

**MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-fourth Session
May 1, 2007**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara K. Cegavske at 1:42 p.m. on Tuesday, May 1, 2007, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Barbara K. Cegavske, Chair
Senator William J. Raggio, Vice Chair
Senator Warren B. Hardy II
Senator Bob Beers
Senator Bernice Mathews
Senator Valerie Wiener
Senator Steven A. Horsford

GUEST LEGISLATORS PRESENT:

Assemblywoman Heidi S. Gansert, Assembly District No. 25
Assemblywoman Peggy Pierce, Assembly District No. 3

STAFF MEMBERS PRESENT:

Kimberly Marsh Guinasso, Assembly Legal Counsel and Bill Drafting Adviser
Michelle L. Van Geel, Committee Policy Analyst
Brian Campolieti, Committee Secretary

OTHERS PRESENT:

Greg Smith, Administrator, Purchasing Division, Department of Administration
Janine Hansen, Nevada Eagle Forum
Lynn Chapman, Nevada Families
John L. Wagner, The Burke Consortium
Kyle Davis, Nevada Conservation League
Larry Lomax, Registrar of Voters, Elections, Clark County
Alan Glover, Clerk/Recorder, Carson City

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Matt Griffin, Deputy for Elections, Office of the Secretary of State
Nicolas Anthony, City of Reno
J. David Fraser, Executive Director, Nevada League of Cities and Municipalities

CHAIR CEGAVSKE:

I open the Committee with Assembly Bill (A.B.) 470.

ASSEMBLY BILL 470: Prohibits the Governor or any other state officer or employee from binding the State to the requirements of an international trade agreement without authorization by the Legislature. (BDR 19-1280)

ASSEMBLYWOMAN PEGGY PIERCE (Assembly District No. 3):

Assembly Bill 470 is a companion bill to Assembly Joint Resolution (A.J.R.) 10 which I presented last week. The subject behind both bills is free trade. As A.J.R. 10 dealt with free trade on a national level, A.B. 470 deals with free trade here in Nevada. Chapter 11 of the North American Free Trade Agreement (NAFTA) gives foreign investors the right to sue the federal government. This is a right U.S. citizens do not have. Foreign investors have the right to challenge much of what we do as Legislators in a trade tribunal. For example, a bill addressing environmental issues in Nevada can be challenged in a NAFTA tribunal. There have been dozens of free trade agreements which dozens of countries agreed to since NAFTA, and each agreement has its own chapter 11. Trade agreements since NAFTA encompass everything you cannot drop on your foot, including banking, telecommunications, postal services, tourism, transportation, waste disposal, oil and gas production, electricity, gaming and local land use. They also cover those services universally considered essential to human health and development like health care, education and drinking water.

ASSEMBLY JOINT RESOLUTION 10: Urges Congress not to reauthorize the "fast track" approval of international trade agreements. (BDR R-1295)

Any law the Nevada Legislature passes that touches those areas I just mentioned can be challenges in a trade tribunal. Remember, these tribunals are outside the United States. We do not have a place at the table, and there is no open meeting law. Assembly Bill 470 says that only this Legislature can bind Nevada to the provisions of a trade agreement. It further says the State of Nevada is not bound to trade agreements that were never agreed to by this Legislature. You may have the right to do this. The U.S. trade representative sets up a system called the State Point of Contact. Each state would have

someone who the U.S. trade representative would keep informed on the subject of trade agreements, someone who could agree to bind the state to a trade agreement, but the system has not worked well and there have been complaints about the hit-and-miss aspect of that arrangement. However, it set the standard that we have a choice whether Nevada is bound to trade agreements.

In the portfolio "Free Trade and the State of Nevada" ([Exhibit C](#), original is on file in the Research Library) which I provided for the Committee, there is a section entitled Nevada Actions. You will see a sheet from Global Trade Watch on Nevada that says, "good news for Nevada taxpayers." Following that are a couple of letters from Greg Smith, the administrator of the Purchasing Division, Department of Administration, asking that Nevada be carved out of a few trade agreements. If there is a hero in the trade story, I have been telling you, it is Mr. Smith. No one appreciates Mr. Smith's actions on behalf of Nevada more than I do. However, these important decisions on trade should not be left to Mr. Smith. These decisions should be made by those of us who have been elected to the Legislature. All previous and future trade agreements should be investigated and heard by us; whether to bind the state to them should be debated by us, and the decision on that question should be voted on by us. That is what A.B. 470 proposes. I call your attention to the opinions of Brenda Erdoes, Legislative Counsel, Legal Division, Legislative Counsel Bureau, to the constitutionality and the appropriateness of A.B. 470 in [Exhibit C](#). The world has changed much during my 50-plus years. Some of those changes are good and exciting. We owe it to the people who elected us to keep up with those changes and take responsibility for the decisions required of this state in a global world with its global markets in the twenty-first century. I urge the Committee's support of A.B. 470.

GREG SMITH (Administrator, Purchasing Division, Department of Administration): What the Purchasing Division does every day is ask the question if something is in the best interest of the state. In 2003 and 2005, former Governor Kenny C. Guinn was presented with a letter from the U.S. trade representative's office asking for Nevada's participation. He referred the matter to my office to gather information in which to make a recommendation. The first thing I noticed in this letter was that if there was no response, the state is automatically considered as a member of the agreement. In addition, once you are a member of the agreement, there is no way to withdraw. I was told by the U.S. trade representative's office that over 38 states were members of the agreement. However, I discovered that most of those states had no knowledge of

membership. The further I delved into the various trade agreements, the more confusing and complex they became. The terms and conditions we would be forced to abide by are existing complex procurements. It did not seem in the best interest of the state to overly complicate a Nevada procurement for someone in Battle Mountain to satisfy someone in Seoul, South Korea.

JANINE HANSEN (Nevada Eagle Forum):

We support A.B. 470. The Eagle Forum continues to oppose NAFTA, the General Agreement on Tariffs and Trade, the World Trade Organization and the Central America Free Trade Agreement. These trade agreements destroy our national sovereignty as well as our sovereignty as a state. By approving these agreements, the U.S. Congress is taking away the responsibilities of individual states to determine what is best for them with regard to environmental and labor regulations. It is important that the state assert its authority to protect Nevadans from international agreements. Foreign trade agreements have many pages of grants and vague authority to foreign tribunals on which foreign judges can force us to change our domestic laws. We ask all Legislators to protect Nevadans from what has been given away by the U.S. Congress. We need to control trade to protect individual people.

LYNN CHAPMAN (Nevada Families):

We support A.B. 470 as well. Free trade puts 30 million to 40 million American jobs at risk from outsourcing. Legislators represent the voice of the people of Nevada. We need you to watch out for our jobs and our families. Nevada needs A.B. 470 for our families and our future.

JOHN L. WAGNER (The Burke Consortium):

I support A.B. 470. When it comes to trust, we trust the members of this Legislature. I would much rather have our Legislators making trade agreements for Nevada than any other individual.

KYLE DAVIS (Nevada Conservation League):

We support A.B. 470. The environmental impacts of these trade agreements can be devastating. Assembly Bill 470 gives us another oversight opportunity to make sure Nevada's environment is adequately protected.

SENATOR WIENER:

I am looking at other state actions and it looks as though there is a sense of urgency around the country. How did you become engaged in this issue?

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ASSEMBLYWOMAN PIERCE:

I discovered 30 freshman members of the U.S. Congress who ran on trade were elected last year because they wanted a different direction on trade as well as more oversight. As states become aware of actions in international tribunals, they become educated as to how free trade affects them and their citizenry.

CHAIR CEGAVSKE:

I close the hearing on A.B. 470 and open the hearing on A.B. 322.

ASSEMBLY BILL 322 (1st Reprint): Revises certain provisions governing elections. (BDR 24-408)

ASSEMBLYWOMAN HEIDI S. GANSERT (Assembly District No. 25):

During the last session, we had some legislation on initiative petitions and we went with a disclosure of any funds over \$10,000 used to promote or defeat an initiative. The first part of A.B. 322 deals with questions on a ballot. If you have a question on a ballot and you are receiving or expending money to promote or defeat it, the same disclosure rules apply as with initiative petitions. The second part of A.B. 322 addresses changes to initiative petitions. If you have an initiative petition that gets challenged or changed, you need to refile it with the Secretary of State's Office and regather signatures.

CHAIR CEGAVSKE:

What was the change from the original bill to the reprint?

MS. GANSERT:

There was some cleanup in the language but no major changes.

MS. HANSEN:

I have no particular concern with A.B. 322, but it can be misused in different ways. We have concern that this bill could intimidate people and prohibit them from participating in the petitioning process. Placing a damper on individuals who challenge the establishment will not help the process.

CHAIR CEGAVSKE:

Assembly Bill 322 will also provide that a description of the ballot question cannot be challenged. Was that an issue last session?

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ASSEMBLYWOMAN GANSERT:

If the court orders you to change the summary in some particular way, once you fix it, you cannot be rechallenged if you mandated a court order. Currently, you can continue to challenge the same issue as many times within the time frame.

CHAIR CEGAUSKE:

I close the hearing on A.B. 322 and open the hearing on A.B. 342.

ASSEMBLY BILL 342 (1st Reprint): Makes various changes to the process of casting a mailing ballot in mailing precincts. (BDR 24-689)

ASSEMBLYWOMAN GANSERT:

Assembly Bill 342 concerns mail-only precincts. I had someone living outside Reno who went to vote on Election Day but was turned away because he lived in a mail-only precinct. For counties over 100,000, A.B. 342 enables voters to vote on Election Day if they choose to do so. For counties under 100,000, the county clerk may designate where polling places will accept mail-only voters to vote on Election Day.

SENATOR BEERS:

Did the clerks come and speak with you regarding this issue?

ASSEMBLYWOMAN GANSERT:

They did come and speak to the bill. In the large counties, early voting made it easier for them to allow anyone to vote wherever they wanted. However, during the general election, they will designate a polling place for mail-in precinct voters if they wish to vote in person.

CHAIR CEGAUSKE:

This is someone who is already registered and for whatever reason decides to vote in person. There was a case where someone voted twice. Would this bill take care of that issue or would it continue to exist?

ASSEMBLYWOMAN GANSERT:

This is only for the larger counties and does not address that issue.

SENATOR WIENER:

Concerning page 2, section 4, subsection 3, paragraph (b) of A.B. 342, is there a procedure to apply to vote in person? What are the logistics here?

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ASSEMBLYWOMAN GANSERT:

By applying, you show up in person to vote.

SENATOR WIENER:

That language is awkward. I thought the word "apply" was referring to filling out an application.

KIMBERLY MARSH GUINASSO (Assembly Legal Counsel and Bill Drafting Adviser):

The word "apply" was not used with the concept of filing an application. It means voters can utilize an assigned polling place if they wish to do so. We can take that word out without any problems.

LARRY LOMAX (Registrar of Voters, Elections, Clark County):

Clark County already allows what A.B. 342 requires. We have always allowed people in mailing precincts to vote early. Assembly Bill 342 will standardize our procedures throughout the other counties and establish a standard procedure.

CHAIR CEGAVSKE:

Is there any concern about the wording Senator Wiener brought forward?

MR. LOMAX:

We want to be sure it is clear so the voter can show up and vote without special paperwork.

CHAIR CEGAVSKE:

If we remove the word "apply" from the bill, would it create a burden?

MR. LOMAX:

It might clarify it.

MS. GANSERT:

I will accept that as an amendment.

CHAIR CEGAVSKE:

I close the hearing on A.B. 342 and open the hearing on A.B. 569.

ASSEMBLY BILL 569 (1st Reprint): Makes various changes relating to elections.
(BDR 24-322)

MR. LOMAX:

Assembly Bill 569 removes all old punch card language from *Nevada Revised Statutes* (NRS). It standardizes the term "roster book" for "poll book" and adds some terms and definitions such as provisional ballots from the Help America Vote Act of 2002. We now allow a candidate who filed to have seven days to withdraw after the close of candidate filing. The language provides that you can withdraw your withdrawal as long as you do it within the seven-day period.

SENATOR MATHEWS:

When a candidate who has withdrawn returns to pull the withdrawal, you should charge him an additional fee.

MR. LOMAX:

Currently, the bill does not address that issue. We had a situation in 2004 where the Secretary of State had not provided us the updates to the regulations until they came out on the day of the primary. Assembly Bill 569 requires the Secretary of State to have the regulations printed and distributed by December 31 of the year for seating the federal election. That would give the clerks enough time to train personnel.

Unopposed town advisory board members who file without competition will be declared elected. Now that Nevada uses the Sequoia AVC Edge voting machines, there is no need for voting receipts. Assembly Bill 569 will make them optional. Additionally, personal challenges were an issue raised during the 2006 election. The law states that to issue a challenge, you must live in the same precinct or district. We went to court about this because our interpretation of district meant the voting district. The challenge stated it meant a political district. A political district can be as large as a county, Congressional District or state. It makes no sense to have a law that regulates in order to issue a challenge, you must live in the same precinct or the same state. The judge subsequently ruled in our favor. We would like to strike the word "district" and make it that to issue a challenge, you must live in the same precinct. In addition, there are no restrictions placed upon someone issuing a challenge. We want to add the requirement of living in the same precinct and having personal knowledge. Right now, if I challenge you as not being a citizen, you would have to fill out an oath affirming you are a citizen. The challenger does not have to do anything. Assembly Bill 569 does not stop anyone from having the right to challenge, but it requires they have personal knowledge to challenge.

Section 29 of A.B. 569 stipulates that an official absentee ballot may also be shipped by any class of mail if the Official Election Mail logo created by the U.S. Postal Service is placed on the ballot. This guarantees us the equivalent of first class service, even if we are not paying first class postage. During the 2006 election, mailing absentee ballots cost Clark County \$2.20 per mail piece. If we can reduce that to 69 cents per piece, we can save money without degradation in service to the voters.

SENATOR BEERS:

Could we add "or equivalent" to the language addressing the Official Election Mail logo in section 29? Assembly Bill 569 addresses the U.S. Postal Service's current policy and that could change in the future.

MR. LOMAX:

As long as it is clear. We only want the wording to allow us to send ballots out in the fastest and cheapest way possible. Page 20 of A.B. 569 addresses our request for polling places in small counties to be open for at least four hours on Saturdays during early voting. Some of the small counties say it is a waste of time for them to be open the full time period of 10 a.m. until 6 p.m. Page 27 of A.B. 569 intends to clarify that county clerks will provide the state and county party voter registration lists.

SENATOR BEERS:

My recollection is that this will soon become moot for the whole state.

MR. LOMAX:

Section 51, subsection 3 of A.B. 569 clarifies that a question can be pulled from the ballot as long as it is pulled before the deadline for submitting questions. This also clarifies that the county clerk will assign a number to a question so someone has responsibility.

CHAIR CEGAUSKE:

What is the purpose of changing "voter" to "applicant" on page 30 of A.B. 569?

MR. LOMAX:

Page 30 was another court case having to do with voter registration. We want to identify people who fill out a voter registration form as an applicant instead of a voter. When the form is satisfactorily completed, the applicant will be

considered a voter. The second issue on this page addresses the need for an affidavit if the applicant does not have a social security number or Nevada driver license. Assembly Bill 569 assigns the Secretary of State responsibility for standardizing a form that we will use as an affidavit.

CHAIR CEGAUSKE:

Why is "county clerk" crossed out on page 30, line 26 and replaced with "applicant"?

ALAN GLOVER (Clerk/Recorder, Carson City):

That is because we will have the applicant fill out the form, not the county clerk.

MR. LOMAX:

Page 32 of A.B. 569 gives the county clerk the authority to declare the elector's affidavit void if it contains handwritten additions, erasures or interlineations. This gives the county clerks direction on what to do if an applicant returns an affidavit with cross outs and marks added. We want to turn that in to our district attorney and let them decide if the applicant made changes that impact us as county clerks. Page 33 deals with written challenges as opposed to in-person challenges. To issue a written challenge, you will need to live in the same precinct and have personal knowledge. In the previous election, we had an individual submit about 13,000 letters challenging people throughout Clark County. They did not live in the same precinct or have personal knowledge. Each challenge essentially read that they heard in the media there were many illegal aliens in the precinct; therefore, they challenged people as not being who they said they were. It makes no sense to allow people to challenge in this way, and A.B. 569 will help us deal with this problem.

MR. GLOVER:

The last change in section 100 of A.B. 569 accommodates the Elko County Convention and Visitors Authority. I submitted a letter to the Committee ([Exhibit D](#)) from Winifred Smith, Elko County Clerk, which explains the reasons behind section 100. This would allow candidates who run unopposed to automatically be elected. This will save the county money in the future and help streamline the election process.

CHAIR CEGAVSKE:

It pleases me to see A.B. 569 cleaned up and how you look out for taxpayers and try to cut unnecessary costs wherever possible.

MS. HANSEN:

We have concern with section 53, subsection 7 of A.B. 569. Putting the determination of who has the right to vote in the hands of county clerks is inappropriate. They are not lawyers or experts and should not be granted this authority. It is unconstitutional to prohibit an individual from registering to vote on the grounds of religious or political beliefs. Some people may cross things out on registration forms because they have a particular religious belief. In that case, why should they be denied the right to vote? The greater issues of participation mean more than filling out a bureaucratic form.

CHAIR CEGAVSKE:

Section 53, subsection 7, paragraph (b) of A.B. 569 states that the district attorney will be the decider of whether a registration card will be processed.

MS. HANSEN:

This section is confusing and should be clarified. It also says the county clerk decides if the elector is not eligible to vote pursuant to NRS 293.485.

CHAIR CEGAVSKE:

If you continue through section 53, subsection 7 states the county clerk "shall immediately notify the elector and the district attorney of the county." The county clerk does not make that decision; the district attorney does.

MS. HANSEN:

That protects the county clerk. Regardless of who has the authority, we need to recognize that people have particular political or religious beliefs which need to be accommodated. Just because they do not fill out a form in an exact manner, their right to vote should not be taken away.

MATT GRIFFIN (Deputy for Elections, Office of the Secretary of State):

The distinction of section 53, subsection 7 of A.B. 569 is that the clerk may object to a form, but if so, they must refer it to the local district attorney's office. The word "object" is different from the word "reject."

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CHAIR CEGAVSKE:

I close the hearing on A.B. 569 and open the hearing on A.B. 570.

ASSEMBLY BILL 570 (1st Reprint): Revises certain provisions relating to elections. (BDR 24-429)

NICOLAS ANTHONY (City of Reno):

Assembly Bill 570 relates to the canvassing of elections and grants an enabling authority—not mandatory—to local governments to go from five days to six-working days to canvass election results. The reason this issue came up is because the Reno City Council meets on Wednesdays which is typically six-working days after a Tuesday election.

J. DAVID FRASER (Executive Director, Nevada League of Cities and Municipalities):

Several other cities are listed in sections 3 through 5 and they support A.B. 570 as well.

CHAIR CEGAVSKE:

I close the hearing on A.B. 570 and will accept a motion for A.B. 505.

ASSEMBLY BILL 505: Changes the period for the filing of declarations, acceptances and certificates of candidacy for certain judicial offices. (BDR 24-652)

SENATOR BEERS MOVED TO DO PASS A.B. 505.

SENATOR RAGGIO SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CEGAVSKE:

If there is nothing more to come before this Committee, I adjourn the Senate Committee on Legislative Operations and Elections at 3:01 p.m.

RESPECTFULLY SUBMITTED:

Brian Campolieti,
Committee Secretary

APPROVED BY:

Senator Barbara K. Cegavske, Chair

DATE: _____