe it is not in the law.

MR. WADHAMS:
In my view Senator, it is common sense; however, it is not always adhered to. This bill just makes it easier for the hearing officer to have a basis upon which to make a decision.

SENATOR HARDY:
Is it a general matter of practice that these guidelines are followed?

MR. WADHAMS:
Yes, in some cases. This makes it clear, as a policy statement, this should be followed.

SENATOR WIENER:
You gave us an example of someone who would be hurt by the granting of the license. I noticed a provision in the bill which says, “a person must not be admitted as a party to an administrative proceeding in a contested case involving the grant, denial or renewal of a license unless he demonstrates … ” how his or her business would deteriorate “as a direct result of the denial of the license or refusal to renew the license.” Can you give us an example of that? I thought you were talking about an uninterested party, not the direct party.

MR. WADHAMS:
There could be an instance where a licensee might be losing the license. The licensee happens to be a particular vendor that another entity relies upon. If the licensee loses their license, there would be an issue. In some areas, there are limited vendors, and that could be a critical issue.

SENATOR HARDY:
I want to go back to Chair Cegavske's example. If it was a McDonald's and a person applied for a Burger King across the street, the McDonald's could show their financial situation is likely to deteriorate.

MR. WADHAMS:
That is a fair question. In my judgment, perhaps they could demonstrate that in some documentable, verifiable way. In most circumstances, that would be pure speculation.

SENATOR HARDY:
That is an extreme example, but it helps illustrate the point. There would have to be some empirical evidence that a Burger King would ruin the McDonald's business. Somebody could not just say that without some sort of proof. They would have to factually demonstrate it.

MR. WADHAMS:
The opportunity is still there for a competitor to get into that process.

CHAIR CEGAVSKE:
I will close the hearing on S.B. 428.

SENATOR BEERS MOVED TO DO PASS S.B. 428.

SENATOR HARDY SECONDED THE MOTION.

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

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CHAIR CEGAVSKE:
Committee members, I would like to start our work session. We have a work session packet in front of us (Exhibit D, original is on file at the Research Library). We are going to start with S.B. 162.

SENATE BILL 162: Prohibits public officer or employee from using governmental time, property, equipment or other facility for activities relating to political campaigns and preparation of certain reports. (BDR 23-912)

MICHAEL STEWART (Committee Policy Analyst):
The first measure is S.B. 162. You will recall that Senator Steven A. Horsford brought this bill to us. It prohibits a public officer or employee from using any governmental time, property or equipment for activities related to political campaigns, the preparation of a financial disclosure statement or the preparation of a campaign finance report. Senator Horsford has provided the Committee with an amendment. It is on page 4 and page 5 of Exhibit D. The amendment exempts the Governor and the employees of the Governor, Legislators and employees from the Legislature from the prohibitions set forth in section 1, subsection 1 of the proposed amendment.

The second amendment to S.B. 162 was proposed by Stacy M. Jennings, Executive Director, Commission on Ethics. It makes an amendment to *Nevada Revised Statute* 281.551 by adding the terms, "the public officer or employee or former public officer or employee of another person for a financial benefit." I did not have a statement to indicate the intent. I think the intent was if the Commission on Ethics finds a violation of a provision of the ethics laws chapter by a public employee or a former public employee has resulted in the realization of another person's financial benefit, the public officer should also be aware of that finding.

Finally, you will remember we had testimony from Mr. William Flangas on April 5, 2005. Chair Cegavske recommended we find a way to consider some of his requests, and S.B. 162 is a measure to do that. Amendment No. 5 on page 3 of Exhibit D proposes to amend NRS 281.551, which relates to a willful violation of the ethics provision. Essentially, Mr. Flangas proposed taking out the term willful from NRS 281.551 and stating that if there is any violation, the Ethics Commission can look into it. The second request deals with NRS 281.462, subsection 4. As you recall, in 1999 the Legislature provided panels for the Ethics Commission to review an ethics complaint before the Commission gets a chance to do so. The panel basically determines whether there is just and sufficient cause to continue with an investigation in the complaint. Mr. Flangas' concern is with NRS 281.462, subsection 4, which states, "If a panel finds just and sufficient cause for the Commission to render an opinion in a matter, the members of the panel shall not participate in any further proceedings of the Commission relating to that matter." That means if two people on the panel are also members of the Commission, they cannot participate in any further proceedings in that matter. Mr. Flangas feels those Commissioners should be able to participate. His proposal is to delete

NRS 281.462, subsection 4 or at least allow those members to vote during any proceedings concerning the ethics violation the panel investigated.

SENATOR RAGGIO:
I was impressed with the commitment of Mr. Flangas and others who serve on the Ethics Commission. The development of the Ethics Commission, their procedures and the role of that Commission did not occur overnight; the changes have happened over several Sessions. As we have enhanced and enlarged the responsibilities, we tried to import due process, as well as completeness to the efforts of that Commission. It is an awesome responsibility and one which, to this date, almost without exception, they have attended to in great detail. The number of complaints is increasing, because now the Commission has taken on the responsibility of local ethics commissions.

I oppose Amendment No. 5 in removing the term willful from NRS 281.551 because it was put in NRS after great thought so some inadvertent error would not be subject to an ethics violation. This is a term I understand as a lawyer. That is an important element for someone to be charged; coming before the Ethics Commission is tantamount to being charged in a criminal proceeding. I do not want to send the wrong message that someone can inadvertently violate and then be guilty of what we now have developed as part of the law. With a willful violation, we are talking about removal from office. We should not look at this lightly; it is serious and the consequences are great. I would not support Amendment No. 5.

I listened intently to the reasoning of Amendment No. 6, which would change the existing provision where two members of the panel meet up front and decide whether or not there is just cause for the Commission to render an opinion. It is a body that two members look at objectively and decide to go further or not go further. They, in fact, have preliminarily rendered a decision. In the past, that is why we did not allow them to participate in further proceedings of the Commission. There is a good reason for that, although you could make an argument for the other side. There are ample members of the Commission, otherwise, who can hear the evidence for the first time and not be tainted by the fact they have already rendered an opinion that just cause exists for them to go further. In fact, they have already made a judgment on the matter. Those who are going to deliberate and participate should do so without that initial judgment. I am only commenting on those two proposed amendments.

SENATOR HARDY:
It is pretty important, regardless of what we do with this bill, we address the issue which arose during the impeachment trial. A legal opinion arose from our counsel that it was appropriate for a member of a public official's staff to prepare financial disclosures required pursuant to NRS 281. The reasoning behind that was it was not really a personal benefit; it benefits the public to have those prepared. That is a loophole you can drive a truck through. I like the portion of the bill which speaks to that. It is used numerous times in the bill and in various statutes such as section 1, subsection 7, "except for an activity relating to a political campaign, the preparation of a statement of financial disclosure required pursuant" to the appropriate chapters. Then it goes on to say what it does not prohibit. I found it highly objectionable that although allowed by law, that sort of activity was condoned. It is important to include that. I agree with Senator Raggio on the other amendments.

SENATOR RAGGIO:
I only addressed the proposed amendments from Mr. Flangas, which are Amendment No. 5 and Amendment No. 6 on page 3 of Exhibit D. I do not disagree with Senator Hardy. Your reference is to section 1, the amendment presented by Senator Horsford on page 4 and page 5 to exempt the Governor, employees of the Governor, Legislators and employees of the Legislature. That recognizes some kind of a difference in the functioning of those offices. I would support that part of section 1 of Senator Horsford's amendment. I have looked at the proposed amendment. As you know, we expressed some concern about trying to define "activity relating to a political campaign." I pointed out some obvious pitfalls, even with the proposed amendment, that should not be amended. Trying to amend the bill creates more of a problem than leaving it intact.

SENATOR HARDY:
I agree with the Senate Majority Leader. I admire the attempt, but a person could make the case that almost anything a governor does is related to his or her reelection. If the secretary takes a phone call from a potential donor and immediately passes it on to the political side, that still could be construed as related to the reelection.

SENATOR BEERS:
I agree with your premise, Senator Hardy, but it also says that, in many senses, a constitutional officer's reelection is essentially a job evaluation. Under that criterion, everything the officer does in executing the job is related to reelection.

SENATOR MATHEWS:
I am pondering section 1, subsection 2 of the amendment proposed by Senator Horsford. I am uncomfortable with that because almost anyone in government could say everything they do is related to their reelection. I am really uncomfortable with section 1, subsection 2 and subsection 3. "Political activity" is in the office. It should not be that way; that needs to be separated.

CHAIR CEGAVSKE:
You do not support section 1, subsection 2, but you like section 1, subsection 1 of the amendment.

SENATOR MATHEWS:
Right. I just do not think there is a good excuse for a Legislator. I do not have any staff when I am not at the Legislature. I do not know what staff this is talking about. I would not call constituent services to write letters for my campaign. I do that myself.

CHAIR CEGAVSKE:
They do not do that.

SENATOR MATHEWS:
They could if this were here.

SENATOR RAGGIO:
In amending this, I would retain the language in section 1 of Senator Horsford's amendment, but exempt, for the reasons indicated, the Governor, employees of the Governor, Legislators and legislative employees from that prohibition. I would leave out proposed Amendments No. 2, No. 3, No. 5 and No. 6. I do not see a proposed Amendment No. 4. We should delete any reference to a definition of activity referring to a political campaign, which is section 1, subsection 11 of S.B. 162 that relates to NRS 281.481. In essence, S.B. 162, as amended, would include the language on page 3 under section 1, subsection 7, lines 1 through 4 with the exemptions suggested by Senator Horsford. That would retain the language about which Senator Hardy was concerned. The use

of government property language should not allow the preparation of a statement of financial disclosure. I would add that in as part of the bill.

> SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED S.B. 162.

SENATOR HARDY:
This does that.

SENATOR RAGGIO:
I want to make sure. It has to be stated otherwise because in section 1, subsection 7, the language, "activity relating to a political campaign" is in there.

MR. STEWART:
I want to clarify this. In section 1, subsection 7 of S.B. 162, Senator Raggio is interested in removing any reference to the language "activity relating to a political campaign" that is in the first four lines at the top of page 3. He wants to leave in the new language which talks about the preparation of a statement of financial disclosure as well as campaign finance reports.

SENATOR HARDY:
Could the language say, "except for the preparation of a statement of financial disclosure, this section does not prohibit the following?"

CHAIR CEGAVSKE:
Do you want the language in section 1 of subsection 8?

SENATOR HARDY:
That language is also in section 1, subsection 7 on the top of page 3. You would remove the language, "except for an activity relating to a political campaign" and put in, "except for the preparation of a statement of financial disclosure." I will leave it to the bill drafters. That language would achieve the intent.

CHAIR CEGAVSKE:
You would take out the words "for an activity relating to a political campaign." Instead it would read, "except for the preparation of a statement of financial disclosure ... this subsection does not prohibit" the following.

SENATOR MATHEWS:
That was my concern, and Senator Hardy addressed it succinctly.

SENATOR BEERS:
I am thinking outside the box. We could renumber all the subsections of NRS 281.481 from subsection 7 down. In the bill, section 1, subsection 7 would become section 1, subsection 8. Section 1, subsection 8 would become section 1, subsection 9 and so on. We could then add a new section 1, subsection 7 that would say "A public officer or employee, other than the Governor or an employee of the Governor or a Legislator or an employee of the Legislature, shall not prepare a statement of financial disclosure required pursuant to NRS 281.559 to NRS 281.581 inclusive or prepare a report required pursuant to chapter 294A of NRS." That way it would be said in an explicit manner and not in a double negative form. It would be a little more understandable.

SENATOR MATHEWS:
Did that not put back in what we wanted to take out?

SENATOR HARDY:
For purposes of helping the bill drafters understand our intent, that is probably a pretty good motion.

CHAIR CEGAVSKE:
I do not think it put anything back into it.

SENATOR BEERS:
It just puts it in an active voice.

CHAIR CEGAVSKE:
Also, would the language in section 1, subsection 11 be removed?

SENATOR BEERS:
Yes.

SENATOR RAGGIO:
I withdraw my motion to amend and do pass as amended S.B. 162.

> SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 162.

SENATOR RAGGIO SECONDED THE MOTION.

SENATOR WIENER:
I am confused.

SENATOR BEERS:
Let me repeat it. I would propose we delete the new section 1, subsection 11. I would delete both of the amendments proposed on page 2 and page 3 of the bill. I would renumber section 1, subsection 7 and make that section 1, subsection 8. That would bump each of the successive sections up by one. I would insert a new section 1, subsection 7 that would say,

> A public officer or employee, other than a member of the Legislature or an employee of the Legislature and the Governor or an employee of the Governor shall not prepare a statement of financial disclosure required pursuant to NRS 281.559 to NRS 281.581 inclusive or prepare a report required pursuant to chapter 294A of NRS.

SENATOR RAGGIO:
What you are trying to say is “shall not use governmental time, property, equipment or other facility to do those things.”

SENATOR BEERS:
That is correct.

SENATOR MATHEWS:
You are saying except for the Governor or the Legislature.

SENATOR BEERS:
That is correct.

SENATOR MATHEWS:
Therein lies my concern.

SENATOR RAGGIO:
That is the amendment proposed by Senator Horsford.

SENATOR MATHEWS:
I do not want to hold this up, and I will think about it a lot. I do not like it because it says it is okay for the Legislators and the Governor to do that. I am uncomfortable about the Governor being able to use his staff. He probably has more campaign funds than any of us. I am concerned we are permitting the Executive Branch and the Legislative Branch to do that. Can someone tell me why the Governor is so special that he could use his equipment and his staff? What is so special about that position, as opposed to the Treasurer and the Secretary of State?

SENATOR HARDY:
I do not necessarily disagree with Senator Mathews. I was just including that because the sponsor seemed to think it was a good idea. I thought there may be some wisdom in it.

SENATOR MATHEWS:
We were thinking maybe the reason the sponsor of the amendment put in the Legislature is because we are part-time. None of these other people are part-time.

CHAIR CEGAVSKE:
Would you feel more comfortable with just the Legislature or do you not want either one?

SENATOR MATHEWS:
I do not want either one.

SENATOR RAGGIO:
If the Senator does not want to support the bill, then I will not either.

SENATOR MATHEWS:
I would like to see some type of a bill go out of here. My concern is you are letting one branch of government do something the others cannot.

SENATOR RAGGIO:
I withdraw my second.

SENATOR BEERS:
I withdraw my motion to amend and do pass as amended S.B. 162.

SENATOR MATHEWS:
Do not do that. I am not trying to kill this bill. I do not want to kill the Senator's bill because of my concerns. I was just going to vote no. The reason for that is because I do not think one branch of government ought to be left out.

CHAIR CEGAVSKE:
Let us now look at S.B. 222 in Exhibit D.

SENATE BILL 222: Revises various provisions relating to elections. (BDR 24-297)

MR. STEWART:
The summary for S.B. 222 begins on page 14 of Exhibit D. I need to make a correction. In my haste to make this document, I mistakenly placed Senator Horsford as the sponsor. The correct sponsor is Senator Cegavske. Senate Bill 222 requires an initiative or referendum petition to address only one subject. When the full text of a proposed constitutional amendment or statewide measure is not contained in the sample ballot, the county clerks are required to explain in the sample ballot how that full text can be obtained. It makes several other provisions regarding the circulation of initiative and referendum petitions. It makes some references to the counting of signatures on initiatives and referendums. It also addresses arguments for and against ballot questions.

On page 15 of Exhibit D, you will see the first of what I identified as 9 amendments to the bill. The first amendment is to section 7, subsection 7 of the measure. The proposal is to delete section 7, subsection 7 and insert the language on page 15 of Exhibit D that requires the Office of the Secretary of State to have posted on its Internet Web site the condensation or explanation of the argument and rebuttal as soon as it is received by the Secretary of State. They have testified in the Committee on the issue in the next paragraph about challenges to the accuracy of an argument or rebuttal prepared by the Secretary of State. During the process by which ballot questions are created in the committee process currently set forth, there was some experience where the Secretary of State was asked to judge the accuracy, completeness and constitutionality of an argument for and against. The Secretary of State's Office also appoints these committees and because of that, they feel more comfortable sending any of those complaints directly to the courts instead. The intent is to

not put the Secretary of State's Office in a position where they are appointing committees and also adjudicating the validity or constitutionality of the arguments those committees are making.

SENATOR HARDY:
It also looks like it is giving any person in this State the ability to challenge the accuracy of an argument or rebuttal prepared pursuant to this section by filing a complaint. That is fairly substantive. With an organized effort, presumably someone could prevent something from ever making the ballot question by continuing to file objections. Am I reading that wrong?

ELLICK C. HSU (Deputy Secretary of State for Elections, Office of the Secretary of State)
The issue, with respect to this provision, is that either way, we are in a position to end up in court. If we approve the arguments from one side of an issue, the other side is going to take it to court. We feel we should take a preemptive measure and send it to court anyway. That way we could get a resolution and move on.

SENATOR HARDY:
Who has the standing now to take a challenge to court?

MR. HSU:
I believe the committees have standing now. I was taking a look at the language you had mentioned and it does open it up and make that broader. The Secretary of State would be inclined to help narrow down the scope of who has standing to take a challenge to court.

SENATOR HARDY:
It has the potential to be used as a tool to delay or indefinitely postpone a question.

MR. HSU:
The provision allows for an expedited review. The issue of the definition of "any person" does open it up, but it does have an expedited review in the amendment.

SENATOR HARDY:
If there is a willingness to go back to whoever has current standing, then fine. I do not have a problem with it being posted on the Web site.

SENATOR BEERS:
What are we trying to fix with this amendment?

MR. HSU:
The issue is the Secretary of State's Office is in a position to adjudicate the ballot issues one way or another. In many cases, the positions end up going to court anyway. We are put in a position to do that. We figure the best thing to do is to have it go to court and have a complete resolution. That way we can move forward with the ballot questions.

SENATOR BEERS:
What happens under the existing language?

MR. HSU:
The existing language puts the Secretary of State's Office in the middle.

SENATOR BEERS:
The Office is in the middle in that you initially accept or reject language presented, but only in the case that the argument or rebuttal is libelous or factually inaccurate.

MR. HSU:
Yes, that is correct.

SENATOR BEERS:
Under the law now, if you do not determine the ballot question argument is libelous or factually inaccurate, you accept it.

MR. HSU:
That is correct.

SENATOR BEERS:
The court challenge only occurs in the case where you reject an argument

because of libelous or factually inaccurate arguments and even that, presumably, only happens after the Attorney General has reviewed the statement and reasons for rejection.

MR. HSU:
There was a proposed deletion in the bill to cut the Attorney General out of the loop because of an inherent conflict of interest. The Attorney General is the Secretary of State's counsel, so when the Secretary of State's Office rejects a position, the Attorney General becomes, for lack of better words, our appellate review. That is an inherent conflict.

SENATOR BEERS:
It just strikes me that we are going to have more litigation under the proposed amendment than we have under current law. In more than half the cases when you accept the argument, there is no litigation.

MR. HSU:
There is a potential that if we do accept the argument, the opponent to that argument will still take the case to court.

SENATOR BEERS:
That would not really be alleviated in the amendment.

MR. HSU:
It would not be alleviated as far as going to court, but it would allow for an expedited review. These cases do end up going to court.

SENATOR BEERS:
I am not convinced the current law is broken.

SENATOR HARDY MOVED TO NOT FURTHER CONSIDER AMENDMENT NO. 1 TO S.B. 222.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MR. STEWART:
The second amendment is in section 8, subsection 1, paragraph (e). That section is new language which states the names of the persons who drafted the arguments in the committees and if applicable, the names of any organizations that such persons are members of, employed by or otherwise affiliated with, should be submitted to the Secretary of State's Office. Basically, the concern from Larry Lomax was there should be a standardized format in which to do that. His concern was if a person worked for company A, but in their off time they represented a particular organization involved in crafting a ballot measure. Would they put their affiliation as their employer or would they put their affiliation as their organization drafting the ballot measure? There should be a standardized form or process in which to provide the information requested in this portion of the bill.

SENATOR BEERS:
I am not entirely sure whether it is too much information to know who drafted the arguments. I am trying to figure out how knowing who drafted the argument would assist anyone. It certainly would not hurt, but these are becoming more and more hefty documents with every election. From what I heard from the people who came up with the arguments for the property tax issue in the last election, there were many constitutional amendments just on that. I can see this document getting bigger and bigger.

SENATOR HARDY:
I agree with Senator Beers. This is an awful lot of information being included, but it would be helpful to someone honestly trying to consider the argument to know the organization that drafted it. We do not need to know the names of the members employed by or affiliated with the organization, but some indication of the organization who drafted the argument would be helpful.

ALAN GLOVER (Clerk/Recorder, Carson City):
This is a position of Mr. Lomax, and it is shared by the other clerks. We would not know what organizations these people belonged to because they could list anything they want. There is no way to police it. The clerks, generally, do not support having the names of the people who drafted the arguments on the document. We think it would have a chilling effect on recruiting people to draft ballot questions for us. If you are going to pursue that, it really is not

enforceable. If the person drafting the argument were a member of the communist party, would that person really put that down as their organization? The answer is probably not.

SENATOR HARDY MOVED TO DELETE SECTION 8, SUBSECTION 1, PARAGRAPH (E) FROM S.B. 222 AND NOT FURTHER CONSIDER PROPOSED AMENDMENT NO. 2.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MR. STEWART:
The third amendment references sample ballots. Existing law provides that sample ballots may or may not include the full text of the ballot measures. Because of that, Mr. Lomax suggested replacing the term sample ballot in section 8, subsection 2, paragraph (b), subparagraph (1) to something like "supplement." Supplement was the word he used, but he wants it to be something other than a sample ballot because, as he testified, if Nevada law gives the option to have the full text, that could be turned around to say the sample ballot must ensure the full text is included.

SENATOR RAGGIO:
What if it said "sample ballot or supplement"?

MR. STEWART:
That would probably address Mr. Lomax's intent. Mr. Glover is nodding. It would be "sample ballot or supplement" in both sections.

SENATOR HARDY MOVED TO AMEND AND ADOPT AS AMENDED PROPOSED AMENDMENT NO. 3 TO S.B. 222.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR BEERS:
As we make this document bigger and bigger—and I do think we just made this document bigger—requiring the full text of the measures and constitutional amendments sounds like it is going to take another stamp.

MR. GLOVER:
We do not put the full text into the sample ballot any longer. We print the full text separately for those people who need it.

SENATOR BEERS:
It just has to be put at the polling place.

MR. GLOVER:
That is correct. We do not want to have to print it into the sample ballot; we just want to make it available at the polling place. What we do is use the full text printed in the newspapers at the polling place. They are already printed. We just make a stack of those papers available at each polling place.

SENATOR HARDY:
If that is cumbersome, putting in information about how to obtain the full text is sufficient. Who is going to read a full ballot measure at the polling place? I would be willing to say sample ballots inform registered voters how to obtain a full text of each constitutional amendment rather than saying the full text has to be available at each polling place.

MR. GLOVER:
We do have people who read the text at the polls. We have no problem with providing those papers at the polling place. Either way would work.

MR. STEWART:
There was a proposal for discussion purposes by Chair Cegavske. This is an effort to try to make the bills the Committee sends out consistent with the previous bills we have passed. On April 12, the Committee approved S.B. 224 concerning the single-subject issue. Essentially, the thought with this amendment was to have identical language to S.B. 224 in section 10, subsection 1 and section 11, subsection 1.

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

SENATOR RAGGIO:
The language in proposed Amendment No. 4 should be identical to what is approved in S.B. 224.

SENATOR RAGGIO MOVED TO ADOPT PROPOSED AMENDMENT NO. 4 TO S.B. 222.

SENATOR HARDY SECONDED THE MOTION.

SENATOR BEERS:
My lack of support for the single-topic concept was illustrated yesterday morning in the Senate Committee on Finance when Senator Titus pronounced the Taxpayers Bill of Rights amendment in violation of the single-subject concept. I have a feeling that anyone who does not like a particular constitutional amendment will be able to make an argument that it violates the single-subject rule. That is why most states do not have a single topic rule in their initiative law.

THE MOTION CARRIED. (SENATOR BEERS VOTED NO.)

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MR. STEWART:
Amendment No. 5 tries to amend section 12 by eliminating subsection 4 in its entirety. Instead, it would provide the explanation set forth in section 12, subsection 1 be included at the top of the petition, perhaps, near the title of the petition. The bill, as written, asks for a separate explanation. There was some concern about how to juggle a separate explanation versus a petition. Lucille Lusk and Samuel P. McMullen said it could be part of the petition language. I believe Mr. McMullen put into the record that these explanations could be modeled after the Legislative Digests used this Session.

SENATOR HARDY:
Section 12 does not require that language actually on the petition, and they are suggesting we require it on the petition?

CAROLE VILARDO (Nevada Taxpayers Association):
The way the bill was written, section 12, subsection 1 was a separate item and not required on the petition because the full text of the measure is supposed to

be on the petition. That is why we were looking for a separate explanation that could be available and much briefer than the full text of the measure. Instead of having the explanation, as written in section 12, subsection 1, the amendment would require the language as the first thing to appear on the initiative petition. The person would still have the opportunity to initial or check for it. They would be given the opportunity to read the explanation, but the brief explanation would be on the petition and not something they would take with them.

SENATOR RAGGIO:
I am trying to follow the discussion. We are dealing with initiatives and referendums, and we are talking about section 12. Ms. Vilardo indicated the explanation is required to be made available before the person signs the petition. Whether it is on the petition or otherwise, the explanation has to be made available. There is no argument about that. Section 12, subsection 1 and subsection 2 say the person signing the petition has to initial their signature indicating an explanation was made available before they signed the petition.

Now we are talking about section 12, subsection 4. The issue is if a person does not check the box, should the vote be counted for the petition. I am not sure about these amendments; they discuss the accuracy of the explanation. It is a never-ending argument about whether it is fully explained or not. It is important there be an explanation. Everything we do always opens up some potential for litigation because somebody is going to go to court and say the explanation did not fully explain something or the explanation failed to mention something. An explanation is necessary. I do not know if I agree that just because somebody did not sign the box, that signature should not count, even though the signature is valid. I would probably err on the side that if the person signed it and indicated he or she received the explanation, that is probably sufficient. It is easy to fail to check a box. I remember a situation somewhere years ago. They had people sign a petition which was critical of anyone who would sign a petition. It got thousands of signatures because of the way it was worded.

SENATOR TITUS:
Section 11 should be where you include the full text of the measure so people know what they are voting on. When you get into the notion of the explanation, such as making the explanation available and putting the explanation on the petition, is the explanation going to be on every page, just on the first page, and

handed out or not? It is too much. I would just delete all of section 12. If the voter has the petition in front of them, we have to trust they have some sense or knowledge or they would not be fool enough to sign it.

CHAIR CEGAVSKE:
What about deleting section 12, subsection 2 and subsection 4?

SENATOR TITUS:
I would take out all of section 12. What would happen if we did that? Who is going to write the explanation, who is going to check the explanation, how do we know they are really going to hand the explanation out?

SENATOR BEERS:
Section 12, subsection 3 would answer the question of who writes the explanation as "the person who intends to circulate the petition for initiative or referendum and must be written in plain English."

SENATOR TITUS:
One of the things listed on page 16 of Exhibit D says Mr. McMullen and Ms. Lusk also questioned whether the explanations set forth in section 12 would be certified as accurate. That really creates a whole monster. I would vote to take it out.

SENATOR BEERS:
I would probably support Senator Titus's action of removing section 12.

MS. VILARDO:
The reason for leaving section 12 in is because some of the initiatives out this year were three, four and five pages written in legal detail. No one in the middle of the summer was going to stop to read it. That was the reason, as is done in other states, why you would have some brief explanation, almost like bullet points, so people have a better understanding of the issue. I am not sure anyone who read Question No. 4 and Question No. 5 knew what each question did if they took the time to read the whole question. It was based on what might be available, and in this case, it was television ads. That was the reason for putting the language in. It obviously is a policy decision.

SENATOR RAGGIO:
For all the reasons we have been talking about, I would agree to delete section 12, subsection 2 and subsection 4. There ought to be some explanation required from the person, whoever they are, submitting a petition. As Ms. Vilardo indicated, Question No. 4 and Question No. 5 certainly did not indicate the substance in the title. Those were not necessarily the only questions. There ought to be some explanation for the person coming out of the grocery store who just wants to get rid of you by signing the petition. They should have some knowledge of the petition. I would support keeping section 12, subsection 1 and subsection 3.

> SENATOR RAGGIO MOVED TO AMEND AND ADOPT AS AMENDED PROPOSED AMENDMENT NO. 5 TO S.B. 222 BY DELETING SECTION 12, SUBSECTION 1 AND SECTION 12, SUBSECTION 3 AND RETAINING SECTION 12, SUBSECTION 2 AND SECTION 12, SUBSECTION 4.
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> SENATOR HARDY SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

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MR. STEWART:
Amendment No. 6 is in section 13 of the bill. It was proposed by Senator Beers in discussion. What he was talking about was requesting the petition proponents be notified of the names removed from the petition. There was some discussion about whether that is via electronic means or through posting on the Internet site.

SENATOR BEERS:
I withdraw that amendment.

MR. STEWART:
Amendment No. 7 affects section 14 of the bill. This was brought up from some of the clerks and the people testifying. In section 14, subsection 3, there is discussion of a challenge to the initiative and referendum petition. The challenge must be filed no later than 15 days after the petition is submitted to the Secretary of State. I had written in my notes that there was some concern

as to when that date would actually start. It states, “not later than 15 days ... after the petition is placed on file with the Secretary of State.” The discussion might have been about when the clerks file with the Secretary of State.

MS. VILARDO:
There was valid concern expressed, by a couple of opponents of the bill. They were concerned about someone challenging the petition after the petition group has already filed with the Secretary of State and started collecting signatures. They were interested in a specific date. They did not want to be filing signatures and all of a sudden have it go to court where the court says the explanation is not right. Then there was the issue of whether the signatures collected were valid or invalid and whether they had to start again. I agree with the discussion that took place. There was not an answer; there was some discussion.

SENATOR RAGGIO:
I am trying to follow you. Section 14 was only applicable to the explanation that is filed under section 12. The issue I heard at the time of discussion was not the 15 days, but what the starting date was for those 15 days. That is the only thing for which they were asking clarification. Obviously, you do not want this to be an open-ended thing where anyone can come in and go to court on whether the explanation was right. The discussion was to just make sure the starting date was on this particular subsection. The way I read it is, “after the petition is placed on file with the Secretary of State pursuant to subsection 1.” That is the filing in the Office of the Secretary of State. That also refers to the explanation that must be filed. It is clear here. It is the date after they file the explanation with the Secretary of State, which, if I read this right, is filed at the same time as the copy of the petition or the referendum. I do not see a real problem here.

SENATOR TITUS:
I wanted to be sure what explanation we are discussing. Is this that same explanation we were just talking about in section 12? Is it the explanation written by the advocates of the petition?

MS. VILARDO:
That is one of the issues which came up. The advocate writes the explanation and the opponent of the petition could say the explanation is subjective and inaccurate. This provision says the opponent who challenges the explanation

goes to court. We have required that to be put on the Secretary of State's Web site. I do not want to speak for Ms. Hansen; she explained when the petition and explanation are filed with the Secretary of State, the signature gathering starts. What happens if the explanation is brought to court five days later? No matter what the court finds, the question then becomes are the signatures gathered in those five days before the challenge was filed going to be valid or invalid. The suggestion for consideration was there be an expedited date where there are five days in which to file. If there is opposition to the explanation, it has to be done within the next period of time. There are the other periods of time which come into play with the court, and the signature gathering could start after that. Then, the proponent of the explanation knows there are no problems.

SENATOR TITUS:
When we are talking about explanations which go on the ballot, those are supposed to give the for and against arguments of the piece. It is meant to help someone before they go to vote. That is an official government explanation, and it is supposed to explain both sides of the argument in the most objective way. People should be able to challenge that if it is inaccurate. When you start talking about challenging an advocate's position on an initiative, that obviously seems against the First Amendment. I cannot believe we would do that.

SENATOR HARDY:
I would have the same issue I had before. This would give everyone the opportunity and the standing to challenge an argument. I do not know if it is as big of a deal in this case because it does not seem to hold the process up the way it could in the other case.

MS. VILARDO:
The reason it was put in is because of all of the lawsuits filed. With the explanation, the question became if a person does not like the explanation or the explanation does not have a third party reviewing it, is it going to wind up going to court after the fact? We were trying to front end the process. I have no problem with removing that provision. I understand what you are saying. You kind of get caught between the devil and the deep blue sea. We want to make sure the voter is informed and the information is accurate, but then you step on something else.

SENATOR TITUS:
Maybe I am confused, but I thought the provision to provide this explanation was new. The provisions did not exist before, so those court cases you brought up have to do with the arguments on the ballot, not this kind of explanation. Are we putting this into law in response to those court challenges? It seems to me to be apples and oranges. That is something we do need to be able to challenge. Government is responsible for presenting the for and against arguments as accurately and objectively as possible, but you are talking about a person's right to gather signatures and get people to sign up and petition government. It is a blatant violation of the First Amendment to then put checks on the kind of arguments they can make on behalf of their petition.

SENATOR RAGGIO:
We have now exceeded our time limit on this, but I was focusing on just the explanation we have agreed will be in the bill. This has nothing to do with all the other aspects of what you are talking about. The challenges are another issue. This is only so this does not become an issue. This is not a free speech situation. It gives a limited amount of time for somebody to challenge the explanation. That is all it does. The other issue is about going to court and other things such as signature gathering. That is not in this provision. What am I missing? As I understand, it is limited only to this issue and the content of the explanation. That should be an adequate time and we do not want to leave some other issue out there which impedes the process and foils elections. We should accept section 14. I see nothing wrong with that section, and I would leave it as it is. Having adopted section 12, subsection 1 and section 12, subsection 3, we need some time limit. Fifteen days is reasonable.

SENATOR RAGGIO MOVED TO ADOPT SECTION 14 OF S.B. 222.

SENATOR HARDY SECONDED THE MOTION.

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

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JANINE HANSEN (Independent American Party):
I am afraid there is a mistake here. Section 14 deals with the explanation that is on the petition, not the explanation that goes on the ballot. That is the process

which goes through the committees and the Secretary of State. Section 14 is not that portion. This is a new provision that provides an explanation of what the petition means.

SENATOR RAGGIO:
I do not know why we are having this much difficulty. Go back to section 12, subsection 1 which says, "An explanation of the effect of an initiative or referendum if the initiative or referendum is approved by the registered voters must be made available to each voter before he signs the petition for initiative or referendum." That is the explanation we are talking about.

MS. HANSEN:
That is what I am saying. If that explanation is challenged in court and people have gone out and already gotten signatures, those signatures are null and void and the petitioners would have to start all over again. That is the problem. This is what Senator Titus means. We are controlling the explanation given by the advocates, which is unconstitutional according to the U.S. Supreme Court. You cannot determine what somebody says to promote their petition. There are several Supreme Court cases such as *Meyer v. Grant*, 486 U.S. 414 (1988), which prohibit that. If the petitioner has the explanation, someone can challenge it in court and the petitioner has already started getting signatures, the process is backwards. It needs to be approved before the petitioner goes to the voters to get signatures. The petitioner should not have to have any explanation of their advocacy point approved because that is their free speech to tell what their petition means.

MR. STEWART:
Amendment No. 8 was proposed by Robert L. Crowell. It concerns section 17. He had some concerns about the challenge of the legal sufficiency of the entire petition. His recommendation was that the complaint filed in court should be no later than five days after the county clerk files the petition with the Secretary of State. I believe there are two filings for the petitioner. One is with the county clerk, and then the county clerk submits it to the Secretary of State's Office. Mr. Crowell just wanted to make sure there was a starting point as to when that five days starts. It is when the clerk is finished with the signature verification and the petition has been submitted to the Secretary of State. That is when the five-day period could start.

SENATOR RAGGIO MOVED TO AMEND AND ADOPT AS AMENDED PROPOSED AMENDMENT NO. 8 TO S.B. 222 BY ADDING THE LANGUAGE "AFTER THE COUNTY CLERK FILES THE PETITIONS WITH THE SECRETARY OF STATE FOLLOWING THE SIGNATURE VERIFICATION PROCESS."

SENATOR HARDY SECONDED THE MOTION.

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

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MR. STEWART:
Mr. McMullen had expressed some concern going back to this 5-day time frame and the 30-day, hearing-day time frame. He had just set forth on the record as to whether that was adequate time. It was put on the record for the Committee's reference. I am not sure what the Committee wants to do with it.

SENATOR RAGGIO:
I do not know if he had a suggestion. Obviously, this is a matter of high priority with election dates looming. We are talking about section 17 which concerns NRS 295.061 that addresses the challenge to the legal sufficiency of the petition. For this purpose, we are referencing all the sections we have been discussing, sections 10 through section 13. That may address some of Ms. Hansen's concerns because it talks about the legal sufficiency. Presently, the law says a complaint must be filed not later than five days after the petition is filed. Then the court sets that matter for hearing not later than 30 days. In practice, the courts in this State have been very accommodating to those who file these challenges as to legal sufficiency, and we have had enough indication of that. I think the suggestion was to not extend that date, which is now in the law. I do not know if I am misinterpreting or mishearing what was suggested. It might do serious damage to the process to have this heard as expeditiously as possible. We should not have to have the law require any time requirement for the hearing, because most courts recognize it is a high priority which needs to be addressed as soon as practicable.

SENATOR HARDY MOVED TO NOT FURTHER CONSIDER PROPOSED AMENDMENT NO. 9 TO S.B. 222.

SENATOR RAGGIO SECONDED THE MOTION.

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

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SENATOR RAGGIO:
We have looked at the amendments which were proposed. We should make sure we are all in accord with the remaining parts of S.B. 222 that we have not discussed.

MR. STEWART:
Section 1 is left in the bill. There were no amendments to section 2 and section 3. Section 4, section 5 and section 6 have been left in. Section 7 has been left in except for what we talked about. Section 8 is left in except for subsection 1, paragraph (e); we removed that paragraph. We also changed the supplemental language in reference to a sample ballot. Section 10 has been left in with reference to single subject. Section 12 has been left in with the exception of subsection 2 and subsection 4; those subsections were deleted. The rest of the sections have not been changed except for section 17, which contains the amendment for the time frame.

SENATOR RAGGIO:
What is the effect of section 19 of S.B. 222? Why is that language deleted?

MR. STEWART:
In NRS 218.443, they are deleting the requirement that the Legislature draft an explanation for the proposals for the language. Earlier in the bill we discussed constitutional amendments and statewide measures, and those would be done by the committees appointed instead of the Legislature.

SENATOR RAGGIO:
I do not know how much we addressed that. I am not sure what that does. Presently, “Upon request from the first committee of reference, the Legal, Research and Fiscal Analysis Divisions ... shall prepare, for any proposed

constitutional amendment or statewide measure ... a condensation of the proposal ... [and] an explanation of the proposal." We are striking out the language, "including arguments for and against the proposal." We are striking out the explanation so they do not do the arguments for or against anymore. All of section 19, subsection 2, paragraph (c), lines 28 through 32 deal with us rejecting a statewide measure and initiative, which came to us. If the Legislature proposes a different measure, they also prepare the arguments. What happens under section 19? The whole section deals with the preparation of the argument and the rebuttal. Who will now do that under this bill?

MR. STEWART:
You are correct. Section 19 deletes those issues you were talking about. There is a reason for that. Section 5 of S.B. 222 puts the crafting of the arguments for and against measures proposed by the Legislature under the committee structure, which we have set forth on arguments for and against that are drafted from initiatives and referendums. The committees are going to be a part of the crafting of those arguments and rebuttals. The language in section 19 retains the Legislature's role in the condensation and the explanations, but the arguments for and against would be crafted by the committees. That is why the language in section 19 is amended as such.

SENATOR RAGGIO:
Is that only legislative matters? We do not do initiatives. Are these for when the Legislature proposes a constitutional measure?

MR. STEWART:
Yes. Traditionally, the Legislative Counsel Bureau (LCB) has drafted the arguments for and against joint resolutions which have passed. This bill proposes to have the committees draft those arguments.

SENATOR RAGGIO:
When that process occurs, I will be interested to see the committees do that without the aid and assistance of the LCB. It may be interesting to read. What was the argument against having the LCB staff draft the arguments on these kinds of measures?

CHAIR CEGAVSKE:
I do not know the answer because I do not remember the comments. Let us move on to S.B. 227.

SENATE BILL 227: Requires Secretary of State to prepare supplemental voter guide for general elections. (BDR 24-803)

MR. STEWART:
Senate Bill 227 was brought to us by Senator Wiener concerning the preparation of supplemental voter guides.

SENATOR WIENER:
The amendment is composed of a cover letter from me, a letter from the Secretary of State and the proposed amendment (Exhibit E). The proposed amendment accomplishes three things. First, it deletes the requirement that the Secretary of State provide the guides by mail and that will take out the fiscal note. Second, it adds the election departments or clerks' offices as distribution locations. Third, it allows registrars and clerks to post the notice where the guides are available and print the notice in a conspicuous place on the sample ballots. The notice does not have to necessarily be printed on the first page.

CHAIR CEGAVSKE:
The question which has come to me since you eliminated some of the other parts of the bill is do we need this legislation? The different Web sites and different entities you have listed would be willing to put the guide up without us doing legislation. Do we need the legislation for these entities to continue doing what they are doing?

SENATOR WIENER:
One reason we need this bill is because it require the notice of where to locate the guide in the sample ballot.

STEVE GEORGE (Public Information Officer, Office of the Secretary of State):
Many people from my office did a lot of work to help the project succeed. Nothing prevents the next Secretary of State or the next person in my position from not spending the time doing the project, because they think it is bogus. That is another reason for putting it into the statutes.

CHAIR CEGAVSKE:
The fiscal note is gone.

SENATOR RAGGIO:
My concern about this is we are requiring more and more that all of these things be done by mandate. This is being done quite effectively. By removing the requirement to send the guide in the mail, we really limit access to the guide. This is a late-hour attempt to have the bill processed by taking out the fiscal note. What you are doing is removing the requirement to mail the guides. They think there are some commitments that, if we amend the bill, will eliminate the fiscal note. Senator Wiener, I really have a concern about passing bills that mandate things, because at the moment there is some available funding. In the next Session, someone is going to come here and say we did not fund the project, and it needs to be funded. It is worthwhile, but it is being done. I do not know if we need to put this into statute.

SENATOR HARDY:
I also agree that this is a worthwhile concept. I know it is being done by various groups, and it is helpful for people. I am also concerned about the language. Who determines whether the guide is written objectively and written at an eighth-grade reading level? Is that something which can be determined? My concern is that if a candidate loses a race, what is to stop them from saying they lost because the Secretary of State's voter guide was not written objectively. These guides are helpful. When they come from an individual group, they are written from the perspective of the group, and that is understood. When a voter guide comes from the Independent American Party or the labor unions, we know there will be a slant. When it becomes a governmental responsibility, there is potentially some liability. I have those kinds of concerns about this. It is a worthwhile concept, I just do not know if this is the right venue.

SENATOR WIENER:
This is a major project. I became familiar with it through the participatory democracy committee I serve on. This is a part of the Help America Vote Act of 2002 (HAVA). Mr. George was intimately involved with the development of meeting standards and the groups involved in developing the guide. Even without mailing the guides out, about 200,000 guides were printed this last time, but a lot of people did not know where to find the guides. By printing the information on the sample ballot, we could let people know where they are distributed. I do not know if many were mailed out. That was one reason we

pulled that part; during the last election that was not a major distribution source. Mr. George can better explain their role in working with the adult education program to keep the guides objective.

SENATOR RAGGIO:
I agree with Senator Hardy. We are making more and more events mandatory in the law. This is a mandate to the Secretary of State to do this. There is a laundry list of what has to be in the guide, as well as what the Secretary of State deems appropriate. For example, the guide has to be written at an eighth-grade reading level. That is an imprecise definition. I am concerned about putting these mandates in and giving someone something else to sue on. Whatever the election involved or concerned has no validity because the supplemental voter guide, as mandated, for some reason has an error or is not at the eighth-grade level. I am not diminishing the importance of your goal, but I am reluctant to put these things into law and make another legal issue for someone to challenge during the election. I commend them if they can do it without a fiscal note. Keep doing it, but it is a problem to mandate this into the Secretary of State's Office or to give someone else another legal hook to bring a legal objection.

SENATOR TITUS:
I appreciate that, but we did not mind mandating a lot of things in the previous bill, such as people have to fill out certain forms and provide certain explanations that could then go to court. This supplement was done during the last election and written at an eighth-grade level. Is that right? What were the rules for the supplement you did in trying to comply with HAVA?

MR. GEORGE:
The guide was not created by the Secretary of State's Office. The guide was created through a private group with the adult education office of the Department of Education. They worked with students at the Community College of Southern Nevada to develop the language. The different political figures and candidates were allowed to review that language. The Secretary of State's Office and the Attorney General's Office reviewed it to make sure there was nothing illegal or inappropriate. It would not be something our office would write.

SENATOR TITUS:
It is something you have already done during the last election. Basically, the only thing we are doing is recognizing what you did and putting it into statute as something to continue doing. We are also asking to list the distribution locations for these guides on the sample ballot so people know how to obtain this information. Is that not basically what this bill does?

MR. GEORGE:
Yes, I would say that is pretty accurate. I am not here to debate the legal arguments Senator Raggio brings up. The production of the guide worked out well last time. When Senator Wiener came to us and asked for our assistance, we wanted to figure out how to get a greater distribution of the guide.

SENATOR TITUS:
That is the point. We want to get people as informed as possible so they can make good judgments when they vote at the polls. We want them to vote as rationally as possible. This would be a simple way to help foster that.

CHAIR CEGAVSKE:
Mr. George did you do the guide for the last election without legislation?

MR. GEORGE:
Yes. We partnered with the libraries and several different groups.

CHAIR CEGAVSKE:
What about the clerks and the voter registrars? Did they have the information with them at all?

MR. GLOVER:
No.

CHAIR CEGAVSKE:
Is this a burden on the voter registrars or the clerks?

MR. GLOVER:
No, unfortunately our office was not aware the guides were available. I did call our library and they said they had them. We are more than happy to let everyone know where they can get them. The guides are important.

CHAIR CEGAVSKE:
Could you do that without it being legislated?

MR. GLOVER:
Yes, we will do it one way or the other. We will make a commitment to do that.

SENATOR HARDY:
As I recall, the candidates sent in information for the guide. That is not objective. This now requires the guide to be objective. The mandate is not the problem, because we mandate a lot of stuff in statute. However, I am concerned we would now have a government-sponsored voting guide that opens us up for some liability. If I lost a race, I might sue the State because the voter guide was not written objectively, was not written at a ninth-grade reading level or the guide was not written in a format easy for my voters to understand. It is a noble cause; I just do not know if this is the best way to proceed.

SENATOR TITUS:
I fail to see why it is difficult to say this has to be written at an eighth-grade level. You were all ready to support S.B. 222, and it had a requirement for something to be written "in plain English." Who is to say what plain English is? That seemed okay in that bill, but now it is not okay to say eighth-grade level, even though you have experts in the Department of Education to determine what constitutes an eighth-grade level. That is more easily determined than plain English. What is plain English?

SENATOR HARDY:
I am not an attorney, but I have seen the term plain English used as a term of art a lot more often than an eighth-grade level.

CHAIR CEGAVSKE:
I really do thank Senator Wiener for bringing this bill forward. It has been an education for all of us to know this information is out there. That has been wonderful. We know the entities before us and those you have talked to can do this guide without legislation. We have seen other language in another bill that said something about the Department of Education helping to verify the language is understandable and readable. That is in one of the bills we have

seen, so your concern is taken care of in another bill we have already passed out. I have a concern putting it into legislation, knowing we have everyone up here at the table saying they can do this.

SENATOR WIENER:
Obviously, this bill is going to go down. We have done this in the past. Could I ask that we send a letter from the Committee under your signature requesting the clerks and registrars post where the guides are available? My main concern is to get information into the sample ballot so the public knows these guides are available. As long as these guides are available, they could—with the League of Women Voters or whoever is going to assume responsibility for this—at least preserve the part in a conspicuous place on the ballot. That is up to the clerks and registrars.

CHAIR CEGAVSKE:
The only concern is the other groups that do the voter guides would want us to do the same for them. I am concerned about that. If we did the letter for the one group, and I do believe they are doing a wonderful job, that opens the door for us to do it for everybody. We can talk about doing some sort of a letter, but we are opening the door for everyone to ask us to do the same.

SENATOR WIENER:
Is it distinguishable that this project is funded through HAVA? This is a major project which has been a part of HAVA monies and HAVA commitment in the State of Nevada.

SENATOR CEGAVSKE:
The group you have doing the project is a particular group that would be named. We would have to do the same for everybody else.

SENATOR WIENER:
Is this a federally funded project?

MR. GEORGE:
The Secretary of State's Office put $40,000 of HAVA education funding in this project. Then other groups like the Division of State Library and Archives and the Department of Education also put in between $10,000 to $15,000. It was partly funded by our office and partly funded by others. I hear all the arguments

you are saying. Secretary of State Dean Heller will be out of office in two years. There is nothing to say the next Secretary of State would want to continue the project. I assume that was a big part of the reason for your bill.

SENATOR WIENER:
In looking at other sources of support for this guide, there were State agencies and other agencies that received funding for this kind of a project. That would distinguish this from other groups, because the State is already involved in the development of the project. As this is developed in that manner, we would allow people to know where to pick up a guide that is funded through State and federal taxpayer dollars.

SENATOR RAGGIO:
When I speak to a bill, I try to do it in an objective manner. I am concerned about the earlier reference that in one bill we did something and in another bill we did something else. I do not look at who is sponsoring these bills. I am looking at what the concerns are. I expressed mine in this matter. I thought it was a commendable project, and I want Senator Wiener and Senator Titus to understand that. Again, the guide is being done now. I was not aware that other state funding is being used, and if it was authorized, that is fine. If the guide can be done as it has been, then I urge everyone involved to continue to do it. I thought I expressed my concerns clearly.

Issues in here are mandated. Once it is mandated, then someone else has the right to challenge it if the guide is not done objectively, accurately or at an eighth-grade reading level. I am saying there is no need to put those requirements into statute and make a mandate that someone can go to court over. This is a litigious generation. We can find more reasons to go to court and challenge everything. I am not saying this because I want to kill a bill. I am saying it because I am trying to avoid that kind of situation. Please understand, if you can do the guide in the manner you are doing it, the HAVA funds you have been using are appropriate, and you do not need them for other purposes. I commend you to do it. Sometime we take umbrage of the reasons that we state on a bill. I do not do that.

SENATOR TITUS:
I would never accuse Senator Raggio of doing anything personal on these bills, nor was I looking at who sponsored the bills. I was just trying to make a plug for some consistency in all these election laws we are passing this Session.

That is why I pointed out something we did in the previous bill that seemed contrary to what we were doing in this bill. I do not even know who sponsored the other bill. I was looking at policy consistency, and it had nothing to do with any kind of individuals. I just want the record to show that as well.

CHAIR CEGAVSKE:
Let us move back to S.B. 222. Ms. Vilardo, Senator Raggio brought up a concern about the language deleted in section 19, subsection 2, paragraph (c) of S.B. 222.

SENATOR RAGGIO:
My question concerns the matters under NRS 218.443 which concern the passage of a joint resolution to amend the Nevada Constitution. Presently, the law requires the Fiscal Analysis Division, the Legal Division and Research Division to not only do the explanation, but include the arguments for and against the proposal. As I interpret this deletion, it would preclude this LCB effort and only allow the committees to draft the arguments. They said you were the expert on this. What is the rationale or the reason for that?

MS. VILARDO:
Two issues came up. The first is for the point of consistency because a number of people felt the committees, for the most part, had more expertise on that particular subject, especially on the statewide questions when they came through on initiatives. The other issue that came down was key to the sales tax questions which appeared on the ballot. The sales tax question has been controversial over the years. A couple of times, groups involved with the way the question was worded on getting an exemption or not having an exemption have put forth suggestions for change in hearings held by the Legislative Commission on those arguments. The changes were not accommodated. It does not matter to me one way or the other what you do with that section.

SENATOR RAGGIO:
Here is my concern, Ms. Vilardo. If we take this out, that would seem to preclude the Legal, Research and Fiscal Analysis Divisions from preparing the arguments for and against. Does anyone really believe the committees are going to do this without the help of the Research, Fiscal Analysis and Legal Divisions? We are smart, but not that smart. I just cannot believe the committee could do

the arguments for and against without the Research, Fiscal Analysis and Legal Divisions. By striking this language, that is a signal that LCB is not supposed to get involved. I do have a concern about this problem. It is a practical matter.

MS. VILARDO:
Two things happen when there are committees. First, if the committee is operating on a local question, the local entities are no longer involved, except for the fiscal note. The only place we have a committee that would appear on a question which impacts the State is on an initiative petition or referendum. There was a change last Session; for the first time, the Secretary of State was required to put together the committees that will now work on these questions which originate from the Legislature. Most of those questions, particularly the sales tax question, have proponents or opponents. That committee would do it. Your people would still do the explanation and have the fiscal note, not those committees. That is not a hill to die for. If you are more comfortable with it the other way, until we see how everything else works out with this, that is fine by me.

CHAIR CEGAVSKE:
Let us move on to S.B. 230.

SENATE BILL 230: Revises provisions relating to provisional ballots. (BDR 24-1252)

MR. STEWART:
Last week, this Committee discussed provisional ballots in S.B. 230 and how they are handled. It sets up more of a procedure for the processing and accounting of those ballots. As you can see in Exhibit D, this measure generated a good amount of testimony; there were no specific amendments provided. It is a policy choice whether provisional ballots be used for all races or some races. I could not identify any specific amendments except to say the Committee needs to make some policy choice as to how far you want provisional ballots to go. Do you want voters to cross county lines and use different ballot styles when they are not at their address? It is something the Committee might need to grasp from a policy perspective.

CHAIR CEGAVSKE:
Okay, then let us move on to S.B. 385.

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

MR. STEWART:
Committee, you will recall we heard this bill on April 12. It is a measure from the Secretary of State's Office referring to the campaign finance provisions. You have with you several amendments. It was my hope that someone from the Secretary of State's Office could quickly run through them. The Secretary of State's Office captured these amendments yesterday following the Tuesday hearing. We put them in here for your consideration. Some of their amendments will end up addressing some concerns in other amendments listed.

Proposed Amendment No. 2 on page 23 of Exhibit D, is from Christina Dugan of the Las Vegas Chamber of Commerce who noted an inconsistency between section 2, subsection 1, paragraph (d) and section 2, subsection 2, paragraph (d). However, if the Committee chooses to adopt the Secretary of State's suggestion to delete section 2, this is not an issue.

Proposed Amendment No. 3 concerns section 23, subsection 2, paragraph (c). That section discusses the Campaign Contributions and Expenses Report. It states the Campaign Contributions and Expenses Report form, "may request any other information the Secretary of State deems appropriate." Ms. Hansen requested that be deleted.

Ms. Hansen brought proposed Amendment No. 4 to the Committee. The Chair was willing to explore some ways to assist with the concerns Ms. Hansen brought up. She requested the Committee consider an amendment to extend the legislative intent of the 2003 Legislature, which limited reporting of campaign contributions and expenditures to those who received contributions in excess of $100. Basically, her hope was to extend that to the 2002 election cycle. She noted 25 members of the Independent American Party, as well as others, are facing fines for failure to file Campaign Contributions and Expenses Reports forms, even though those individuals did not receive or spend more than $100 in their campaigns. Ms. Erdoes identified a couple of options the Committee might consider. The Chair is offered two options here. The first option involves simply drafting a legislative declaration specifying that certain fees from previous actions are hereby forgiven; you could certainly identify some

parameters for this to take place. The second option is to set forth an amnesty program. Ms. Erdoes brought up a similar program from the Department of Taxation for a different issue (Exhibit F).

CHAIR CEGAVSKE:
Unfortunately, I did not get a response from anyone at the Secretary of State's Office. We had talked about this that day.

MR. STEWART:
I thank Martin P. Hefner for putting this together on short notice. Exhibit F is a brief memo which contains general information regarding this tax-amnesty program. Apparently, the Nevada Tax Commission may, at its discretion, direct the Department of Taxation through regulation to put in effect a tax-amnesty program. This most recently occurred in 2002. I understand this option is exercised on a limited basis. The Department of Taxation implemented a plan to offer a tax-amnesty program to encourage voluntary compliance among taxpayers to pay certain taxes, such as the sales and use tax and other excise taxes. According to the Department figures, the program began on February 1, 2002, ended on June 30, 2002 and resulted in the collection of $7.3 million. It is not an exemption from taxes, but it provides a period of time for businesses or individuals to come forward and voluntarily pay taxes owed, without penalties or interest levied because of noncompliance.

Mr. Hefner enclosed some supporting documents regarding this amnesty program. The reason for presenting this is because it is an option for the Committee. If you want to proceed with something like this for Ms. Hansen, perhaps the Legal Division can create some sort of amnesty-type program for people who are in a situation like this.

CHAIR CEGAVSKE:
Ms. Hansen had approached me. We discussed there were approximately 25 people who had fines against them for not filing. This Committee made it clear that no one wanted to suggest it was okay not to file. We were looking at working out something with the Secretary of State if they agreed to file and pay a fine. Ms. Hansen, since you were the only one who has talked with anybody, could you briefly share with us the communications you had with Renee Parker, Chief Deputy Secretary of State, Office of the Secretary of State? Again, I have not talked to her.

MS. HANSEN:
I did talk to Ms. Parker when we discussed this the other day in this Committee. You had discussed a $100 fine in Committee, which is the fine for this same action if it had happened in 2004. That was the discussion. I asked her if she would oppose us trying to resolve this. She said no, she had not opposed the idea in the Assembly, which was similar, and she would not oppose this. She and I only shared a few words.

SENATOR RAGGIO:
I apologize for not being here for that discussion. I have also talked with Ms. Hansen and told her we would be willing to consider something to solve this. I assume other people were also fined. What about those people who have already paid the fines?

MS. HANSEN:
We are looking for this to apply only to people who did not receive or spend $100. We are not looking for those who may have received or spent much more than that. It would affect others besides the Independent American Party. There were some Democrats and some Republicans who did not receive or spend $100. The limitation would be on the $100 participation.

CHAIR CEGAVSKE:
Senator Raggio is saying some of those candidates already paid the fine. Are they going to want their money back?

MS. HANSEN:
As far as I am aware, I know Nancy Brodie has been paying $50 a month since last year. She did not spend $100 or receive $100. I do not know the answer to that. The Secretary of State's Office sent her last check back.

CHAIR CEGAVSKE:
I was looking at a couple of possibilities. I do not know if we want to put this into legislation. Is there a possibility we could have every individual go to the Secretary of State's Office and talk to them one-on-one? Then they could sign the paper and pay the fine, whatever amount is agreed upon, with the Secretary of State. That is one option.

MS. HANSEN:
Unless there is some direction from the Legislature, I felt the Secretary of State's Office was reluctant to do anything because the law was different in 2001. They need some specific direction from the Legislature if they are going to change the fines according to the law from 2001, and that puts them in a bad position.

SENATOR RAGGIO:
Would it be sufficient to send a letter from this Committee indicating this discussion has occurred? Maybe a bill is necessary; I do not know where we would authorize a similar amnesty program to the Nevada Tax Commission. Would that have to be done by statute? It would authorize the Secretary of State to develop a similar amnesty program.

MR. STEWART:
Perhaps what you could do is put that small specific section of the law granting regulatory authority to the Secretary of State. It could say the Secretary of State shall create regulations to address issues such as yours through an amnesty program. You could do something simply.

SENATOR RAGGIO:
I would see if it is appropriate to do that without holding up this legislation. If that is not possible and this bill makes it to the other House, this issue can be addressed there.

MS. HANSEN:
The problem is many of those people are facing judgments right now. Our people are willing to go to the Secretary of State's Office, sign the papers and pay the $100 fine. If we do that in a manner of good faith, perhaps we could have some reciprocation from the Secretary of State's Office. There have been ongoing problems with the Secretary of State's Office with regard to our party. Would that show good faith? Would that indicate we are trying to get this resolved?

CHAIR CEGAVSKE:
We will find out the answers to this discussion. We also have representatives from the Secretary of State's Office who will take this information back to the office. They will have someone call me today or tomorrow.

MR. STEWART:
If the Committee decides to give regulatory authority and expedite that, you could probably make it date-certain or set the effective date upon passage and approval for that portion of the bill.

CHAIR CEGAVSKE:
Let us move back to S.B. 162.

SENATOR RAGGIO:
We wanted to retain the language on page 3 which referred to the preparation of financial disclosures or campaign reporting forms. The motion included the Governor, the Governor's employees, the Legislature and legislative employees. The question was about the Governor and the Legislature. The reason the Governor should not be included is because the Governor has a full-time job. He is in his office, he lives in state-owned property and he uses state-owned phones 24 hours a day. It would be ridiculous for us to say the Governor could not use governmental time, property, equipment or other facility to do his job. I do not know why the Legislature is exempted. I do not have a lot of concern about that. If this is a good faith attempt to get this bill passed by excluding the Governor, I could support that motion. If it is going to be used as a vehicle otherwise, then I am not going to support it. If everything is put back into the bill in the other House, I am not supportive of it.

SENATOR HARDY:
Let me tell you my understanding of the amendment to S.B. 162. The amendment contained the language Senator Beers explained with regard to financial disclosure. His language pulled that out so there was no confusion about an activity relating to political campaigns. Then Senator Horsford's amendment excluded the Governor, employees of the Governor, the Legislature and the employees of the Legislature from the provisions in section 1 of S.B. 162. There was also an amendment to remove section 1, subsection 11 from S.B. 162. That is the motion I intend to support.

SENATOR MATHEWS:
The first amendment from Senator Raggio was that we leave in the amendment provided by Senator Horsford. I did not agree with that. I do not know why every other constitutional office has to adhere to section 1 of S.B. 162. I did

not support that. My motion was to delete section 1, subsection 2 of S.B. 162. I do not know how I could look anyone in the face and say you cannot impeach me, but you can impeach everybody else.

SENATOR RAGGIO:
I want to point out the ridiculousness of requiring the Governor to meet these requirements in section 1, subsection 1 of Senator Horsford's amendment. He lives and works 24 hours a day in state property and he uses state equipment. We ought to at least exclude the Governor from this requirement. I do not know how he is going to do his job without using state property when he is living in a state-owned house.

SENATOR HARDY:
I do not want to jeopardize the portion of the bill that speaks to the inability for public officials and their employees to do financial disclosure statements.

CHAIR CEGAVSKE:
I want to wait for Ms. Erdoes to help us with these legal matters. This is confusing. Let us move to S.B. 222.

SENATOR RAGGIO:
We went through all of the amendments.

> SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED S.B. 222 CONSISTENT WITH THE PREVIOUS ACTIONS TAKEN ON EACH OF THE PROPOSED AMENDMENTS AND BY DELETING SECTION 19.
>
> SENATOR HARDY SECONDED THE MOTION.
>
> THE MOTION FAILED. (SENATORS BEERS, MATHEWS, TITUS, AND WIENER VOTED NO.)

* * * * *

CHAIR CEGAVSKE:
Let us move back to S.B. 385.

> SENATOR BEERS MOVED TO INDEFINITELY POSTPONE S.B. 385.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS TITUS AND WIENER VOTED NO.)

* * * * *

MR. STEWART:
Committee members, as you will recall, S.B. 386 was the clerks' bill.

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

MR. STEWART:
Several amendments are listed on page 31 and page 32 in Exhibit D. The first amendment deals with section 6, subsection 1, paragraph (c), which discusses the delivery of an application to register to vote or the mailing of an application to register to vote if a person registers during the petition process. There was some concern about the 5-day period mentioned in section 6, subsection 1, paragraph (c). Mr. Bacon referenced the fact that five days may not be an appropriate time when it comes to registration before the close of filing for the primary election. He suggested something longer than five days when registration occurs before the close. I know Mr. Glover had some comments on that as well.

MR. GLOVER:
It has been ten days. We asked for the five-day requirement to help us out. We will continue to register them to vote if they come in past that date, but we would like to encourage these people to get those applications to us as quickly as possible. The original language is ten days. We could live with that, but we really want to encourage people not to leave those applications floating around. That way we can process the petitions as quickly as possible.

SENATOR HARDY:
We change that requirement to seven days. A week seems reasonable.

SENATOR HARDY MOVED TO AMEND AND ADOPT AS AMENDED PROPOSED AMENDMENT NO. 1 TO S.B. 386 BY REPLACING "5 DAYS" WITH "7 DAYS."

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. STEWART:
With the vote on Amendment No. 1, Amendment No. 2 is not needed. Mr. Siegel opined that section 6, subsection 2, paragraph (c) was too broad. Amendment No. 3 concerns section 13, subsection 1, which references a place where one can circulate signatures. Ms. Hansen made the recommendation to replace the term "made available" with the term "designated."

SENATOR HARDY:
What is the effect of that, Madam Chair?

MR. STEWART:
They were looking for some specific direction from wherever the group was posted to circulate petitions to say this particular place has been designated and will be allowed for signature gathering.

SENATOR BEERS MOVED TO ADOPT AS AMENDED PROPOSED AMENDMENT NO. 3 TO S.B. 386.

SENATOR HARDY SECONDED THE MOTION.

SENATOR RAGGIO:
Let us make sure we are looking at existing language in NRS 293.127565, which indicates "an area must be made available for the use" and the motion is to change that language to "an area must be designated for the use."

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. STEWART:
Section 27 of S.B. 386 references who may assist those people who are unable to write or speak English at the polling place. New language says you cannot have assistance from a candidate for nomination or election relative to such a

candidate. You will recall Cheri Edelman pointed out, for consistency's sake, to make that same change because of identical language in section 37 and section 85.

SENATOR BEERS MOVED TO ADOPT PROPOSED AMENDMENT NO. 4 TO S.B. 386.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. STEWART:
The next amendment concerns section 31. Mr. Siegel had testified he wanted provisional voting expanded to allow all races upon which the voter is entitled to vote.

SENATOR HARDY MOVED TO NOT FURTHER CONSIDER PROPOSED AMENDMENT NO. 5 TO S.B. 386.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. STEWART:
The next amendment concerns section 34, subsection 4, paragraph (b). During Mr. Lomax's testimony, he requested we delete that paragraph.

SENATOR BEERS MOVED TO ADOPT PROPOSED AMENDMENT NO. 6 TO S.B. 386.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. STEWART:
Proposed Amendment No. 7 on page 33 of Exhibit D came from Mr. Lomax. He explained the two amendments in the prior meeting. They affect section 47 and section 63 of the measure.

> SENATOR BEERS MOVED TO ADOPT PROPOSED AMENDMENT NO. 7 TO S.B. 386.
>
> SENATOR HARDY SECONDED THE MOTION.

SENATOR TITUS:
Are we adopting part (a) under that new section or the whole section on page 33 of Exhibit D?

CHAIR CEGAVSKE:
The whole section.

SENATOR TITUS:
I oppose that amendment because of the section on loitering. We heard from Mr. Siegel that this section about loitering prohibits poll watchers. Poll watchers are an American tradition; we have had them forever. I understand the registrars' desire to keep the polling places neat, proper and functioning during the elections, but not at the price of doing away with poll watchers. I oppose the amendment for that reason.

CHAIR CEGAVSKE:
I do not think the intent was to catch the poll watchers. There are others they are seeking to keep from the poll areas.

MR. GLOVER:
We do not think it affects poll watchers, because several different groups are allowed inside a polling place.

SENATOR HARDY:
If the amendment did that, I would have grave concerns about it as well. I do not think it keeps poll watchers away from the polls. The amendment tries to catch an individual "so as to in any manner stop, obstruct, impede, hinder,

delay, interfere or otherwise burden the ingress or egress of any person in reaching or leaving the aforementioned entrance." Most of our poll watchers do not do that.

CHAIR CEGAVSKE:
That is what Mr. Lomax also indicated when he addressed the issue. I asked him again. I did not think it pertained to poll watching.

SENATOR HARDY:
It is important to get that on the record.

SENATOR TITUS:
I appreciate that is the intent, but I do recall Mr. Siegel thought it could be used and abused. It could hinder access. It is a mistake.

RICHARD L. SIEGEL (American Civil Liberties Union of Nevada):
The point was poll watchers try to see whether the voter was treated properly while in the polling area. They cannot speak to the voter in the polling area; that is not normally acceptable. We want the poll watchers to be able to speak to the people after they have left the polling area. Loitering has a history. These poll watchers are there for a purpose, to prevent intrusion on the voting process. That is a positive mission, and it is not loitering.

THE MOTION CARRIED. (SENATORS TITUS AND WIENER VOTED NO.)

* * * * *

MR. STEWART:
Proposed Amendment No. 8 addresses section 62 of the measure. It discusses when to turn in the voter registration application. Someone suggested the application be turned in within two days. However, some counties were counting the date of the signature on the application and some were not.

SENATOR BEERS MOVED TO NOT FURTHER CONSIDER PROPOSED AMENDMENT NO. 8 TO S.B. 386.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

BRENDA J. ERDOES (LEGISLATIVE COUNSEL):
I had a question about the loitering section put into S.B. 386. I was wondering if the Legal Division could have permission from the Committee to reword it in a significant way. Many loitering statutes are struck down because of vagueness. We might need some leeway there.

SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 386 CONSISTENT WITH THE PREVIOUS ACTIONS TAKEN ON EACH OF THE PROPOSED AMENDMENTS.

SENATOR HARDY SECONDED THE MOTION.

SENATOR RAGGIO:
Does this bill address changing the date of a primary election?

CHAIR CEGAVSKE:
No, this bill does not.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR CEGAVSKE:
Let us move back to S.B. 162.

SENATOR HARDY:
I support the following amendments to the bill: delete section 1, subsection 11 from S.B. 162, accept the language set forth by Senator Beers and adopt Senator Horsford's amendment with regard to the exemption of the Governor, the employees of the Governor, the Legislators and the employees of the Legislature.

SENATOR BEERS:
Let me restate my amendment. I would delete the additional language in section 1, subsection 7 and section 1, subsection 8, paragraph (a). Then

I would renumber section 1, subsection 7 and make that section 1, subsection 8. That would bump each of the successive sections up by one. I would insert a new section 1, subsection 7 that would say,

> A public officer or employee, other than a member of the Legislature or an employee of the Legislature and the Governor or an employee of the Governor shall not use governmental time, property, equipment or other facility to prepare a statement of financial disclosure required pursuant to NRS 281.559 to NRS 281.581 inclusive or prepare a report required pursuant to chapter 294A of NRS.
>
> SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED S.B. 162 BY DELETING SECTION 1, SUBSECTION 11, ACCEPTING THE LANGUAGE SET FORTH BY SENATOR BEERS AND ADOPTING THE LANGUAGE SET FORTH IN SENATOR HORSFORD'S AMENDMENT WITH REGARD TO THE EXEMPTION OF THE GOVERNOR, THE EMPLOYEES OF THE GOVERNOR, THE LEGISLATORS AND THE EMPLOYEES OF THE LEGISLATURE.
>
> SENATOR BEERS SECONDED THE MOTION.

SENATOR TITUS:
As amended, this bill would exclude the Governor and the Legislators from the provisions of the bill.

SENATOR BEERS:
It would exclude the Governor and the Legislature from that particular provision so the Governor, the Governor's employees, the Legislators, the Legislators' employees and the legislative employees would be able to prepare any of these reports on government time.

SENATOR HARDY:
They are not excluded from the rest of the bill; it is just in that one section.

CHAIR CEGAVSKE:
I want this on the record for staff. We are removing "except for an activity relating to a political campaign."

SENATOR STEVEN A. HORSFORD (Clark County Senatorial District No. 4):
I want to clarify one thing for the legislative intent. Both Senator Raggio and Senator Mathews have said this. You are proposing to take out the definition of political activity. In my opinion, that addresses the issue about including the Governor, the Governor's employees, the Legislature and the employees of the Legislature because the only thing they will be prohibited from doing is the campaign finance disclosure forms, not all the other things I had intended the bill to do. By taking out the definition of political activity, essentially what this bill now does is close the loophole about the financial disclosure and campaign finance forms. Therefore, you do not need to exclude the Governor, the Legislature or their employees, because the only thing they are prohibited from doing is using their employees to develop those forms. Based upon Senator Raggio's intent, all the other gray and broad issues that define political activity are out of the bill.

SENATOR BEERS:
They are now out of the bill?

SENATOR RAGGIO:
I agree with Senator Horsford, except I was making a point about preventing the Governor from using his time, his employees' time or his office. He is the only officer we have who is required to work in his office and live on state property at all times, 24 hours a day. I do not have an argument with excluding the Legislature. That is why I said we should at least exclude the Governor for this because he is required to live in a state mansion all the time. The Governor would have to go somewhere else; I do not know where you would send the Governor.

SENATOR HORSFORD:
I understand that, but in every instance I am aware of, a Governor who would have to have their financial disclosure or their campaign finance forms completed, could do so without the use of state employees or the State facilities. They do have access to other means in order to complete those two forms.

SENATOR BEERS:
As far as the legislative intent goes, I would also mention the point made earlier that every reelection of a constitutional officer is a job evaluation. Therefore,

everything they do on the job is both related to performing their Executive Branch duties and, one could argue, running for reelection. That gray area is impossible for law to decide, and that is why I support the motion as made.

SENATOR RAGGIO:
I want to help support this measure, but if this is a presage of what happens on the Senate Floor, I am not going to vote for it.

THE MOTION FAILED. (SENATORS MATHEWS, RAGGIO, TITUS AND WIENER VOTED NO.)

* * * * *

MR. STEWART:
We heard S.B. 429 on April 12.

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

MR. STEWART:
The bill revises provisions prohibiting governmental entities from incurring an expense or making an expenditure related to or supporting or opposing a ballot question. Three amendments were proposed. The first is from the City of Las Vegas. It clarifies the date on which the provisions of that subsection apply. The explanation basically says that while current language specifies the candidacy ends on the date of the general or special election, there are cases where a candidacy can end well before that. These cases include a primary in which the candidate receives over 50 percent of the votes. Apparently, this amendment sought to help clarify that.

SENATOR HARDY:
Senate Bill 429 is significantly too broad for my comfort. When this concept was brought to me, my understanding was that we would permit the expenditure of funds exclusively to provide factual information, not information that would side with any argument. I certainly cannot support the bill as it is. I am starting to get cold feet about a precedent we might be setting. If we could draft some specific language with regard to their ability to spend funds to do informational issues only, I could support it.

CHAIR CEGAVSKE:
I have some grave concerns with this bill. I have tried to conceive of amendments which would help me support this measure.

SENATOR RAGGIO:
I have concerns about the issue here. As I understand the bill now, it attempts to allow a governmental entity to make some expenditure to provide information. Section 2, subsection 2 says, "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." I thought that was the big issue, and I agree with that. We had a wrenching discussion for years on whether or not to construct the Reno Train Trench for the railroad. Over the years, it became an issue of serious disagreement, to the point that it impacted elections. Today, the Reno Train Trench is almost complete, and everybody is taking credit for it. The City of Reno ought to have some ability to use some funding to explain what is going on. They do not have to take a position on it. Otherwise, they are buffeted by everyone else who is out there campaigning against it. That is why there is some merit to this bill.

SENATOR HARDY:
I may have read more into section 2, subsection 3. I want to make sure it is narrowly crafted so it is specific. Maybe it does that in section 2, subsection 2. I would like to see this bill proceed.

SENATOR BEERS:
I would side with Chair Cegavske. There is simply no way to provide information in a public policy debate without advocating. The definition of a debate is advocates from two sides advocating their position. I am opposed to this in any form.

SENATOR RAGGIO MOVED TO DO PASS S.B. 429.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS BEERS, CEGAVSKE, MATHEWS, TITUS AND WIENER VOTED NO.)

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MR. STEWART:
As you recall, S.B. 478 is the Secretary of State's measure concerning elections.

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

MR. STEWART:
One of the primary things this bill does is propose to move the date of the primary election. There were some amendments. There is an amendment proposed for section 20, section 3, paragraph (c). Ms. Hansen expressed some concern about the filing of the local candidates. Her suggestion was to choose a week in February so they could more adequately file their candidates.

SENATOR RAGGIO:
Again, explain what the bill does with reference to section 20. What does the bill do by changing the date from January to September 1?

MR. STEWART:
There is a provision that allows minor political parties to nominate their candidate for office. They do this because they do not participate in a primary election; instead, they go right to the general election. In the past, they have had this in January. With the proposal to move the primary election back to May, bill drafting was trying to capture moving it back to the same time for September. Ms. Hansen requested we switch this over to February since minor political parties do not participate in the primary election, but they are still in the general election.

MS. HANSEN:
All the minor political parties have to have a convention rather than participate in the primary. If you move the filing date to January for candidates, that means the conventions for the minor political parties have to be in December which is impossible. No one can have a political convention in December. If you are moving the primary to May, please move the filing to February instead of January so we can have our convention in January rather than December. It is not just the Independent American Party that will be affected.

SENATOR RAGGIO:
A lot of these dates are dependent upon whether we decide to move the primary election. I have been consistently opposed to moving the existing primary date for the election. This is a primary request of the registrars of voters and all who deal with the election process. Let me indicate the reasons why we changed the primary date to September. For a long time, the primary election was held in June. The candidates and the voting public experienced so much difficulty and dissatisfaction that eventually we decided to move the primary to the present date in September. There were many reasons for doing that. One was that the primary election and the general election would be so far apart. In the last presidential election, the campaign went on and on throughout the summer. That still occurs if you have a primary, but in most cases, the general election started in June and the candidates were campaigning until that date in November. Secondly, we found that in having a primary in June, almost nobody showed up. We have a low turnout in the primary election. It is bad enough now, but at least it occurs when people come back from summer vacations and the kids are back in school. I have lived through the period of when we had the primary in June. There was complete dissatisfaction and discontent on the part of the public and the candidates. That is why I oppose changing the date of the primary election.

CHAIR CEGAVSKE:
This amendment would occur if the primary date is changed.

SENATOR RAGGIO:
We have to address whether we are going to change the primary first. I understand the bill seeks to accommodate the election people and their process. It might be difficult, but they have been able to do their job.

CHAIR CEGAVSKE:
It has been difficult for them.

> SENATOR HARDY MOVED TO NOT FURTHER CONSIDER MOVING THE PRIMARY DATE.
>
> SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS BEERS, CEGAVSKE, MATHEWS, TITUS, AND WIENER VOTED NO.)

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MR. STEWART:
If you are going to consider proposed Amendment No. 1, you should specify a similar time period in February. Ms. Hansen just suggested moving it to February. It would help bill drafting if we had specific dates.

SENATOR WIENER:
Historically, we do the Tuesday after the first Monday. Would that suffice?

MR. STEWART:
In looking at page 13 of S.B. 478, perhaps your other option could be to change every reference from January to February.

SENATOR BEERS MOVED TO ADOPT PROPOSED AMENDMENT NO. 1 TO S.B. 478 TO CHANGE ALL OF THE REFERENCES FROM JANUARY TO FEBRUARY.

SENATOR TITUS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RAGGIO VOTED NO. SENATOR HARDY WAS ABSENT FOR THE VOTE.)

* * * * *

MR. STEWART:
Proposed Amendment No. 2 is another bill Ms. Hansen suggested. This amendment relates to presidential candidates as in section 21, subsection 4. Ms. Hansen requested the Committee retain the current language in NRS instead of changing it to May because of the process minor parties go through to nominate minor party candidates for the office of President and Vice President for the general election. It will help with their national conventions.

CHAIR CEGAVSKE:
Mr. Hsu, is that acceptable?

MR. HSU:
Yes.

CHAIR CEGAVSKE:
Does it change section 23, subsection 1 as well?

SENATOR BEERS:
I do not believe it changes the reference to section 23 or section 22. This is specific to the minor party nominations for President and Vice President of the United States only. It will just change section 21, subsection 4.

SENATOR TITUS:
Does this still cause a problem for the registrars doing the ballots? The point of moving the date up was to help the registrars. The registrars would still have to hold the ballots for those minor party candidates.

MR. GLOVER:
Yes, it is my understanding that it still causes the registrars problems for getting the ballots ready to go.

SENATOR TITUS:
I realize we would have to change the date of the national convention from September to May, and then hold up the ballots anyway. That is one of the reasons we are changing the primary. It just does not make any sense.

MS. HANSEN:
The national Republican and Democratic candidates are not named until the end of August. They could not comply with this and neither could we, because we do not control the date of our national, presidential nominating conventions. Sometimes ours are earlier, but usually the presidential convention is not until August.

MR. STEWART:
Will retaining the existing language have an impact on the voter registrars and clerks, if indeed the primary election is moved?

LARRY LOMAX (Registrar of Voters, Elections, Clark County):
I know the minor parties are concerned about the change to May because it affects their conventions.

MS. HANSEN:
No, that is not the issue. We do not have a presidential convention until perhaps August, like the Republicans and the Democrats. We would not have a presidential candidate so we could not give them to you the same way the Republicans and Democrats can.

MR. LOMAX:
Are you referring to August of the year of the election? You do not have your convention until the month before the primary election?

MS. HANSEN:
I am talking about the national presidential convention, not our State convention.

SENATOR BEERS:
Technically, we have the same problem with the major parties. Under the modern system, we count the state's electoral votes as the primaries take off. We declare a winner when someone hits the magic number, but technically the major parties do not nominate their presidential candidate until they have their national conventions. We are requiring them to give you their candidates in May, before the national conventions are held.

MR. LOMAX:
A whole lot of other states have their primaries before May, and somehow they deal with this issue.

SENATOR BEERS:
Section 21, subsection 4 concerns the minor parties informing you of their nominees for President and Vice President only, which you need in order to complete and print your ballots. Part of this whole exercise we are going through is to give you more time to do those ballots. We are talking about general election ballots, not primary election ballots. The minor parties' argument is they do not know who their nominee is until they actually hold their convention. With the major parties, we sort of know because we have a tradition of casting the states' electoral votes the way the people voted.

MR. LOMAX:
The minor party candidate goes straight to the general ballot.

SENATOR BEERS:
That is correct. Their problem is they do not know who they are in May. The law, as proposed, suggests that minor parties have to give you their candidates' names in May.

MR. LOMAX:
I understand, but I do not know why I would need those names in May if it is going on the general ballot.

SENATOR BEERS:
That is our point exactly.

MR. LOMAX:
Then change it.

SENATOR BEERS:
The concern was that if we do not move the deadline to May and instead keep it in September, it would blow the whole point of the bill to enable you to get your ballots printed earlier. You can go through a tremendous amount of work in laying out the rest of the ballot except for President and Vice President. You could be ready to go on the day the minor parties are supposed to provide you with their minor party candidates. You could just drop those names on the ballot quickly, and the ballot is then ready to print.

MR. LOMAX:
Yes, but moving it ahead, as we have asked, does not address some of the issues with petitions. The petition due dates are still essentially the same. We are not going to have the whole ballot done at the end of May. We will start laying out the ballot and proofing it, but we still have to add questions, and in this case, minor party presidential candidates.

MS. HANSEN:
You will also have to add major party presidential candidates.

MR. LOMAX:
I hear you say that, but again, other states have primaries before May, and somehow they are dealing with that.

SENATOR BEERS:
I agree, but the winner of the presidential primary in Nevada does not determine the general candidate. We are looking for your blessing to not change the language in section 21, subsection 4 to May and keep it at September.

MR. LOMAX:
I would ask if you can move it up to the earliest date the minor parties can handle.

MS. HANSEN:
The end of August would probably work out. I do not know if that will work for the major parties. It has to be the same; otherwise, if the major parties' date is later than the minor parties' date, there is going to be a lawsuit.

RONDA MOORE (Help America Vote Act Coordinator/Program Officer; Office of the Secretary of State):
One thing different for minor party presidential candidates than major party presidential candidates is that the qualifications of minor party candidates can be challenged. There is a time period within which you must challenge them, go to court and deal with whether the candidate is going to be stricken or not. We have to make time for that process. Last election, we had a challenge to Ralph Nader's candidacy who was an independent candidate as well. The challenges have to be resolved before the time to start printing the ballot.

CHAIR CEGAVSKE:
I want to point out to the Committee members that section 22, subsection 2 states, "If the qualification of a candidate of a minor political party other than a candidate for the office of President or Vice President of the United States is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday." In this case, it would change that to January.

MS. HANSEN:
You mean February. You changed all those dates to February.

SENATOR BEERS:
What is the deadline for a minor party presidential or vice presidential candidate to file?

MS. HANSEN:
Right now, the state party files their names with the Secretary of State on the first Tuesday of September. When Ms. Moore spoke of challenges, she was talking about independent candidates. Those are different than minor party candidates. The minor parties in the State of Nevada determine who their presidential candidate is after the national convention. There are not challenges on minor party candidates. Ralph Nader was not a minor party candidate; he was an independent candidate, and that is different. Those dates might have to be different for an independent presidential candidate rather than a minor party candidate. We have a convention just like the major parties do. Minor party candidates are not going to be challenged.

MS. MOORE:
I apologize for that error.

SENATOR BEERS:
This whole provision in section 22, which is existing NRS 293.174, subsection 2, says "If the qualification of a candidate of a minor political party other than a candidate for the office of President or Vice President of the United States is challenged, all affidavits and documents ... must be filed not later than 5 p.m. on the fourth Monday ..." and we are now proposing that be February. Somewhere else in this bill are we addressing minor parties giving a list of candidates in February?

MS. HANSEN:
We asked the filing be moved from January to February, which you approved, because minor parties cannot hold political conventions in December. It would allow us to hold conventions in January. Then we would file at the same time as the other candidates. The challenge period is available for all candidates and includes minor candidates. That could be used, for instance, if a candidate was not in the right residence or something like that. This is what I believe that provision is.

SENATOR BEERS:
It would not make a lot of sense to have the challenges due at the same time the list of candidates is due.

MS. HANSEN:
You suggested the list of candidates would be due the first part of February. This provides for challenges at the end of February.

SENATOR BEERS MOVED TO ADOPT PROPOSED AMENDMENT NO. 2 TO S.B. 478.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RAGGIO VOTED NO.)

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MR. STEWART:
Proposed Amendment No. 3 is in section 46, subsection 1, paragraph (c). Mr. Glover had just suggested to the Committee a deletion to the reference of "Supplies for marking the ballot" because the ballots we have now are in the electronic age.

SENATOR BEERS MOVED TO ADOPT PROPOSED AMENDMENT NO. 3 TO S.B. 478.

SENATOR TITUS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HARDY AND RAGGIO WERE ABSENT FOR THE VOTE.)

* * * * *

MR. STEWART:
Proposed Amendment No. 4 is in section 110 and section 111. The Committee addressed this issue earlier in S.B. 222. This language change just mirrors the language approved in S.B. 224 with regard to the single-subject issue.

SENATOR BEERS MOVED TO ADOPT PROPOSED AMENDMENT NO. 4 TO S.B. 478.

SENATOR WIENER SECONDED THE MOTION.

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

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MR. STEWART:
Amendment No. 5 is provided by the Secretary of State on page 38 of Exhibit D. "We would like to amend S.B. 478 to require judicial confirmation by the Supreme Court of the text of questions and explanations drafted by the Secretary of State, as well as arguments and rebuttals drafted by those committees in NRS 293.250 and NRS 293.252."

SENATOR BEERS:
I am confused. The proposal requires judicial confirmation of questions and explanations as well as arguments and rebuttals. That is probably a good idea, however, I am confused on the timing. The conceptual amendment suggests we require this process to be completed by the first Monday in August before the general election. That is a significant issue on the determination of when the registrars are going to be printing the ballot. Then, the next clause says, "The court needs to issue their order for confirmation or amendment." I presume that is a word typo and should read "of amendment."

MS. MOORE:
The court may order confirmation of the finalized arguments or the court may say to change the arguments. That is exactly what happened this previous Session. Basically, the process starts with the Secretary of State appointing these committees. Then the committees work on their own pro arguments, then they trade and work on the cons. The Secretary of State has the authority to strike libelous or inaccurate provisions, so it became a real debacle. Each side said the other was factually inaccurate, and they sent in a scientific study or an article from *Time* magazine with different data. The Secretary of State's Office was playing judge back and forth. We essentially said unless one side can prove the other side's argument is wrong, we are going to say it is an argument and let it go. It was a big struggle.

SENATOR BEERS:
I understand all of that. Here is what I am confused about. "The process must be completed by the first Monday in August," which is a requirement the registrars need in order to print ballots. Then, page 38 of Exhibit D says, "The

Court should issue the order for confirmation or amendment and hold a hearing, if necessary, within five days of the filing of the text of the question, explanation, arguments and rebuttals."

MS. MOORE:
That would refer to the finalization of all the text. Judicial confirmation is when the Secretary of State says what he thinks it should be, but then we have the court look at it to make sure the text is okay because these issues have to be resolved, and we have to get the ballot printed.

SENATOR BEERS:
Within the five days of the text of the question could happen in January. Whose filing of the text are you referring to?

MS. MOORE:
The committees go back and forth and they respond to each other's arguments. When that process is done, the Secretary of State confirms the process is done and that anything inaccurate or libelous has been stricken from the pro and con arguments for the questions. At that point, the text of the arguments would be filed. They are then presented to the court for the final determination of whether they are accurate or need to be changed.

SENATOR BEERS:
Maybe I am misunderstanding a little bit. Here is my concern. When a group of people file an intent to gather signatures for a petition, they file the language of the question and their proposed explanation with you. That is the same explanation we are proposing changes to.

MS. MOORE:
Actually, the Secretary of State's Office itself writes the condensation and the explanation. The committees write the arguments, pro and con. That is prepared into a document that presents the question, explanation, objective, arguments for and against and the rebuttals on both sides. All that is printed in the sample ballot.

SENATOR BEERS:
I am concerned about having a supreme court review the constitutionality at the end of the process rather than at the beginning of the process when the question is submitted.

MS. MOORE:
There is a distinction between the legality of the petition proposal and the challenge to the actual text. If one petitioner says they want to argue something and the Secretary of State says it is inaccurate, that is when they take us to court.

SENATOR BEERS:
Is that process described in chapter 43 of NRS?

MS. MOORE:
The judicial confirmation, NRS 43, provides that a formal action within the authority of the body can ask the court whether it is appropriate and legal. If it is okay, they cannot get sued. That is what judicial confirmation is. Essentially, it says the person or body is going to get sued and since everyone is unhappy, let the court say it is good or to change it as they wish. That is exactly what happened with the Nevada Supreme Court and Question No. 3. One side was very dissatisfied with the argument from the other side. They said the Secretary of State's explanation did not accurately inform the voters of what the proposal was, and so they made us change it. Both sides were angry about what we approved for arguments. Both sides wanted us to strike the arguments of the other side. The court ended up approving the final document. We want to get that process hurried up so the voters can be fully informed.

SENATOR BEERS MOVED TO ADOPT PROPOSED AMENDMENT NO. 5 TO S.B. 478.

SENATOR BEERS:
The amendment adds provisions to provide for judicial confirmation of the Secretary of State's developed text for the arguments and explanations for ballot questions, as well as those prepared by ballot question committees. That is contained within the Secretary of State's bill draft request correspondence which appears to be omitted from the text of S.B. 478.

THE MOTION FAILED FOR LACK OF A SECOND.

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SENATOR TITUS:
I am opposed to this because it would give the Supreme Court too much power to censor. It is one thing if these arguments are challenged and it goes to the court for them to decide, but to allow the court to give the okay to every single thing that goes on the ballot in advance is giving them too much power.

SENATOR BEERS:
What happens if we do not process this amendment?

MS. MOORE:
There is a possibility the statutes may permit the Secretary of State to seek judicial confirmation, which would be in the First Judicial District Court. If the provisions already there apply, we could use that and there is always the option of getting sued and having the judges straighten it out anyway.

> SENATOR BEERS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 478 CONSISTENT WITH THE PREVIOUS ACTIONS TAKEN ON EACH OF THE PROPOSED AMENDMENTS.
>
> SENATOR WIENER SECONDED THE MOTION.

SENATOR RAGGIO:
I want to be sure, on the record, what the Committee action does. This will, in effect, move the primary date from September to June. What date in June is it?

MR. STEWART:
According to section 23 of S.B. 478, it is the first Tuesday of May in each even-numbered year.

SENATOR RAGGIO:
When are candidates required to file, and does that apply to all parties including minor parties? The filing for office will not be in May, which is what it is now.

MR. STEWART:
The Committee approved the amendment to say not earlier than the first Monday in February. Candidate filing would close on the second Friday after the first Monday in February.

SENATOR RAGGIO:
How many days is that? Is it the same number as it is now? The difference is the filing would be in February?

MR. STEWART:
Yes, that is correct.

SENATOR RAGGIO:
For the reasons I previously stated, I will vote no on the motion, and in accordance, I advise the Chair that I will oppose the bill on the Senate Floor.

SENATOR WIENER:
I have a question about section 45. Someone asked why there was a deletion of NRS 293.272. I put in my notes that should not be deleted. I do not know what it relates to. Did we resolve that?

MR. HSU:
In my notes, Ms. Erdoes was supposed to check why NRS 293.272, which pertains to voting in person at the polls, was deleted.

MS. ERDOES:
We did look at that. The answer is there was another provision which talks about identifying yourself at the polls, and those provisions conflicted. We took out NRS 293.272 because of the changes to the statute.

THE MOTION CARRIED. (SENATORS HARDY, MATHEWS AND RAGGIO VOTED NO.)

* * * * *

CHAIR CEGAVSKE:
If S.B. 478 had not passed, the Supreme Court would have asked us to look at S.B. 154.

SENATE BILL 154: Changes period for filing of declarations, acceptances and certificates of candidacy for certain judicial offices. (BDR 24-527)

CHAIR CEGAVSKE:
Is there a motion?

SENATOR BEERS MOVED TO INDEFINITELY POSTPONE S.B. 154.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR CEGAVSKE:
I did talk to legal counsel about the letter request Ms. Hansen had. The advice I have been given, and support as Chair, is since legal action is now occurring on this issue with the Secretary of State and some of the people referenced, it is not something we as the Legislature should get involved in.

SENATOR RAGGIO:
Does the Secretary of State have any authority to do an amnesty plan such as the Nevada Tax Commission instituted?

MS. ERDOES:
I do know the program you are talking about. The Department of Taxation collected the tax due and did not charge the penalties. I do not believe the Secretary of State has that authority.

SENATOR RAGGIO:
I recall some forgiveness authority on the part of the Secretary of State.

MS. ERDOES:
Once they get into litigation, they could settle in some fashion for the case. This all hinges on the Secretary of State attempting to carry out the laws as you have enacted them.

SENATOR RAGGIO:
The proposal is for those who have not collected or expended $100. My question was if the Secretary of State had some option, of any kind, to establish an amnesty program. You are saying no, not to your knowledge.

MS. ERDOES:
The Secretary of State does not have an administrative procedure like the Department of Taxation does. He might settle a lawsuit he has with a case.

CHAIR CEGAVSKE:
I will now adjourn the Senate Committee on Legislative Operations and Elections meeting at 7:02 p.m.

RESPECTFULLY SUBMITTED:

Elisabeth Williams,
Committee Secretary

APPROVED BY:

Senator Barbara Cegavske, Chair

DATE: