MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON ELECTIONS, PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

Seventy-Fourth Session
April 5, 2007

The Committee on Elections, Procedures, Ethics, and Constitutional Amendments was called to order by Chair Ellen Koivisto at 3:51 p.m., on Thursday, April 5, 2007, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was also teleconferenced to the Ballot Initiative Strategy Center and Foundation, Washington, D.C. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at ww.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Ellen Koivisto, Chair
Assemblyman Harry Mortenson, Vice Chair
Assemblyman Chad Christensen
Assemblyman Ty Cobb
Assemblyman Marcus Conklin
Assemblywoman Heidi S. Gansert
Assemblyman Ed Goedhart
Assemblyman Ruben Kihuen
Assemblywoman Marilyn Kirkpatrick
Assemblyman Harvey J. Munford
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom
Assemblyman James Settelmeyer

GUEST LEGISLATORS PRESENT:

Assemblywoman Peggy Pierce, Assembly District No. 3

STAFF MEMBERS PRESENT:

Michael Stewart, Principal Research Analyst
Patrick Guinan, Committee Policy Analyst
Kim Guinasso, Committee Counsel
Terry Horgan, Committee Secretary
Trisha Moore, Committee Assistant

OTHERS PRESENT:

David Schumann, Vice Chairman, Nevada Committee for Full Statehood
Janine Hansen, President, Nevada Eagle Forum
Lynn Chapman, State Vice President, Nevada Families
Kyle Davis, Policy Director, Nevada Conservation League
Kristi Geiser, Administrative Assistant to the Deputy for Elections, Office of the Secretary of State
Michael Brown, Vice President, U.S. Public Affairs, Barrick Goldstrike Mines, Incorporated
John Griffin, Kummer Kaempfer Bonner Renshaw & Ferrario
Kristina Wilfore, Executive Director, Ballot Initiative Strategy Center and Foundation, Washington, D.C.
Danny Thompson, representing the Nevada State AFL-CIO
Gail Tuzzolo, representing the Nevada State AFL-CIO
Mike Griffin, Retired Carson City District Court Judge
Sharron Angle, Private Citizen, Reno, Nevada
Ross Miller, Secretary of State
Keith Munro, Chief of Staff, Office of the Attorney General
Ned Reed, Senior Deputy Attorney General, Office of the Attorney General

Chair Koivisto:
[Roll called.] We will start with Assembly Joint Resolution 10.

Assembly Joint Resolution 10: Urges Congress not to reauthorize the "fast track" approval of international trade agreements. (BDR R-1295)

Assemblywoman Peggy Pierce, Assembly District No. 3:
Assembly Joint Resolution 10 deals with a subject never before discussed in this Legislature—international trade agreements. There is a reason for that. Until the signing of the North American Free Trade Agreement (NAFTA) in 1994 and the creation of the World Trade Organization in 1994, trade agreements entered into by our federal government were simple deals concerned only with

tariffs. The North American Free Trade Agreement changed everything. To give you an idea of the enormity of the change and how it affects our State and what we do in this building, please watch this video (Exhibit C).

Chapter 11 of NAFTA gives foreign investors the right to sue the federal government, a right that United States citizens, you and I, do not have. Chapter 11 of NAFTA gives foreign investors the right to go to a trade tribunal and challenge much of what we do in this building. Think of the bills that each of you has introduced this session. Do you have a bill that has to do with the environment? It can be challenged in a NAFTA tribunal. Do you have a bill that has to do with labor laws? It can be challenged in a NAFTA tribunal.

Former Chief Judge of the Federal Appellate Bench and former Congressman Abner Mikva has stated, "If Congress had known there was anything like this in NAFTA, they never would have voted for it." But it gets worse. There have been dozens of free trade agreements with dozens of countries since NAFTA, which have their own Chapter 11s. Then there was the bigger picture on the post-NAFTA world. NAFTA was signed in 1994, and its promoters promised it would create hundreds of thousands of new high-wage U.S. jobs; raise living standards in the United States, Mexico, and Canada; improve environmental conditions; and transform Mexico from a poor, developing country into a booming new market for U.S. exports.

What has really happened? More than three million American manufacturing jobs have been lost. Contrary to the predictions of the free trade proponents, consumer food prices in all three NAFTA countries have risen, but prices paid to farmers have plummeted. Thirty-eight thousand small American farms have been lost, and 1.5 million owners and workers on small farms in Mexico have been forced off their land.

But it gets worse. Trade agreements since NAFTA encompass "everything that you cannot drop on your foot" and include banking, telecommunications, postal services, tourism, transportation, waste disposal, oil and gas production, electricity, and local land use. They also cover those services universally considered to be essential to human health and development like health care, education, and drinking water. For instance, on land use, rules that prohibit development in historic zones or require buildings to conform to particular architectural or design standards are jeopardized by these more recent trade rules. Many European and Asian nations specifically exempted historic districts from these agreements, but the United States did not ensure such safeguards.

But it gets worse. The U.S. trade deficit in 1994 was $100 billion; today it is $717 billion and the United States is on the verge of becoming a net food importer. We no longer feed ourselves. I think that is a national security issue. One more thing; there is a provision in NAFTA which requires that, for long-haul truckers, our borders with Mexico and Canada be porous. That provision has been fought, most notably by the Teamsters Union, for over a decade; but the Bush Administration has declared that the fight is over. This month, trucks from Mexico and Canada, trucks that are not required to have our safety and environmental standards, will be on American highways.

How did this happen? What was Congress thinking? This brings us to A.J.R. 10, which urges the President and the Congress of the United States not to reauthorize "fast track." What is "fast track?" "Fast track" was legislation passed for the first time during the Nixon Administration when trade agreements were simple agreements on tariffs, nothing like NAFTA. "Fast track" is the process that gives the Executive Branch the authority to negotiate and write trade agreements and delegates away Congress' constitutional power to set the terms of U.S. trade policy. "Fast track" creates special rules for considering trade agreements by allowing the Executive Branch to sign an agreement before Congress votes on it, and only gives Congress 90 days to vote on the trade deal. Once Congress gets the trade agreement it only gets an up or down vote. "Fast track" is up for reauthorization in June of this year.

You have in front of you a binder (Exhibit D) I put together with more information on trade. I have two bills on this topic, so the binder has more facts and information that is useful in making decisions about both of those bills. There is information about what other states are doing. There are letters on trade from governors; chief justices of state supreme courts; state procurement officers, including our own; and state attorneys general, including our own Attorney General. There are also letters signed by 72 organizations, including my own union here, the AFL-CIO, the Change to Win Union, major environmental groups, and major religious groups.

This is not a partisan issue and I am sorry to admit it was a President from my own Party who signed NAFTA. There is an article from Phyllis Schlafly, head of the Eagle Forum, in the binder; so you can see that this is an issue of concern to both conservatives and liberals. There is a common theme through all of this: Our trade policy is broken. It is not serving the people of the United States; it is not delivering what was promised. We have an opportunity in June to get Congress re-engaged. We have an opportunity to join with other states and urge Congress to, once again, assert its constitutionally mandated power to set the trade policy of this nation.

Chair Koivisto:
As one who was opposed to NAFTA in 1994, I am appalled to learn it is even worse than I thought it would be. What happens in June?

Assemblywoman Pierce:
In June, reauthorization for "fast track" legislation is up before Congress. This is when Congress decides whether they want to continue giving a sort of blank check to these trade agreements, or if it wants to become re-engaged and insist that it sees the trade agreements before those agreements are signed. Congress must be the voice in trade policy.

Chair Koivisto:
Are there questions or comments from the Committee?

Assemblyman Goedhart:
Has the court case mentioned in the video been resolved yet?

Assemblywoman Pierce:
That case was settled. It took six years and the United States won. The United States loses most of the cases that get brought against it in trade tribunals. We got lucky this time.

Assemblyman Settelmeyer:
I agree with this bill and suggest amending it to get rid of NAFTA entirely. Last year, the United States did import more food that it exported.

Assemblywoman Pierce:
That is right; we are becoming a net importer. I would like to speak with you after this hearing about my other bill, which is heading in the direction you are suggesting.

Chair Koivisto:
We have a number of people who have signed up in support of A.J.R. 10. Let us start with a panel of three at the witness table.

David Schumann, Vice Chairman, Nevada Committee for Full Statehood:
I escaped from California in 1999. At that time, Californians were not being told about the connection with NAFTA. By the way, methyl tertiary butyl ether (MTBE) [mentioned in the video] has a particularly bad effect on young children. It is bad for adults, but it is far worse for children, because their bodies are still developing.

I am here to speak in favor of A.J.R. 10 and to warn that there is something worse called the Security and Prosperity Plan that has a section called the North American Union. Our sovereignty will be totally subjugated to this plan. Representative Virgil Good of Virginia has a bill that would require Congress to withdraw its support for this plan. The plan is going forward under "fast track," which gets done behind closed doors. I hope you pass this resolution.

Janine Hansen, President, Nevada Eagle Forum:
We want to thank Assemblywoman Pierce for bringing this forward. This has been a very important issue from the beginning for the Eagle Forum. We have fought NAFTA for many years, as well as other trade agreements, as they destroy American sovereignty, export American jobs, and helped create the trade deficit. We are now opposing the reauthorization of "fast track."

The big problem with "fast track" is that it circumvents the constitutional authority of Congress. Congress voluntarily gave that authority to the President, and we can see the results as our economy and our middle class, in particular, suffer. I have distributed the article *Fast Track is Unconstitutional* (Exhibit E), but what I want to bring your attention to is the article in the *Teamster* Magazine (Exhibit F) about the problem with the truckers and the unsafe conditions that have been created and that were mentioned by Assemblywoman Pierce.

Mr. Schumann mentioned the issue of the North American Union. We completely support this bill, but we want to alert you to the fact that the next big power grab involving trade is now underway. In Washington, D.C. in November, I attended a week-long conference on the Security and Prosperity Partnership, which is being brought together by the bureaucracies of the United States, Canada, and Mexico. It will completely bypass our Congress. I spoke to all the members of our Congressional Delegation about it and I have provided you with information on that particular issue (Exhibit G). This will bring a super-NAFTA highway from Mexico through Texas that will go on to Canada, and all over the United States. This highway will bypass our border control and one of the purposes is to bypass our ports and the longshoremen who unload ships. It would result in products being brought into our country through Mexico, where those people are paid nothing, and would put our people out of work.

We completely support Ms. Pierce's efforts. Fourteen states now have resolutions to stop the North American Union. We were late in opposing NAFTA and "fast track" and those have done a lot of damage. We could be on

top of things by joining those other states with a resolution to oppose the Security and Prosperity Partnership.

Lynn Chapman, State Vice President, Nevada Families:
I am distributing a handout (Exhibit H) with the results of a number of different polls taken around the country. There is low support for "fast track," especially when Congress is not involved. People want Congress involved; that is what our elected representatives are in Washington for and that is what the people want. Mentioning the importation of food, cats and dogs are being sickened today by imported food products, is it going to be us tomorrow?

Kyle Davis, Policy Director, Nevada Conservation League:
I want to go on record as supporting A.J.R. 10. The video you saw pretty much explains my opposition. The problem with "fast track" authority is that it is subverting whatever environmental laws may be passed by a state. That subversion would get in the way of a state like Nevada being able to protect its own land, water, and air. We definitely want to preserve the ability for our State, and this Body, to pass laws that protect our environment.

Chair Koivisto:
Are there any questions from the Committee or anyone else who wants to testify either for or against A.J.R. 10? [No response.] I will bring A.J.R. 10 back to the Committee. Mr. Segerblom, do you want to make your motion?

> ASSEMBLYMAN SEGERBLOM MOVED TO DO PASS ASSEMBLY JOINT RESOLUTION 10.

Assemblywoman Kirkpatrick:
I need to disclose that I work for a company that imports food, but I do not think that will affect the way I vote.

> ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Chair Koivisto:
Is there any further discussion?

Assemblywoman Gansert:
I have not looked into this and am not sure I want to vote today.

> THE MOTION PASSED. (ASSEMBLYMEN COBB AND GOEDHART VOTED NO. ASSEMBLYWOMAN GANSERT RESERVED THE RIGHT TO CHANGE HER VOTE ON THE FLOOR.)

Chair Koivisto:
We will now hear Assembly Bill 604 and Assembly Bill 606; and we will hear them together because they both deal with the same subject.

Assembly Bill 604: Revises provisions governing petitions for statewide initiatives and referenda. (BDR 24-1396)

Assemblyman Conklin, Assembly District No. 37:
I am here today to present A.B. 604 and A.B. 606, brought forth by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments. These bills concern initiative petitions. I have with me Michael Stewart, a member of the Legislative Counsel Bureau (LCB) research staff, who also served on the National Conference of State Legislatures (NCSL) task force to review and evaluate the initiative petition process in the United States. That task force put forth a list of recommendations to make certain that the initiative petition process was free of fraud, easy to understand, available to all citizens, but also not the prospect of big business.

We will start with A.B. 604 and allow Michael Stewart to explain the bill.

Michael Stewart, Principal Research Analyst:
I must disclose that as nonpartisan staff, I cannot advocate for the passage or defeat of any piece of legislation. I am here at Mr. Conklin's request to explain A.B. 604, and will go through the technical parts of it.

Section 3 of the bill is where much of the new language begins and will require a campaign and expenditure report from those who advocate the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum. A measure last session established a campaign contribution reporting requirement for initiative and referendum petition supporters. The threshold at that time was set at $10,000. The amendment in Section 3 proposes a threshold of $100, and also sets forth several reporting requirements in subsection 2 as they relate to the election cycle.

The NCSL Initiative and Referendum Task Force was formed in 2001 and I was honored to get a call to participate in it. They were looking for a legislative staffer who worked in a state that had initiatives and referendums. Committee Members, you should have a copy of the NCSL report, *Initiative and Referendum in the 21st Century* (Exhibit I), which is the final report and recommendations of the NCSL Task Force. Also being distributed is a table entitled *Information Regarding Nevada's Initiative and Referendum Procedures, Amendments Made During the 2005 Legislative Session, and Comparison to*

Recommendations Made by the National Conference of State Legislatures Task Force on Initiative and Referendum Reform (Exhibit J).

Section 3 of A.B. 604 complies with NCSL recommendation 7.1 that states should require financial disclosure by any individual or organization that spends or collects money over a threshold amount.

Sections 4 and 5 of A.B. 604 state that an initiative or referendum group needs to file a statement of organization. The language in Section 5 appears to be identical, or very similar, to the political action committee registration (PAC) that is already set forth in Chapter 294A.230 of *Nevada Revised Statutes* (NRS). This mirrors recommendations numbered 5.1, 7.1, and 7.3 from the NCSL Task Force. Section 4 of the bill is related to PAC registration and says that a resident agent must be a natural person and reside in the State.

Section 6 provides that each person or group of persons, organized formally or informally, who advocate the passage or defeat of a question, must report to the Secretary of State information concerning the compensation made to petition circulators.

Sections 7 and 8 of A.B. 604 remove the $10,000 threshold for campaign reporting requirements, because Section 3 of the bill presents the new campaign reporting requirements with a threshold of $100. Section 9 also refers to Section 3, and the same with Sections 10, 11, 12, 13, and 14.

Section 15 requires the Director of the Legislative Counsel Bureau to hold public hearings on each petition for initiative or referendum that has been filed with the Secretary of State. This coincides with NCSL Task Force recommendation number 2.2. Those public hearings must be held no later than 10 days, nor more than 20 days, before the general election at which that referendum or initiative is submitted to popular vote. The purpose of the public hearings is set forth in subsection 4, and is an opportunity for the public to discuss technical matters relating to the petition or the initiative, and also to discuss substantive content concerning the initiative.

Section 16 of A.B. 604 on page 16 appears to mirror language from administrative regulations, *Nevada Administrative Code* (NAC) 295.020, relating to what a petition may consist of and the affidavit that a circulator must declare on a petition.

Section 17 relates to compensation and states that a person shall not get compensation of any kind in exchange for signing a petition for initiative or

referendum. In Chapter 293 of NRS is a list of prohibited acts and this language is similar to that.

Section 18 is part of the petition circulator process, and is a requirement for each person who circulates a petition to disclose to the voters who sign that petition whether he or she is a paid circulator or is a volunteer.

The new language in Section 19 concerns the requirement that there be a 200-word description on petitions, and states that the accuracy of that description must be certified by the Secretary of State.

Finally, language on the last page of the bill, at lines 27 through 30, is similar to NCSL recommendation 2.2 that requires some involvement with the state Legislature in terms of technical assistance. In this case, the Secretary of State shall consult with Legislative Counsel regarding a petition for initiative or referendum, and Legislative Counsel may provide technical suggestions regarding the petition. The Secretary of State does already consult with the Legislative Counsel Bureau's Fiscal Division in developing fiscal notes for ballot questions for initiatives and referendums.

Assemblyman Segerblom:
You said the reporting requirements are similar to a political action committee's (PAC's) reporting requirements?

Michael Stewart:
The parts of the bill that are similar to a PAC's reporting requirements are in Section 16. I referenced a PAC registration requirement. Section 16 is similar to a PAC registration requirement. The reporting requirement in Section 3 of this bill has similar thresholds as candidates, as political action committees, as thresholds concerning independent expenditure groups, and those are all set at $100.

Assemblyman Segerblom:
Is there a limit on how much you can contribute to a PAC?

Michael Stewart:
I would have to look into that. It is hard to quantify exactly what is provided to a political action committee in terms of contributions, unless the committee has the onus to report, because of a report called an "independent expenditure." An independent expenditure would be an expenditure made on behalf of a candidate that is not approved or solicited by that candidate. The candidate would not necessarily know about that expenditure, and would not be required

to report it. The reporting requirements are $100 across the board; that is the threshold for everyone.

Assemblyman Segerblom:
Right now, if a committee is formed in favor of a proposition, can I, as a person, contribute all I want to that committee?

Kristi Geiser, Administrative Assistant to the Deputy for Elections, Office of the Secretary of State:
Yes, you can. There are no limits to what a PAC can receive; only what they can give to a candidate.

Assemblyman Segerblom:
If there is a group formed to promote "yes" on a particular ballot question, and I, as an individual, spend $100 and buy a newspaper ad encouraging people to vote "yes" on that ballot question, would I have to report that under this bill?

Kristi Geiser:
As an individual, if you are in opposition or in favor of a ballot question, it does not necessarily make you a ballot advocacy group (BAG), but, in fact, you are advocating for the passage or defeat, so that could make you a BAG. Current statute does stipulate that any person or group, or persons or groups must report, so yes, you would have to report.

Assemblyman Segerblom:
And this legislation does not change that.

Kristi Geiser:
No, it does not.

Assemblyman Mortenson:
Did the NCSL report recommend a threshold?

Michael Stewart:
At recommendation 7.1 all the report said was that states should require financial disclosure over a particular threshold amount, but they did not identify one. The goal of the NCSL Task Force was to leave it up to the states to determine a threshold amount, because states have different threshold amounts when it comes to campaign finance and reporting in general. The move to lower those amounts was a 1990s phenomenon.

Assemblyman Mortenson:
In Section 15, the language states that the Director of the Legislative Counsel Bureau will hold hearings on the petition. Where would those hearings be held; Carson City, or where the petition was initiated?

Michael Stewart:
The bill does not specify. Typically, hearings in any form are either held in the Legislative Building here in Carson City or else in the Grant Sawyer State Office Building in Las Vegas. I would presume that is where they would be held, but the Committee could require meetings be held elsewhere.

Assemblyman Conklin:
I would assume anything that happens here at the Legislative Counsel Bureau has the capability to be video-fed into Las Vegas, and vice versa; and in many cases, out to other areas. It is also a public forum so anyone can listen in or watch on the Internet. The idea is to make certain the public gets an opportunity to hear unbiased discussion about what is on a ballot initiative, and not what they are fed by big money interests on television. That is part of the problem with the ballot initiative process.

By leaving the language broad, which we do in all our statutes, we allow it to be interpreted based on the resources we have and the forums needed at a given time.

Assemblyman Mortenson:
That is good for both parties.

Michael Stewart:
Our information technology services department has established relationships with other government entities throughout the State for video links and videoconferencing. That technology is improving all the time, so that is something that could be worked out.

Assemblyman Conklin:
To my colleague, Mr. Segerblom: Are you asking if there is a cap on the amount of money that can be donated to an initiative?

Assemblyman Segerblom:
Yes.

Assemblyman Conklin:
That is an interesting concept. It would certainly broaden the support for an initiative, but might be against the Free Speech Amendment to the *Constitution.*

Assemblyman Segerblom:
If you formed a committee and could limit how much money that committee received, you could limit the independent expenditure by someone who just wanted to spend $1 million of their own money. If you formed a committee, you could have a $5,000 limit, as we have as individuals.

Assemblywoman Gansert:
Did NCSL look at compensation to signature gatherers? Did they address whether people should be paid per signature or did they have recommendations? I do not see any mention of that in this bill right now.

Michael Stewart:
I believe NCSL recommendation 5.2 says that "States should provide for safeguards against fraud during signature gathering processes. Safeguards should include prohibiting the giving or accepting of money or anything else of value to sign or not sign a petition." There are some provisions currently in election law about buying someone's signature. Recommendation 5.2C does recommend that states require circulators to disclose whether they are paid or are volunteers, and that is in this bill.

Assemblywoman Gansert:
I was speaking about signature gatherers being paid per quota or per signature; not that they were offering compensation. I do not know if we can add that into this legislation.

Chair Koivisto:
Is that not already in law?

Michael Stewart:
That you cannot be paid per signature?

Chair Koivisto:
Right.

Assemblywoman Kirkpatrick:
Referring to Mr. Conklin's suggestion, Arizona might be the first place to look, because they do have a dollar value cap on the money that can be used towards initiatives.

Assemblyman Conklin:
Just as we cannot accept more than $10,000 from an individual for a campaign, then neither can a ballot initiative?

Assemblywoman Kirkpatrick:
That is correct.

Assemblyman Settelmeyer:
Turning to page 4, lines 34 to 36, it seems that if an individual wanted to say that they were for or against a ballot measure and wanted to gather signatures, does that person have to disclose any other group he or she is affiliated with? It seems strange that people would have to disclose what groups they are or are not affiliated with. A person's desire to be part of a group or another organization would be their business and not information for the public just because they had decided they were gathering signatures for or against a ballot measure. That is troublesome.

Also, in Section 15, the concept of having the LCB holding hearings is problematic. I always thought the Legislature was impartial, or as Michael Stewart testified earlier today, neutral. Having the Legislative Counsel Bureau involved in the testimony for or against any initiative, referendum, or constitutional amendment tends to taint the public's view. I would be more comfortable if the hearings were held by the Attorney General or some other entity; not the Legislature.

Chair Koivisto:
Mr. Settelmeyer, where are you reading this?

Assemblyman Settelmeyer:
Page 4, lines 34 to 36, "If a person or group of persons affiliated with any other organization, the name, address, and telephone number of each such organization...." If you are a member of the Farm Bureau and you decide you want to campaign for or against a particular initiative, you also have to disclose you are a member of the Cattlemen's Association and any other organization you may be part of. Maybe there are organizations one would not necessarily tell the world about. It does not seem proper that we are telling them they must disclose other memberships.

Michael Stewart:
That boils down to a policy choice the Committee must make. I cannot comment on what the Committee might want to require in the statement of organization or whether this Committee wants the Legislative Counsel Bureau

involved in helping conduct the hearings. This Body would want to make that choice.

Assemblywoman Gansert:
I agree with what Mr. Settelmeyer just said. Also in 2(f), "Any other information deemed necessary by the Secretary of State." That is quite discretionary and wide open. I would suggest an amendment to delete 2(d) and (f) in Section 5.

Chair Koivisto:
Are there other questions from the Committee? [No response.] Many people have signed up to testify on this bill, but let us hear about Assembly Bill 606 and then we will gather more testimony. The same people who are going to speak about A.B. 604 are going to speak about A.B. 606.

Assembly Bill 606: Revises provisions relating to petitions for statewide initiatives and referenda. (BDR 24-1395)

Michael Stewart, Principal Research Analyst:
Again, as an LCB staff member I cannot advocate for the passage or defeat of any measure. I will go through the high points of this legislation.

In general, Section 2 discusses a registration requirement with the Secretary of State's Office for those who formally or informally advocate the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum. Somewhat similar to what is contained in A.B. 604, is a registration requirement that one would see for a political action committee.

There is nothing currently in law that says signature gatherers cannot be paid on the basis of the number of signatures gathered. Section 3 of Assembly Bill 606 does mention that, "A group or person, organized formally or informally who compensates in any way" for signatures shall not compensate those circulators "on the basis of the number of signatures gathered."

Section 4 states that each person who gathers signatures on a petition for a constitutional amendment or statewide measure must be a resident of this State.

Section 5 is transitory language referring back to Sections 2 and 3. Section 7 picks up some language in NRS (*Nevada Revised Statutes*) Chapter 295 that addresses initiatives and referenda and states that, after a petition for a statewide initiative referendum is filed with the Secretary of State, the

Secretary of State shall make public all signatures and documents of that petition for a period of not less than 14 days.

The remainder of the bill applies to a Ballot Review Board. Section 8 of the bill creates a Ballot Review Board which consists of the Secretary of State, three county clerks to be appointed by the Governor, and the Attorney General. It sets forth a few qualifications and provides that if a member of the Ballot Review Board is a candidate for any elective office, the Governor shall appoint an alternate member to serve in that member's place. Ballot Review Board members are not entitled to receive compensation in that capacity.

The Ballot Review Board would provide an analysis of the conformity of the petition and review technical requirements of Article 19 of the *Constitution*. Article 19 provides the framework for statewide initiatives and referenda. As part of that analysis, the Ballot Review Board can issue decisions.

In Section 10, the Legislature contemplated some challenges to initiative and referendum petitions. At that time we were calling them "front end" and "back end" challenges. Those challenges now, pursuant to A.B. 606, would be presented to the Ballot Review Board; and it sets forth a time frame that the hearing must be set no later than 15 days after the complaint is filed.

Subsection 2 of Section 10 states that the decision of the Ballot Review Board as it relates to a complaint is the final decision for judicial review. That decision may be appealed to the First Judicial Court not later than seven days after the date of the decision. The Court must set the matter for a hearing no later than 15 days after the decision is appealed.

Subsection 3, Section 10, makes general references back to the Ballot Review Board, and changes the references to District Court. Subsection 3 also addresses the "back end" challenge of the petition process. That challenge also goes before the Ballot Review Board; and, similar to subsection 2, is a final decision for judicial review. It lists the time frame for appealing that decision to the District Court and that the Court shall set the matter for hearing no later than 15 days after the decision is appealed. In general, Sections 8, 9, and 10 relate to challenges discussed in the NCSL (National Conference of State Legislatures) report (Exhibit I).

Chair Koivisto:
Unless they are technical questions, Committee Members should direct questions to people who are supporting this measure, because we do not want to put Mr. Stewart in a position of advocacy for or against the bills.

Assemblyman Goedhart:
In A.B. 606, Section 10, subsection 2, it specifies the First Judicial District Court, then in subsection 4, no particular District Court is specified. Is there a reason for that?

Chair Koivisto:
These types of questions always go to the First Judicial District Court.

Michael Stewart:
When speaking about reviews of statewide issues, most likely those reviews would come from Carson City, which is in the First Judicial District.

Assemblyman Goedhart:
My question was why it was stated in one part of the bill and not in the other.

Patrick Guinan, Committee Policy Analyst:
In bill drafting, unless there was a different court referenced, the drafter would not use the full reference unless it was necessary and just call it District Court after the first, full reference.

Assemblyman Settelmeyer:
I want to reiterate my concerns about A.B. 604 and A.B. 606. On page 2, lines 15 to 19 again speak about wanting to know every single other organization a petition circulator is involved with. I am also concerned about the language my colleague mentioned in regard to every bit of information being necessary for the Secretary of State. It seems too broad.

Michael Brown, Vice President, U.S. Public Affairs, Barrick Goldstrike Mines, Incorporated:
That provision is recognizing that the groups advocating for many of these initiatives, both pro and con, are many times comprised of coalitions and so while you may create "Citizens for X" or "Citizens Against Y," those groups could be comprised of various coalitions within the State. The language is intended to capture the identity of those coalitions. In the case of my industry, the Nevada Mining Association would be disclosed, but my membership in the Capital Rowing Club would not. The language is reflective of the fact that what you assemble are temporary coalitions that are holding organizations for a variety of other interests within a state. I think that is what the intention is in that language, but it may need further clarification.

Chair Koivisto:
We need to come up with a way to make some reference to that.

Assemblyman Settelmeyer:
I agree with the concept of narrowing it down, if you can somehow state, "organizations that have relevance" to the particular issue, or something of that nature. Again, if the memberships are not similar, no one needs to know every aspect of an individual's life.

Assemblyman Segerblom:
I echo what Mr. Brown said. It means "affiliated in pursuit of" a particular position, and not just "affiliated" as far as an individual belonging to the Lions Club, the Rotary Club, or the Farm Bureau.

Assemblywoman Gansert:
Did NCSL recommend the Ballot Review Board? How was the membership determined?

Patrick Guinan:
Recommendation 4, subsection 4 under the heading "Drafting and Certification Phase," says that states should establish a review process and an opportunity for public challenge of technical matters, including adherence to single-subject rules, ballot titles, summary, and fiscal note sufficiency. That review was to be made prior to the signature-gathering phase.

Michael Stewart:
An attorney on the Task Force who had sat on this type of board indicated that, at least in his state of Colorado, the board was able to prevent some challenges by offering technical suggestions to the petitioners.

Chair Koivisto:
During our election process, when we have a lot of initiatives on the ballot, we also have a lot of challenges. If we can have this type of review board in place we should be able to avoid a lot of those challenges, which will save us a lot of time and money.

Assemblywoman Gansert:
When does the Ballot Review Board come into play? Must the review be held within 14 days? What is the time frame?

Chair Koivisto:
"After a petition for a constitutional amendment, or a petition for a statewide measure ... is filed with the Secretary of State, the Secretary of State shall make public all signatures and all documents..." and then the next section

starts, "The Ballot Review Board is hereby created...." It appears that within 14 days after filing, the Secretary of State will appoint the Board.

Assemblywoman Gansert:
When I read that, it says that all signatures and all documents were being made public within that period, but it did not say when the Board had to meet, or the time frame. Either I am misunderstanding, or that needs to be defined so as to make certain the review is upfront and held within a week or so after the ballot measure is filed, or within the 14-day time frame.

Assemblyman Segerblom:
The way it is written, the Board would be created as soon as the law is passed.

Assemblyman Conklin:
If we give Mr. Griffin and Mr. Brown an opportunity to testify, they have some proposed amendments that may answer some of these questions.

John Griffin, Kummer Kaempfer Bonner Renshaw & Ferrario:
We think the Ballot Review Board is a great idea because it helps streamline the process. It also is easier to go to a Ballot Review Board than to go to court. However, we are not certain we want to tackle implementation of a Ballot Review Board at this time, but that is a policy choice you must make. The intent of our proposed amendment would be to strike the language referencing the Ballot Review Board, because it may be too much to take on this session.

Another change we have been discussing with the proponents of A.B. 606 would add language in Section 2 dealing with a ballot advocacy group's registration with the Secretary of State. We would add that the groups need to file a list of all circulators, paid or unpaid, who would be used. That list would include the circulator's name, address, and telephone number, prior to that circulator being able to go out and gather signatures. There is a lot of fraud in the signature-gathering process, and listing circulators' names would notify potential opponents of some of the "bad apples" who might be gathering signatures.

Another major focus of our proposed amendment would be to include penalties for violations. A big problem with the initiative process is that there is nothing in statute spelling out what to do in the event of violations for fraud. Courts very rarely have any time to get into the fact-finding necessary to go into fraud, especially since there is no guidance as to what should be done if fraud were identified. Most of the time, courts overlook the fraud aspect and look only at the petition itself. The proposed amendment would add penalties for violations.

For example, if a circulator commits fraud in the circulation of the petition or forges signatures, the penalty provision would say that all the signatures gathered by that circulator would be thrown out. Also, if a company were to pay circulators per signature or by quota, then all the signatures gathered by that circulator who was paid in that manner would be thrown out. Give the court some guidance as to what the penalties are for these fraudulent violations. We do not have a draft of these proposed amendments with us.

Michael Brown:
We have mining interests across Nevada and employees in Elko, Eureka, Nye, Humboldt, White Pine, and Lander Counties; and a power plant in Storey County. I am pleased to be here today to testify on A.B. 604 and A.B. 606, measures that will complete the modernization of Nevada's statutes on ballot initiatives. [Read from prepared text (Exhibit K).]

Kristina Wilfore, Executive Director, Ballot Initiative Strategy Center and Foundation, Washington, D.C.:
We are a nonprofit organization that does research on initiative trends and the donors, who are often the supporters, of the initiatives. We also analyze the impact that initiatives have on civic engagement and voter participation. We provide direct technical support to activists in state-based organizations using the process. We work with a wide array of issue organizations, from those working on education to those working on the environment, election reform, civil rights, and many others.

We believe, even if we do not always agree with the outcome of various ballot measures, that ballot initiatives in direct democracy are an important tool. Any attempts to change the process should be targeted at a specific problem. If we get behind specific reforms to the process, they are not aimed at making it more difficult to qualify measures, but at making the process more fair and bringing integrity back into the system.

While we are based in Washington, D.C., I spend most of my time on the road working with states like Nevada, specifically on initiatives. I have been Executive Director five years and directly involved in literally hundreds of campaigns all across the country. In doing all this work, I have learned about a massive campaign of fraud across the states. It was quite shocking and disheartening, so we are talking to states like Nevada about various reforms to improve and fix the system, aimed specifically at signature gathering. Nevada is joined by Michigan, Montana, Oregon, Washington, and other states that are having very similar hearings and debating similar legislation to address some of the problems that were exposed by the 2006 elections.

While many reforms dealing with signature gathering have been pushed by various interest groups, and we can have an academic conversation about whether the process is ultimately good or bad, some of those reforms are really intended to shut down the process and make it harder for citizens to utilize it and harder for organizations to engage with voters. We do not, philosophically, agree with that approach. Every reform should be targeted at a specific problem and there are pieces of the legislation being proposed in Nevada that are meant to fix some holes in the system.

In 2006, there was real evidence, not just hearsay, from many different states that witnessed unprecedented levels of signature gatherers and their companies ignoring state laws and defrauding voters. Never before have so many ballot measures been kicked off so many ballots due to irregularities in the signature-gathering process. We discovered these irregularities, in part, because we were looking for them. Various campaigns exhibited curious activities, so people started actively scrutinizing how the signatures for these measures had been gathered. Certain signature firms and their sponsors have been "gaming" the system for years. When various campaigns saw unusual activity, we were asked to help them track this activity and to make recommendations to change the system. We noticed that the systems were weak. Where there was evidence of fraud it was often difficult to have the state take authority. The time lines and various processes for these ballot initiatives need to be improved.

When I talk about fraud, let me give you some examples of what we witnessed during the last election cycle. In Maine, proponents on one initiative hid behind an obscure constitutional law. They turned in some signatures three days late because they mysteriously forgot to submit boxes that were found in someone's garage. That group of signatures was the exact margin needed to allow that measure to qualify and be placed on the ballot.

The fraud was so rampant at a signature firm in Michigan that the signature firm owner notified police about her own circulators and, in the end, the level of fraud disqualified that particular initiative. In Missouri, the local proponents of a particular measure were there so briefly before the petition process started that they failed to understand or follow Missouri's very simple signature requirements and, instead of grouping petitions as required by law, they simply tossed random sheets into various boxes and dumped them in the Secretary of State's office five minutes before the deadline expired. In Montana, a district judge dismissed three initiatives circulated by one firm because, as the judge said, the process was "permeated by a pervasive and general pattern and practice of deceit, fraud, and procedural non-compliance."

In Nebraska, a circulator started a physical altercation with someone on the street who was advising potential signers to "think before they ink." It later came to light that the circulator had been convicted of second-degree murder in Florida. We found circulators who had felony convictions for signature and identity theft. In Oklahoma, there was a circulator who admitted in court to lying about being an Oklahoma resident. Residency is a requirement. In fact, he testified that the signature firm he worked for gave him a fake Oklahoma ID, and this is common practice. Essentially, illegal aliens were hired to circulate these petitions.

In the past, it was thought that ballot measures moved forward with a significant amount of volunteers from a particular state who cared about the policy in their state. That is just not the case; these are not volunteers who understand or want to comply with the rules. These are paid signature gatherers, working for major, multi-million dollar, for-profit organizations whose very business model is dependent upon frauding the system and skirting the rules.

I do not believe paid signature gathering is inherently evil; but there are firms that think they do not have to abide by the rules, so some of those rules need to be tightened. I commend you for looking into your system and determining how you can bring integrity back into the process. There are good, well-minded initiative sponsors who are just trying to get their measures on the ballot, and a carefully crafted reform can take out some of the bad players.

Chair Koivisto:
Are there any questions from the Committee? [No response.] Danny, do you want to testify?

Danny Thompson, representing the Nevada State AFL-CIO:
Yes, I do. In 1998, we found ourselves on the wrong end of an initiative petition. A group had filed an initiative against us that was specifically aimed at us and would have affected what we do and how we represent our members. At that time, we knew nothing about the process, but we soon became exposed to the system and how it works. Very few companies gather signatures full time. Someone with an idea will retain one of these companies, because it is very difficult to find people who are willing to talk to you, or who are registered voters, or who will sign a petition. During the last initiative campaign we were involved with, we became suspicious of some of the happenings, primarily because of our experience from 1998.

The people who own the company will hire a subcontractor who will place an ad in the newspaper to hire people. There are also professionals who follow this type of work around the country. I have seen a bus from California pull up, and 40 to 50 people get off that bus who are now "Nevada residents" and working here in our State. This last election, we went to extra lengths to discover what was happening. We digitized two petitions so we could compare the signatures. We hired people to look at the addresses of the signature gatherers, because they are supposed to be Nevada residents. We found massive fraud; we found people who had listed a grocery store and the recreation center as their residence addresses. Some signature gatherers signed affidavits saying they turned in their signatures at night and the notary had notarized the signatures later. That is against the law. We asked the notaries for their signature books, which are public records, but they refused.

I want to read a sworn affidavit:

> In addition, I was invited to a Memorial Day party that was hosted at a picnic area at Lake Mead. At this party, petitioners from the office would sit around in groups of 15-20 individuals and copy signatures from one petition to another. A notary was present at these parties and was aware of what was going on. The petitioners were instructed to shuffle their stacks of paper in between forgeries, in order to make the process more discrete. There were more than 100 people at this party and I know it was not the only one that was held for this purpose. The petitioners that were committing this forgery did not care about producing duplicate signatures because they knew that they would be paid for them regardless, as they were paid on a per-signature basis.

Something that should be outlawed is payment to signature gatherers on a per-signature basis. If signature gatherers are paid, it should be on an hourly basis. A per-signature bounty just encourages fraud. The system in Nevada is being gamed. A document is being distributed to you now (Exhibit L). I had a renowned handwriting expert look at the petitions and tell me if they were forgeries. The gentleman reported that there was no question that they were forgeries. I then hired a person to compile the data. In the last election cycle, the law said 83,364 signatures were required to be turned in by June 20 in order to qualify for the ballot. By putting the petitions in a database, we were able to make a comparison. In one case, 60,710 signatures were gathered from the beginning of the process to June 5. From June 6 to June 20, 52,719 signatures were gathered. I knew something had to be wrong. After the deadline date, 9,099 signatures were turned in. I am not trying to indict the

proponents of the ballot measure. Once a contractor has been hired, that contractor hires a subcontractor, who then hires people to gather signatures, so who knows what is really happening on the streets? The man who signed the affidavit I quoted is afraid for his life, because within this network of people there are "enforcers."

Once the petitions have been turned in, one would expect the Registrar of Voters to look at them, but even if they recognize that there has been voter fraud, there is no procedure for them to act. There is nothing in the law that allows them any leeway other than to sample some of the signatures. It is not their fault, but unless we change the law, it is our fault.

I suggest all these signature-gathering companies be required to register with the Secretary of State and also to register their employees and contractors. You should prohibit a bounty on signatures. There should be a penalty of disqualifying the signatures of a petitioner who has committed forgery, including a notary. The notary mentioned in the affidavit I quoted notarized some 30,000 signatures.

Chair Koivisto:
When you talk about wanting people to register, are you speaking about the signature-gathering companies?

Danny Thompson:
Yes, the companies and their employees. These people come from out of state and will tell you that they do not want anyone to know where they live. When we hire people, they must show us a driver's license. If someone wants to do this in Nevada, they should supply a real address so you can call them if there is a question.

Gail Tuzzolo, representing the Nevada State AFL-CIO:
We realized as we were working on A.B. 604 and A.B. 606 that it would be expensive and cumbersome for the Secretary of State to set up a registration process for circulators. We thought we would require the companies to register the circulators they hire. When we hire people for this kind of work, they must complete the requisite tax forms, and we collect a copy of their ID. They could complete a form for the Secretary of State that I, the employer, would be responsible for sending in to the Secretary of State. That would prevent the process from becoming cumbersome or costly and put the onus on the company that was hiring the circulators.

Chair Koivisto:
The company would file their records of signature gatherers with the Secretary of State?

Gail Tuzzolo:
That is correct.

Chair Koivisto:
Are there any questions from the Committee? [No response.]

Mike Griffin, Retired Carson City District Court Judge:
For 28 years I was a judge in Carson City and heard challenges on initiative petitions. The post, or end, challenge can be taken to any court. There are two ways to challenge initiative petitions; either the words, legally, or factually. To challenge them legally is difficult, because these are very intense, legal questions. Factually, to prove fraud, takes a long time and there is not that kind of time in the election process because state law has all these filing requirements. Also, the county clerks have to print the ballots. A judge must give his or her decision in time for them to print the ballots.

Over the past 20 years, the amount of fraud has increased significantly. We have people who do not care; you cannot find who registered or who signed the petitions. The people become anonymous. You know some of the petitions really stink, yet there is no time to hold a hearing. We are supposed to hold a hearing so the Supreme Court can get the facts to decide the case on, but we do not have the time to do that.

There is no penalty for the people who commit these frauds, and no way to stop it from happening. There needs to be some penalty, because otherwise there is no way to stop it. In my experience, there has been a lot of fraud, but it is not provable because there is no time to prove it.

Chair Koivisto:
Do you think it is enough just to disqualify the signatures? Should there be some penalty?

Mike Griffin:
It should be criminal.

Chair Koivisto:
It should be criminal. There has to be some penalty for the people who commit the fraud, as well.

Mike Griffin:
Yes. My concern is some of the people who commit this fraud do it on a repetitive basis and across the nation. If you knew people were doing this in California or Arizona and that they had moved into Nevada, you would at least be ready to check them pretty carefully. You cannot stop people lying to get someone to sign a petition if the signer will not bother to read it, but the people who sign that something is true on a petition—that is fraud.

Assemblyman Conklin:
The group that has been working on these bills has struggled with the disqualification of signatures because there is a balance to be struck. If a person commits fraud to get signatures, then those signatures collected in the commission of that fraud should be null and void. But I do not want people who were not committing fraud when they signed to be told that their signatures are not valid. You said the penalty should be more than just disqualification of signatures. What would be an appropriate penalty for that act?

Mike Griffin:
If someone collects 20 signatures and 3 are fraudulent, the circulator should have to prove the other 17 signatures are good. Right now, the opponent must prove those signatures are not good. If you have 3 people's signatures using parking lot addresses, you know those 3 signatures are fraudulent, so now you have to still check the other 17 signatures and challenge each one. That is expensive. You ought to have to justify the other signatures you get. If people are operating fraudulently and willfully, there should be severe penalties.

Assemblyman Conklin:
If signatures are gathered on a page and someone says they have 50 pages with 1,000 signatures, if, on every page, there were at least 2 signatures that could conclusively be proven to be fraudulent, are you suggesting all 1,000 signatures are null and void unless the person who gathered the signatures can prove to you that the other signatures are not fraudulent?

Mike Griffin:
There ought to be something like that. Petitions come in with 100 to a page or 3 or 4 signatures to a page. You never know what you are going to get. Serious fraud would be if 5 or 10 signatures in a 10-page petition, or 3 pages of a 400-signature petition, were false. The problem with state law right now is that you cannot get find the people who were circulating the petitions; they disappear.

Chair Koivisto:
Are there any other questions from the Committee? [No response.] I absolutely agree with you that there should be some form of punishment. Do we have anyone else who is in support of A.B. 606 or A.B. 604?

John Griffin:
We are in support of both bills. They complement each other and there is a lot of crossover between the two.

Chair Koivisto:
There are several people who have signed up against the bills.

Sharron Angle, Private Citizen, Reno, Nevada:
I am testifying in opposition to A.B. 604 and A.B. 606. I have had on-the-ground experience with signature gathering for petitions. I question the lack of fiscal notes on these bills, yet when a Ballot Review Board is formed, who would pay that cost?

Referring to A.B. 606, which concerns paying for signatures, I have collected them using both methods. I have paid by the hour and also by the signature. When I pay by the signature, I do not pay for fraudulent signatures; I pay for signatures that will qualify, so I check the signatures. We never paid our signature gatherers on the day they brought the signatures in; we paid several days later so we had time to verify them. It works the same if you pay by the hour. You still want to be certain all the signatures qualify, because you have a finite amount of money to spend for collecting signatures.

I understand where you are going with this, you want to get those people coming from out of state, but a lot of our collectors are in-state. We hire people who will work for minimum wage; we hire day laborers; we hire people who cannot get a job any other place. We train them and warn them it will be a temporary job. Some of our hired workers do not have addresses—they might live at the Gospel Mission. Who are you really targeting? If you are trying to go after the out-of-state people, do that, but you do not want to eliminate jobs here in Nevada.

Concerning the reporting by people backing initiative petitions, people in our State may put large amounts of money into a campaign; but I have had people tell me that disclosure of their support of a particular initiative would hurt their business in the State. Out-of-state people do not care. Sometimes businessmen do not want their political leanings disclosed to their customers because, occasionally, there can be ramifications. Those people will back away

from the process because there is so much disclosure. Requiring disclosure by citizens could have a chilling effect and people may not want to get involved in the process.

Assemblywoman Kirkpatrick:
How are signature collectors paid if they have no address? Do you send them a federal form 1099?

Sharron Angle:
Yes, you report their wages on a 1099. We also can contract them for a certain number of days, and if they show up they get paid. Signature collectors bring the signatures in daily, and we pay on the third day for the first day those signatures were collected. So, they are going to show up for that paycheck.

Assemblywoman Kirkpatrick:
The 1099 is submitted to the Internal Revenue Service (IRS) at the end of the year, and you cannot possibly list the Gospel Mission as their address.

Sharron Angle:
You put down what you have for the IRS. We have mailed out 1099s to people that have come back undeliverable. That is as good as we can do.

Assemblyman Goedhart:
In your experience with circulation of initiative petitions, what form of compensation did you use?

Sharron Angle:
We have paid both ways, by the hour and by the signature. It generally does not seem to matter. We get a better deal financially paying by the hour. We found that an individual could collect between 20-30 signatures per hour. If one is paying minimum wage of $8 per hour; compare that to paying $2 per signature. If 30 signatures were collected, that person would receive $60; but if you are paying by the hour, those signatures would only cost $8. Most of the people who come in from out of state want to be paid by the signature, and they will raise their fee per signature depending upon how much harassment they are subjected to. Harassment increases the cost to collect signatures, as well as cutting down on who is willing to gather signatures for you.

Chair Koivisto:
There is a bill this session that deals with harassment of signature gatherers.

Janine Hansen, President, Nevada Eagle Forum:
I am concerned about maintaining an honest system. All of us have been very careful in our petitioning process to make certain we have accurate signatures. It does not pay an organization that is gathering signatures to get inaccurate ones. We found someone who had collected signatures fraudulently and we did not turn those signatures in. It could not possibly benefit us to turn in signatures that were no good.

I would like to start with A.B. 604, go through that bill and mention my concerns as we go. On page 3 there is a section to reduce the reporting threshold to $100. During the Nevadans For Sound Government campaign, we had someone who donated to us. That information was reported in the media and, as a result he lost his contract with the casinos. There is a tremendous problem trying to raise money when someone you might be opposing on an issue has the power to persecute you. No one can run an initiative for under $10,000, so they are all going to have to report, but an individual reporting requirement that low will have a chilling effect on being able to run an initiative campaign.

On page 4, language at the top of the page reads, "Contain other information required by the Secretary of State;" and then on line 39, "Any other information deemed necessary by the Secretary of State." We object to this. The Secretary of State always wants more information than the Legislature requires. It needs to be specified in the law exactly what information is required. We also have a concern about the "affiliated" issue. That needs to be very well defined.

On page 5, the language reads, "...provides compensation to persons to circulate petitions shall report to the Secretary of State: (a) The number of persons ... compensation is provided ... the least amount ... provided." I am going to quote from the U.S. Supreme Court case *Buckley v. American Constitutional Law* [525 U.S. 182 (1999)]. The Supreme Court validated the Tenth Circuit's decision that the final report to the Secretary of State, insofar as it compels disclosure of information specific to each paid petition circulator—the circulators' names and addresses and the total amount paid—could not be required. You need to look at these reporting requirements concerning payment to individual circulators because in the past they have been struck down by the Supreme Court, and certainly will be challenged if it goes forward in Nevada.

In this bill there is the issue of a public hearing held by the Legislative Counsel Bureau (LCB). Every time someone from the Legislative Counsel Bureau speaks, they tell us that they cannot take a position on an issue. I believe this hearing would place the LCB, as was stated earlier, in the position of being political.

Because it is between 10 and 20 days before the election, I believe it places them in the position of not being unbiased, but in the position of helping one side or the other. Perhaps if this hearing were not immediately before the election it might have more credibility. To have the government telling us how to vote on a ballot question, especially an entity that is supposed to be nonpolitical like the Legislative Counsel Bureau, is problematic. It may violate their position of being neutral.

On page 16, line 14, the language reads that the Legislative Counsel Bureau also has to discuss "The substantive content of the initiative or referendum." They would be giving an opinion. I do not know if they are going to be giving an opinion both pro and con, or how that will be handled, but as a person who has been involved in many ballot questions, I am very concerned about the government interpreting for us. We have Mr. Mortenson's great law that allows the people to participate in the ballot question process and each side to give its point of view. That is a wonderful law and I fully support it. I think this language violates the spirit of that law. Perhaps the two groups, each representing one side, should have the opportunity to present this hearing, rather than the government. That would be far more fair, and both points of view would be assured that they would have their day "in court" and their freedom of speech would not be silenced.

Then, on line 16 of the same page, you require an affidavit. This document (Exhibit M) is from the Secretary of State's Office. You will notice that the requirements of the circulator in the bill follow those at the bottom of the second page of this document from the Secretary of State's Office. These requirements of the circulator are supposed to be sworn under penalty of perjury. I have no problem putting these requirement in statute, they are in code now, but let me mention one thing to you. You will notice it says in the affidavit, "... sworn under penalty of perjury ...." Then, item number (6) says that, "each individual who signed was at the time of signing a registered voter." How do I, as a circulator, know that? How can I sign under penalty of perjury, when I have talked to hundreds of people in a day, whether or not they are a registered voter? I always ask them if they are a registered voter because it harms me if they sign and are not a registered voter. They can tell me they are a registered voter, but you and I know that up to 30 percent of all signatures gathered, even by the best, most dedicated person, might not be valid because people have moved, they do not want to admit they are not registered, or any of a hundred different reasons. I would like you to add that, "to the best of my knowledge each individual who signed at the time of signing was a registered voter." That way, I can sign in all honesty under penalty of perjury. As it is

now, I cannot sign under penalty of perjury unless I am lying, because I do not really know and there is no way to know when one is out gathering signatures.

On line 24 of page 16 it mentions, "That each signer had an opportunity before signing to read the full text." Have any of you ever gathered signatures? I have gathered thousands of signatures and not a single person has ever been interested in reading the full text of the initiative, unless it is a really short one. You always have it available, but they do not want to read it. What is going to happen with this requirement? Signers always have the opportunity to read it, because you have the petition there and the full text is on it, but I do not know what the purpose of this requirement is. If you force every person to read the full text, you have killed the right of petition because no one is going to do it.

In Section 18 at line 32, there is a distinction between a volunteer and a paid circulator. In the U.S. Supreme Court case of *Buckley v. American Constitutional Law*, they identified that it interferes with the right of free speech if you have to force the person to identify whether they are a volunteer or a paid signature gatherer because it has a chilling effect. Quoting from the *Buckley* decision, "The First Amendment protects such interaction we agreed is at its zenith, free speech." This requirement might be challengable under the Supreme Court decision if you force people to disclose whether they are a volunteer or a paid circulator. This would be similar to you, when you campaign door to door, being required to have each of the people who go door to door for you tell whether they were being paid, how much they are being paid, or whether they are volunteers. That is the same kind of requirement you are placing on us.

On page 17, line 1, the bill speaks about accuracy. I mentioned before that we had to take the Secretary of State to the Nevada Supreme Court in 1990 because the ballot explanation written was so inaccurate and biased. The Court overturned that ballot explanation and struck that language.

After my experiences during the last eight years with the Secretary of State, I do not have much confidence that there will not be a political agenda involved when the Secretary of State determines whether a ballot explanation is accurate or not. Who needs to determine whether it is accurate are the people who are voting on it. That is why it goes on the ballot. You might have a very different opinion about what is accurate than I have, even though we both might be very sincere, because we have different philosophical bases. To determine what is "accurate" is a very critical issue. You may have a very different philosophy, and this requirement puts that in jeopardy. We need to be able to go to court and not be reliant on the Secretary of State to determine what is accurate or

what is not. Just as we had to go to court and sue the Secretary of State because they were so biased in the depiction of what we were putting on the ballot.

I will now go to A.B. 606. I want a process that is honest. This bill has the same problems we saw in A.B. 604 concerning affiliated organizations one must disclose. It has the same problems with the Secretary of State making the decision "deemed necessary by the Secretary of State" that we mentioned before. It also says on page 2, line 24, "... shall not compensate such a person on the basis of the number of signatures gathered." Sharron Angle discussed that; however, we have always paid people on the number of signatures they gathered. We identify, as best we can, whether they are accurate or not before we turn them in. The way circulators are paid makes no difference in terms of whether people are going to cheat or not. The best way to ensure that there is accuracy is to require the county clerks to have 100 percent validation of every signature turned in. Right now, the clerks only have to verify a sampling of the signatures. With a 100-percent-validation process, every invalid signature would be thrown out.

Chair Koivisto:
How many people do you think the county clerks would need to hire to accomplish that?

Janine Hansen:
The clerks have had to do this several times in the past. If the numbers are close, it is not unusual for them to have to do 100 percent verification. That is the only way to ensure the signatures are valid.

To file a list of all circulators, volunteers or paid, also violates some issues in the Supreme Court's *Buckley* decision. There was also mention of a lot of fraud. If a person who is not honest collects signatures, and some of their signatures are fraudulent and some of them are good, if you invalidate all that circulator's signatures, the signatures that are valid are being disenfranchised. There must be a better way to deal with someone who is fraudulent than disenfranchising the people who have honestly signed that petition. That is not fair to them. Certainly, the person perpetrating the fraud needs to be punished in some way and I believe there is a bill from the Senate that would make any kind of action like that a felony.

You mention a Ballot Review Board. There might be some real positives in that because if you ask the Secretary of State about some technical issue on your

petition, he will not advise you. This provides the opportunity for him to advise you, and that might be good.

I have many concerns about these bills, but if you want to stop fraud, you must have 100 percent validation of signatures on petitions and that will go a long way toward resolving that problem. The more restrictions you place on signature gathering, the more difficult it will be for small organizations and volunteer organizations to be able to participate in this initiative and referendum process.

Speaking about sunshine, the mining association has asked for a petition requirement that we get signatures in 42 of 42 Assembly Districts. That is an out and out attempt to kill the petition process, because that is practically impossible. These are the same people who, today, were talking about bringing sunshine to this process; but their objective is to shut down the petition process. I am in favor of fairness, but we must maintain a balance.

Chair Koivisto:
I will close the hearing on A.B. 604 and A.B. 606 and open the hearing on Assembly Bill 605. For those of you who have been waiting for this bill, because we already have a bill with the provisions that were in A.B. 605, and the Secretary of State needed a bill for ethics legislation, the Secretary of State's Office is amending A.B. 605 for their purposes.

Assembly Bill 605: Makes various changes concerning ethics in government. (BDR 23-168)

Ross Miller, Secretary of State:
I am proposing an amendment to A.B. 605 (Exhibit N) that would establish the definition, creation, and use of a legal defense fund by a candidate or election official. Nevada statutes do not address how a legal defense fund can be created or how contributions to such a fund must be disclosed. There are legitimate reasons for which a candidate or elected official may need to establish a legal defense fund, and I am not opposed to the creation of such a fund; however, I do believe there must be full disclosure about the purpose for which that fund is established and the contributors to that fund.

My office began by doing extensive research on how other jurisdictions treat legal defense funds and, based upon that, we developed proposed language, taking elements of laws from around that country that were relatively consistent with the provisions governing campaign practices in our State. We are

proposing that a new section in *Nevada Revised Statutes* (NRS) 294A be added that establishes the authority for a legal defense fund.

Section 1 of the bill defines all contributions to the legal defense as they are currently defined in NRS 294A, which governs campaign funds.

Section 2 establishes the purpose and use for which a fund can be established by a candidate or elected official. It states that a separate fund can be created to defray legal costs incurred for the candidate or elected official's legal defense, if he is subject to one or more civil, criminal, or administrative proceedings arising directly out of a political campaign, the electoral process, or performance of his governmental activities and duties.

Section 3 further requires that the elected official or candidate must register a legal defense fund with the Secretary of State's Office before any of the contributions to the fund are solicited or accepted. As part of that registration, a statement of purpose must accompany it identifying the specific proceedings for which the legal defense fund is being created. The Secretary of State would then review the statement of purpose to determine if the fund was being created in accordance with the provisions of the chapter, and determine by preponderance of the evidence that, but for his capacity as a candidate or elected official, the claim would not have been asserted against him. That standard would establish that if a claim arises because of the fact that the individual is a candidate or an elected official, then the legal defense fund may be established.

Sections 4 through 6 require the following: That the legal fund be named as the specific individual's legal defense fund; that the contributions would be limited to $10,000 annually from the effective date of the fund's establishment; that a trustee who has no direct authority over employees of the candidate or the elected official must be named to manage the fund; and, that contributions could not be solicited from employees of the candidate, elected official, or the trustee.

Section 7 would require quarterly contribution and expenditure reports and specifies the dates that the reports are due.

Section 8 specifies the type of information to be reported on the contribution and expense form, and this section is consistent with the information required for a campaign contribution and expense form.

Section 9 requires that, upon conclusion of the legal claims for which the fund was established, and within 90 days, so as to allow for reconciling of all costs associated with the claim, the fund must be dissolved with the Secretary of State and all remaining funds disposed of. It specifies how the funds can be properly disposed of and that language is similar to the provisions we have in our campaign statutes in NRS 294A. Except in the case of legal defense funds, excess contributions cannot be transferred to political campaigns, political committees or parties, or a person or group of persons advocating the passage or defeat of a ballot question.

Finally, the bill requires that any fund established prior to the effective date of this bill is subject to the provisions of this amendment and must be registered with the Secretary of State. Failure to comply with the provisions of this section would be subject to the penalty provisions of NRS 294A.420 currently in statute.

Assemblyman Segerblom:
Is there a reason why you chose the $10,000 limit?

Ross Miller:
It is consistent with the current campaign statutes and it would be an annual limit. So, from the date that you set it up, you could take $10,000 within the next 12-month period.

Assemblyman Segerblom:
If, during a campaign, someone accused you of some type of crime, would that crime have to be related to the election to qualify for this process?

Ross Miller:
The standard we have laid out is that it would have to arise directly out of the conduct of the election campaign, the electoral process, or the performance of the officer's governmental activities and duties. The Secretary of State would be responsible for reviewing that, based upon the statement of purpose, and the standard we would use in reviewing that is, "but for your capacity as a candidate or office holder, the claim would not have been asserted against you."

Assemblyman Segerblom:
Would they have to come to you before they could set up the fund and tell you what the purpose of the fund was and get your approval?

Ross Miller:
Right, approval would be subject to the statement of purpose which we would review based upon those standards.

Assemblyman Goedhart:
What happens if an individual was of the opinion he or she might be facing more than one legal action?

Ross Miller:
You would be entitled to file a statement of purpose as to each claim. If you could cite a specific case or civil action, you would be entitled to set up a separate legal defense fund.

Assemblyman Settelmeyer:
If an individual came to you and said they needed a legal defense fund and you denied it, then later on they were sued and clearly needed that fund, would the Secretary of State get to pay for the attorney?

Ross Miller:
Our decision could be reviewed by the District Court as provided by language in the bill.

Assemblyman Mortenson:
Could a person who wants to set up a legal defense fund just say that the purpose of the fund is to defend against any legal actions that might be taken against that person as a result of that person's candidacy for an office?

Ross Miller:
The statement of purpose has to identify a specific civil or criminal court dispute or administrative proceeding for which the fund is being set up. You would have to identify in the statement of purpose sufficient basis to meet the burden of proof as we have outlined it.

Assemblyman Mortenson:
You are saying one cannot set up a legal defense fund unless some action has been filed against you?

Ross Miller:
You would be precluded from setting up the fund because you would not be able to identify a specific client.

Assemblyman Ohrenschall:
Would the legal defense fund work for civil as well as criminal proceedings?

Ross Miller:
It would cover a civil, criminal, or any administrative proceeding.

Assemblyman Ohrenschall:
If the office holder was informed by the authorities that he or she was the subject or target but that charges had not been filed, would they qualify for a legal defense fund?

Ross Miller:
As we have it defined, you must identify a specific civil or criminal court dispute or administrative proceeding. Arguably, you could set up the fund and identify that there was reason enough to believe you were the target of an investigation and seek a review by the Secretary of State's Office as to whether or not it was defined in that purpose.

Assemblywoman Kirkpatrick:
There are a couple of bills this session that may change the way people raise money, and the Legislature already has some guidelines, but I do not see any mention of that ability in this bill.

Ross Miller:
It is not a prohibition and it does not adjust how candidates would be able to raise money for political campaigns. It is designed to address a void in the statute. There are no guidelines as to how to set up a legal defense fund or how such a fund would be disclosed.

Assemblywoman Kirkpatrick:
If someone filed an ethics complaint about me today because they did not like what I was doing, I could start a legal defense fund and begin to raise money for that fund while I am in session?

Chair Koivisto:
An ethics complaint would not qualify.

Ross Miller:
I will have to get back to you on that. My initial review would tell me that you would not be prohibited from raising funds for this specific purpose.

Assemblywoman Gansert:
Can you amend the statement of purpose?

Ross Miller:
I do not see why not. It places the burden on the individual who set up the legal defense fund to establish, by a preponderance of the evidence, that the legal defense fund is properly established and that they have sufficient basis to be able to do it. It could be amended, or additional information that you thought was warranted could be attached, to help with the Secretary of State's decision. The decision would have to be rendered within five days of the receipt of the statement of purpose. At the time you would submit the statement, you would just have to submit additional information.

Assemblywoman Gansert:
If you filed an amendment, the Secretary of State would have five days to decide if the amendment would be okay?

Ross Miller:
I think it would just trigger another review.

Assemblywoman Gansert:
That is what I was thinking. Item number 6 on your proposed amendment talks about soliciting contributions from employees of the candidate, officeholder, or trustee. Can you accept contributions from those individuals?

Ross Miller:
It does not seem to be defined in the statute, so there would be no prohibitions there.

Assemblyman Conklin:
When the fund is set up, who is the principal of the fund? Is it the person who the legal defense is for, or is there someone else in charge?

Ross Miller:
At the time you set up the fund, you are required to appoint a trustee to manage the fund. That trustee must be a person with no authority over the employees of the candidate or officeholder who would benefit from the fund.

Assemblyman Conklin:
There are questions relating to the term "solicit," the term "contribution," and the term "political purpose." As I read this, you are seeking to take the fundraising portion out of the hands of the person who has the legal defense

fund and allow the defense fund to take place only if there is a stated need and purpose that is agreed to. The actual fund itself, the raising of the fund, has nothing to do with the candidate or elected official. Is that correct?

Ross Miller:
That is the idea.

Chair Koivisto:
Let us say you need to set up a legal defense fund; that issue is settled, but suddenly you are faced with another legal issue. To use a defense fund, does it have to be another legal issue? You cannot expand this defense fund to use for anything else, is that correct?

Ross Miller:
As I read the language we have set forth, you would set up a specific legal defense fund to address a specific civil, criminal, or administrative issue. If, subsequently, you drew another civil, criminal, or administrative issue, you would have the ability to set up a separate, distinct, legal defense fund.

Chair Koivisto:
It would be a separate legal defense fund; it would not be an expansion of the existing legal defense fund.

Ross Miller:
Right, if there was a separate and distinct civil, criminal, or administrative action, you would need to set up a different legal defense fund to address that.

Assemblyman Segerblom:
Would the $10,000 limit apply to each fund?

Ross Miller:
As we have defined the $10,000 limit, that limit would apply to that specific legal defense fund as maintained by that specific trustee.

Assemblyman Segerblom:
We might want to look at that. We do not want somebody to give $30,000 or $40,000. Also, as I read it, it looks as though the contribution can only come from a person, and not from a corporation.

Assemblyman Conklin:
In one of the elections and ethics chapters, a "person" is defined and that definition is broad—it is a person, an entity, a business, or something like that.

It is standard language always used. The intent is that it be a contribution from an entity, one sole entity.

Ross Miller:
That is correct and it relates back to number (1) where the terms "contribution" and "person" have the meanings ascribed in NRS 294A.007 and 294A.009.

Assemblyman Settelmeyer:
Is the original A.B. 605 still in existence and this (Exhibit N) is an amendment to it, or has this amendment become A.B. 605?

Chair Koivisto:
The original A.B. 605 is nothing more than a number.

Assemblyman Settelmeyer:
So, anyone in the audience waiting for A.B. 605 can now leave?

Chair Koivisto:
They can leave if they want to.

Assemblyman Conklin:
To those people in the audience waiting for A.B. 605, you might want to speak with me about another Assembly bill, not yet processed but almost identical.

Assemblyman Ohrenschall:
As legislators, there is a prohibition on fundraising during the session and 30 days before and after it. I know we have broached time prohibitions for other officers, would those prohibitions on campaign fundraising affect fundraising for the legal defense fund, or could such an officeholder raise funds during what would otherwise be a prohibited period?

Ross Miller:
That is probably an issue that would ultimately have to be addressed by the Attorney General, or maybe it could be specifically addressed in statute. The prohibition from raising campaign funds during the legislative period has a provision that prohibits one from raising funds for a political purpose. It does not appear that the legal defense fund would be for a political purpose, so it could be suggested that the prohibition would not apply while we are in session.

Assemblyman Conklin:
Do you want to move this bill today or is there enough interest by the Committee in moving it? Mrs. Gansert had asked about amending the bill to say

that, as long as one amended the statement of purpose with the Secretary of State, the fund could apply to other incidents. Would that amendment be acceptable to the Secretary of State?

Ross Miller:
Sure.

Assemblyman Conklin:
Here is a mock-up of A.B. 605 (Exhibit O).

Assemblyman Segerblom:
Mrs. Gansert's amendment would not require a separate fund be established for each charge?

Assemblywoman Gansert:
If someone established a fund, and then more allegations appeared, instead of creating another fund, they could amend their original statement of purpose, which would still go through the Secretary of State with a five-day review process.

Assemblyman Segerblom:
I personally object to that. I would rather see a separate fund for each allegation, and then have a limit of $10,000 per year for the total, rather than $10,000 for each fund.

Assemblywoman Gansert:
The way I was envisioning this was, if there was money in one fund left over and there were more allegations, you could use that same money and not have to raise funds again. When you establish the defense fund, the $10,000 limit applies to the fund annually; you would end up raising more money if you created a separate fund for more allegations and you would get an additional $10,000 cap on the new fund. The $10,000 cap is not per person, it is per fund. Is that correct?

Ross Miller:
It is $10,000 from any person within a 12-month period.

Assemblywoman Gansert:
That is limited to each fund, so if you opened another fund, the individual could add another $10,000 to the new fund.

Ross Miller:
Right, it would be a separate and distinct legal defense fund with a statement of purpose addressed toward a different civil, criminal, or administrative action.

Assemblywoman Gansert:
Your choices would be to start another fund for new allegations, and then you would have a new $10,000 cap; or you could amend the defense fund you already had and live within whatever money had been received up to $10,000 per year for that original fund.

Ross Miller:
Right.

Chair Koivisto:
If you used the existing fund for another civil, criminal, or administrative charge, whoever contributed to the first fund might not be willing to have their money used for whatever the second fund was to defend against.

Assemblyman Settelmeyer:
This reminds me of a similar bill I tried to bring forward earlier in the session regarding leftover campaign funds and what happens to them. Can they be automatically rolled into another fund, or do you need to contact each contributor to be consistent with the rest of existing NRS?

Chair Koivisto:
If you do not use the money, you have to return it or give it to a charity. There is no other way to get rid of campaign funds.

Assemblywoman Gansert:
That is what I read; you can give it to an established charity.

Chair Koivisto:
Right, you cannot give it to another political campaign.

Assemblyman Conklin:
The Secretary of State has indicated either way is acceptable, but the Committee is undecided between setting up separate funds or amending one fund. I do not care. It could be both ways—have the option of setting up a separate fund or rolling over the fund already in existence.

Ross Miller:
Similar to other provisions for which we require financial disclosure statements and campaign and expense reports, there is no specific provision in the statute that would provide that you could amend any of those reports. Even though it is a practice we see, it has not been addressed specifically in statute before. It is best to just leave it at the discretion of the officeholder or the candidate as to whether or not they would want to amend that specific fund and create a different statement of purpose, or create a separate and distinct legal defense fund.

Assemblyman Conklin:
Suppose we were going to make a motion to Amend and Do Pass this bill, does it matter to you whether we allow legal defense funds to be amended and rolled over to use for different allegations; or is it necessary to have separate funds?

Ross Miller:
If you are talking about amending the bill so that you would provide a provision whereby you would be able to amend your statement of purpose, I think that is fine. If you are talking about being able to amend it to set up a separate and distinct legal defense fund addressing an entirely different civil, criminal, or administrative action, I think you are going to run into problems.

Assemblyman Conklin:
To reiterate, it would be best to have only one defense fund and be able to amend that fund's statement of purpose to address an additional charge.

Ross Miller:
Right, if you set up a legal defense fund for a specific campaign allegation, you would be able to amend it to include other, additional charges you needed to defend against. If the charge was battery versus a wholly independent civil action where the individual was being sued for something in his or her status as an officeholder, I think a separate and distinct legal defense fund would have to be set up.

Assemblywoman Gansert:
I think what you are saying is, if you file your statement of purpose, if the allegations are related, you can amend the statement of purpose so that the one legal defense fund covers whatever might happen in related allegations. However, if the allegations are distinct and different, they would need to set up a separate fund.

Ross Miller:
That is what has been discussed with me. It is not something we had specifically contemplated in the statute. My point was that, in other areas for which we require disclosure, we do not specifically give the provision that you can amend something.

Assemblywoman Gansert:
That is acceptable. What I was trying to get to was if someone had more allegations made against him, even if those allegations were separate and distinct, if there was money left over in the first fund, they could amend the statement of purpose so those same funds could be used. I understand Mr. Settelmeyer's concern that people might not have contributed to fight the second cause of action, just the first set of allegations.

Ross Miller:
Simpler may be better in this instance. We based this language on existing laws that have gone through the courts and been tested, as well as our survey of existing legal funds and how they have been defined in other jurisdictions. The amendment process was not one we came across.

Assemblyman Goedhart:
The way I look at number (5), even if there were multiple legal defense funds, it could be read that you could still only give $10,000 from the date of establishment of the legal defense fund. That would cap you at the $10,000 even if another legal defense fund was established, say, 90 days from the establishment of the first fund.

Ross Miller:
The way it is written, "No person shall solicit or accept any contributions totaling more than $10,000 from the establishment of a legal defense fund," you would be entitled to set up a separate legal defense fund and accept $10,000.

Assemblyman Goedhart:
Say you have one fund and the case was resolved; and 100 days after the first case was resolved, you were charged with something else. In that case, you had 90 days to distribute the balance in that fund. The individual would have to start over from a zero balance, correct?

Ross Miller:
Right.

Assemblyman Settelmeyer:
I like the concept of having separate funds and not having the money roll from one fund into another fund without permission of the people who contributed to the first fund.

Assemblywoman Kirkpatrick:
What if total legal-defense-fund contributions could not exceed $10,000, no matter how many funds were set up?

Assemblyman Conklin:
The language in the mock-up is acceptable to me, but I would like to see it in bill draft before it goes to the Floor.

Chair Koivisto:
Before I ask for a motion, is there any additional public testimony on this bill?

Janine Hansen, President, Nevada Eagle Forum:
I am assuming the mock-up is replacing the original A.B. 605?

Chair Koivisto:
That is correct.

> ASSEMBLYWOMAN GANSERT MOVED TO AMEND AND DO PASS ASSEMBLY BILL 605 WITH THE MOCK-UP, WHICH IS PROPOSED AMENDMENT 3531.
>
> ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Chair Koivisto:
Is there any other discussion?

> THE MOTION PASSED UNANIMOUSLY.

We have some bills I believe we may be able to get through quickly and vote on. Let us go to Assembly Bill 516 first, and we will roll Assembly Bill 142 to another hearing.

Assembly Bill 516: Revises provisions governing the review of arguments advocating and opposing the approval of certain measures proposed by initiative or referendum. (BDR 24-522)

Patrick Guinan, Committee Policy Analyst:
[Mr. Guinan read an explanation of the bill and proposed amendment from the Work Session document (Exhibit P).]

Assemblyman Settelmeyer:
Do you want to say three "working" days in case there is a three-day holiday?

Keith Munro, Chief of Staff, Office of the Attorney General:
That would be fine. There is another provision at NRS (*Nevada Revised Statutes*) 295.217 that is similar and has three days. We would like this language to be consistent with that language.

Assemblyman Settelmeyer:
I was concerned that during a three-day holiday you would not have the ability to conduct any government business and that it could create a problem.

Patrick Guinan:
The three-day language is cited on page 9 at lines 35 through 38. It reads that, "The court shall set the matter for hearing not later than three days after the complaint is filed." There is no exception made in that language for a holiday or a working day. Mr. Munro, do you want it to mirror that language?

Keith Munro:
That is correct. This is three days for the court to set the hearing, so, presumably, it is three working days, three court days.

Chair Koivisto:
Probably whatever language is consistent within the NRS and that indicates three business days, three working days, or three court days, will make it work. I will accept a motion.

Patrick Guinan:
I got a note from the Legal Division that says the time frame will not be interpreted as three business or working days unless that is written into the section. As a result, this language will not be consistent with the language in the other section of the bill I mentioned.

Ned Reed, Senior Deputy Attorney General, Office of the Attorney General:
If it is interpreted to be just three days, if the third day falls on a weekend or holiday, it would automatically go over to the next day. That is the way clerks normally interpret this language.

Chair Koivisto:
Does that give you peace of mind?

Assemblyman Settelmeyer:
It sounds as though you can get two attorneys to come to two different opinions.

Assemblywoman Gansert:
Could we ask Legal to confirm what was just presented—that it would roll to the next working day?

Patrick Guinan:
Legal just informed me that it needs to be stated that they be "working" days, but they have no problem with drafting the language to say "working" days if that is what the Committee's preference is.

Chair Koivisto:
That is what we want to do.

> ASSEMBLYWOMAN GANSERT MOVED TO AMEND AND DO PASS ASSEMBLY BILL 516 WITH THE AMENDMENT BEING MOVING FROM 30 DAYS TO 3 WORKING DAYS FOR THE COURT TO SET THE HEARING.
>
> ASSEMBLYMAN SETTELMEYER SECONDED THE MOTION.

Chair Koivisto:
Is there any discussion?

> THE MOTION PASSED. (ASSEMBLYMEN CONKLIN AND KIRKPATRICK WERE ABSENT FOR THE VOTE.)

Now we will go to Assembly Bill 517.

Assembly Bill 517: Makes various changes to election laws. (BDR 24-542)

Patrick Guinan, Committee Policy Analyst:
[Mr. Guinan read an explanation of the bill and proposed amendments from his Work Session document (Exhibit Q).]

ASSEMBLYMAN GOEDHART MOVED TO AMEND AND DO PASS ASSEMBLY BILL 517 WITH THE AMENDMENTS AS NOTED IN THE WORK SESSION DOCUMENT.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

Chair Koivisto:
Is there any discussion?

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN AND KIRKPATRICK WERE ABSENT FOR THE VOTE.)

Let us take up Assembly Bill 569.

Assembly Bill 569: Makes various changes relating to elections. (BDR 24-322)

Patrick Guinan, Committee Policy Analyst:
[Mr. Guinan read an explanation of the bill and proposed amendments from the Work Session document (Exhibit R).] As you see under "Special Note," Mr. David Schumann of the Committee for Full Statehood testified in opposition to the deletions that remove the requirement that paper vote records from mechanical voting machines be made available for vote recounts. I spoke with two of the clerks, Alan Glover and Larry Lomax, regarding that question and it is their position that the language being stricken refers to obsolete mechanical voting machines that are no longer used and that there are provisions in the bill that will allow for a recount of a paper ballot. I can point you to Section 16 on page 7 of the bill, subsection (k), "The procedures to be used for canvasses, ties, recounts and contests, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically," is included in the new language of the bill. However, Mr. Lomax also stated that the strikeouts in Section 23, subsection 4; and Section 53, subsection 2(b) of the measure are not ones that he is wedded to and he is not opposed to leaving them in, if it is an issue the Committee feels is important.

Assemblyman Ohrenschall:
I would feel more comfortable if the references to the paper ballot stayed in. If someone wanted to have a paper recount and could pay for it, they could have it.

Chair Koivisto:
They still could have a recount. This language refers to paper ballots that are no longer being used. The paper ballots from the electronic voting machines are referred to in another part of the bill. Those backup paper ballots currently on our voting machines are referred to differently.

Assemblyman Ohrenschall:
The paper printouts from the Sequoia machines would still be available if a candidate wanted a hand recount?

Chair Koivisto:
Absolutely, yes.

Assemblyman Ohrenschall:
Ms. Hansen mentioned Social Security numbers. Where are they located—in the bill or in the amendment?

Patrick Guinan:
If you look at proposed amendments 2 and 3, they both allow a person to attest under penalty of perjury that they do not have a valid driver's license or a Social Security number. Ms. Hansen's testimony concerned whether or not it was appropriate to require that someone sign an affidavit to that effect.

Assemblyman Ohrenschall:
There would be no requirement to provide a Social Security number; one would just have to affirm that one did not have one?

Patrick Guinan:
That is correct.

Chair Koivisto:
Are there further questions or discussion?

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS ASSEMBLY BILL 569.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN CONKLIN AND KIRKPATRICK WERE ABSENT FOR THE VOTE.)

Chair Koivisto:
Thank you very much, Committee, we are adjourned [at 7:14 p.m.].

Assembly Bill 142: Makes various changes concerning ethics in government. (BDR 23-169)

[Assembly Bill 142, listed on the agenda, was not heard.]

RESPECTFULLY SUBMITTED:

Terry Horgan
Committee Secretary

APPROVED BY:

Assemblywoman Ellen Koivisto, Chair

DATE:

EXHIBITS

Committee Name: Committee on Elections, Procedures, Ethics, and Constitutional Amendments

Date: April 5, 2007 **Time of Meeting: 3:45 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
AJR 10	C	Assemblywoman Peggy Pierce	Video
AJR 10	D	Assemblywoman Peggy Pierce	Binder of supplemental information
AJR 10	E	Janine Hansen, President, Nevada Eagle Forum	Article entitled *Fast Track is Unconstitutional*
AJR 10	F	Janine Hansen	*Teamster* Magazine
AJR 10	G	Janine Hansen	Information concerning the NAFTA super highway system
AJR 10	H	Lynn Chapman, State Vice President, Nevada Families	Opinion poll results
AB 604	I	Michael Stewart, Principal Research Analyst	*Initiative and Referendum in the 21st Century*
AB 604	J	Michael Stewart	"Information Regarding Nevada's Initiative and Referendum Procedures ..."
AB 606	K	Michael Brown, Vice President, U.S. Public Affairs, Barrick Goldstrike Mines, Inc.	Written testimony in favor
AB 606	L	Danny Thompson, Nevada State AFL-CIO	Database report on number of signatures gathered on a petition
AB 604	M	Janine Hansen, President, Nevada Eagle Forum	Affidavit of Circulator of an Initiative Petition
AB 605	N	Ross Miller, Secretary of State	Proposed amendments

AB 605	O	Assemblyman Marcus Conklin	Mock-up of the bill, amendment 3531
AB 516	P	Patrick Guinan, Committee Policy Analyst	Bill explanation and proposed amendment
AB 517	Q	Patrick Guinan, Committee Policy Analyst	Bill explanation and proposed amendments
AB 569	R	Patrick Guinan, Committee Policy Analyst	Bill explanation and proposed amendments