MINUTES OF THE
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS

Seventy-fourth Session
May 10, 2007

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara K. Cegavske at 1:39 p.m. on Thursday, May 10, 2007, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, 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:

Assemblyman Marcus Conklin, Assembly District No. 37
Assemblyman Harry Mortenson, Assembly District No. 42

STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Michael J. Stewart, Principal Research Analyst
Michelle L. Van Geel, Committee Policy Analyst
Josh Martinmaas, Committee Secretary

OTHERS PRESENT:

Michael J. Brown, Barrick Gold of North America, Incorporated
John W. Griffin, Kummer Kaempfer Bonner Renshaw & Ferrario
Steven Dempsey
David K. Schumann, Nevada Committee for Full Statehood

Janine Hansen, Independent American Party
Larry Lomax, Registrar of Voters, Elections, Clark County
John L. Wagner, The Burke Consortium
Lynn Chapman, Nevada Eagle Forum
Joseph A. Turco, American Civil Liberties Union of Nevada
Michael R. Griffin, Former District Judge
Dennis Johnson, People's Initiative to Stop the Taking of Our Land
James T. Endres, McDonald Carano Wilson, LLP
Craig Walton, Ph.D, Nevada Center for Public Ethics

CHAIR CEGAVSKE:
I will open the hearing on Assembly Bill (A.B.) 604.

ASSEMBLY BILL 604 (2nd Reprint): Revises provisions governing petitions for statewide initiatives and referenda. (BDR 24-1396)

ASSEMBLYMAN MARCUS CONKLIN (Assembly District No. 37):
Assembly Bill 604 is a product of the Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments. You have a chart (Exhibit C) that will help you look over each section so you have an understanding of what we are trying to accomplish with this bill. You also have a companion for A.B. 606 (Exhibit D).

ASSEMBLY BILL 606 (2nd Reprint): Revises provisions relating to petitions for statewide initiatives and referenda. (BDR 24-1395)

Assembly Bill 604 and A.B. 606 combined are a nexus of ideas concerning the initiative petition process. The nexus has two main priorities. One is opening up and increasing the transparency of the process which has little to none right now. The other is to clean up the process. The belief of our Committee through testimony—extensive testimony, even people from Washington, D.C.—was the amount of fraud that takes place or is likely to take place, in cases where we do not know it has taken place, is too much. These bills combined try to address those two issues specifically.

I will be going off Exhibit C. There are eight major provisions in this bill; I will go to the sections that have those provisions. Any section I do not cover is technical in nature and conforms to language for the sections I address.

The first is section 3. This section provides that a person or group that has received or expended at least $10,000 must report to the Secretary of State each contribution in excess of $100 or contributions from one source that cumulatively exceed $100.

Section 4 of A.B. 604 provides that each person or group organized to advocate the passage or defeat of an initiative petition or referendum must appoint and keep a resident agent within Nevada, and the agent must reside in this state. That is a standard provision for resident agents.

Section 5 of the bill requires a person or group of persons who advocate for the passage or defeat of an initiative petition or referendum to file a statement of organization and provide certain information to the Secretary of State. The information required in the statement of organization must include the following items: name of the person or group, the purpose of the person or group, names and addresses of any officers, names and addresses of any affiliate groups and names, addresses and telephone numbers of the resident agent. This section also provides a process to amend that statement as necessary as things change. Many times as the process grows, you would add to that.

CHAIR CEGAVSKE:
When you say the name of the group, the purpose of the group and the person, is this the political action committee (PAC) information or the resident agent? Section 4 is about resident agents. Is this where they, as a resident agent, have to give the information or is this different?

ASSEMBLYMAN CONKLIN:
No, this is different. This is for the actual group advocating the ballot initiative. In line with the transparency issue, it is imperative the public knows who is putting forth this initiative petition.

Section 6 requires that if an advocacy group for an initiative or referendum provides compensation to petition circulators, the group must report to the Secretary of State the number of persons paid to circulate the petition, the least and greatest amount of compensation paid and the total compensation provided. The Secretary of State is required to make this information public.

Sections 7 through 13 are housekeeping from provisions already discussed and provisions I will discuss to making conforming language.

Section 15 requires the director of the Legislative Counsel Bureau (LCB) to hold a public hearing on each petition, both initiative and referendum, not later than 10 days or more than 20 days before the general election. The LCB shall provide staff assistance for the hearings.

Section 16 adds language setting forth the contents of the affidavit of the circulator on the petition and declares that the petition may consist of more than one document. This section also requires the affidavit to state the circulator gave the petition signers sufficient time to read the full text of the petition. Sometimes, people come forth with an initiative petition, but they do not have a copy of the initiative petition. The person cannot read anything. "This petition is for education first and here is what it does," but nobody is allowed the opportunity to read the fine print. You are there to sign and that is it. It is necessary that if you are going to advocate an initiative petition, you should at least have a copy with you so people have an opportunity to review it.

Section 17 prohibits giving compensation of any kind in exchange for a person's signature on an initiative or referendum.

Section 18 requires the circulator to disclose to the petition signer whether he or she is a paid circulator or volunteer.

Section 20 requires the Secretary of State to consult with the Legislative Counsel regarding initiative and referendum proposals. The Legislative Counsel may provide technical suggestions to the Secretary of State concerning the petition. This provision is so we have less cleanup and finagling to do in our work when an initiative petition is brought forth that does not fully conform to Nevada statute—it has different language and items so they do not mesh. An example is the bill we heard in Assembly Commerce and Labor—yours, Madam Chair—where things unintentionally get left out. Bringing in the LCB who are the true drafters of our laws only makes good sense.

SENATOR RAGGIO:
Section 15 provides for the LCB to hold a public hearing. What is the intent? Where would that be held and how?

ASSEMBLYMAN CONKLIN:
There are plenty of places we could do it. We could do it in any of the state buildings in the cities, Grant Sawyer State Office Building in southern Nevada and the Legislative Building here.

SENATOR RAGGIO:
By teleconference?

ASSEMBLYMAN CONKLIN:
Certainly, any means necessary. The idea is to give the public a forum where no one is in charge. It is not one person or another's initiative, it is a form by which someone can gather an unbiased idea of what is on the ballot.

SENATOR BEERS:
Section 16 states the circulator will sign an affidavit the petition signer had sufficient time to read the full text of the petition language. The actual language on page 16, lines 22 to 24 do not mention time, it mentions opportunity. When we did the task, we had people who read it online and were already fully familiar with it and just wanted to sign. That will be true for any measure; there will be a passionate group of supporters. By making the affidavit require the signer have an opportunity before signing to read the full text of an act, if an individual has read it, they can say, "I have not only had an opportunity, I have done so." And you are covered. In the translation from the summary to the bill, my question is answered. Is that your interpretation?

ASSEMBLYMAN CONKLIN:
That is an accurate statement about what is in the bill which is the most important.

MICHAEL J. BROWN (Barrick Gold of North America, Incorporated):
I would like to paint a policy picture for this issue. In 1789 when the *Constitution of the United States of America* was written, they created it with three branches of government. The states were given the prerogative to organize their affairs as they chose, and they fashioned theirs in a similar way. With the close of the nineteenth century, now called the populous era, there was a belief the people needed a more direct input into government decisions. Over a period of time, 23 states put a process in place of initiative referendum and recall. Since then, those statutes have been in place and in use. The question before you is: Are Nevada's statutes that govern ballot initiatives and

referendums current and proper for an Internet speed, money and political process that we have today?

The National Conference of State Legislatures had a report with about 30 recommendations states could consider. Last session, we worked on some reform measures that came directly out of the report. This is a continuation of that process, but what really drove it was the loss of the 13 Counties Rule—which dated back to 1911 or 1912 when Nevada put its initiative and referendum provisions into its Constitution. The purpose was to make sure no single part of the state geographically discriminated against another part of the state. In today's state, you can stand in one urban area of the state and run a ballot initiative without encompassing the other diverse parts of the state.

In addition to the two statutory reform measures was Assembly Joint Resolution (A.J.R.) 1 of the 22nd Special Session which would require some geographic dispersion for signature collection. Since that time, this Committee and Senator Dean A. Rhoads have come up with a better idea than A.J.R. 1. We hope the Committee will favorably consider these efforts.

ASSEMBLY JOINT RESOLUTION 1 of the 22nd Special Session: Proposes to amend Nevada Constitution to revise provisions governing petition for initiative or referendum. (BDR C-14)

We have witnessed the rise of the initiative industrial complex when it is a profession. People think it is a group of concerned citizens who have met in their living room and decided they will mount this ballot initiative when you have people moving around the country shopping initiatives.

Finally, we have seen the influx of enormous amounts of money into the political process. These factors require the Legislature to look back at the start of the initiative and referendum statutes and say "Let's bring some more transparency and light to this process." David S. Broder, political columnist with *The Washington Post*, thinks the initiative and referendum process is actually endangering the democracy it is set out to protect. I will leave you with an editorial he had in the *The Washington Post,* (Exhibit E) called "Dangerous Initiatives." On page 3, he writes, "When I began researching the initiative process, I was agnostic about it" (Exhibit E). I hope the Committee favorably considers these bills.

JOHN W. GRIFFIN (Kummer Kaempfer Bonner Renshaw & Ferrario):
I want to put on the record we have worked with Assemblyman Conklin, Mr. Stewart, Mr. Brown and many others on A.B. 604. We support A.B. 604.

STEVEN DEMPSEY:
I am here to identify what A.B. 604 is really about. This bill is a declaration of war on freedom of speech. We establish a bunch of hoops for an organization to jump through and assign someone authority that they do not have. Our elected officials attempt this and it restricts freedom of speech. I am an Independent American Party member; we will be targeted by this. We have already been targeted by the Secretary of State on numerous occasions for speaking out. Assemblyman Conklin identified what he thought were key points of the bill. He listed the identification of the gatherers; I am sure there will be political repercussions for identifying these people. I have gathered signatures before, and I do not want anybody to know my name. The people I talk to who sign believe what I tell them. The worst thing that can happen is the question comes up for a vote.

I want to bring up the oath of office because I do not know how any possible elected individual ready to vote on this could even consider passing something that infringes upon freedom of speech. That is what this will be used for. Your oath of office declares you will defend and uphold the United States Constitution against all enemies, both foreign and domestic. That is what this bill is all about; domestic enemies are encouraging you to limit freedom of speech.

DAVID K. SCHUMANN (Nevada Committee for Full Statehood):
I am here in opposition to A.B. 604. I have a better grasp of the United States Constitution than Mr. Brown. There is a little article here called Amendment 1 and it says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press." Abridge means to diminish; this bill diminishes our freedom of speech. This nonsense in section 3, "Every person or group of persons organized formally or informally who advocates the passage or defeat ... ." By the way, there has been very little corruption in initiatives and referendums. One of the biggest was California Proposition 13, which I worked on, as well as A.B. No. 489 of the 73rd Session. There is not a whiff of corruption in that one. Starting with section 2 of this bill, there is a whole sheet there of getting reports to intimidate contributors. If you have given money to a

good cause, maybe you do not want your union or government organization you are a functionary for to know what you are doing. It also becomes expensive and burdensome. Rather than the millions of dollars Mr. Brown seems to think we all have, most of the organizations running these petition campaigns here in Nevada are volunteer outfits. These are shoestring operations and to go harass people and then have all these bureaucratic things that are in section 4, my question from sections 4, 5 and the rest of those is what benefit do the people get from this expensive bureaucracy and red tape? None. This does not benefit the people at all, it may benefit bureaucrats. In section 7 on page 6, what benefit do the people get out of the name and address of the contributor and date on which the contribution was received? It goes on and on harassing people and it is clear it is a functionary of the government. Mr. Brown does not like people going around making laws. The general tenor of this whole bill is to come after small volunteer organizations trying to correct something gone wrong with the government. Speaking of being influenced by money, no one is naive enough to say Congress and state legislatures are not influenced by money. When he talks about volunteer groups running initiatives being corrupted by money, he has the cart before the horse. This is a very bad bill.

SENATOR HORSFORD:
In reference to the $100 contribution per person, what would be a reasonable amount?

MR. SCHUMANN:
Maybe $1,000, but the whole bill is defective and lousy.

JANINE HANSEN (Independent American Party):
The $100 limit is preposterous; make it a $1,000 like the federal government. It is far more reasonable.

The bills we have this session trying to correct fraud in petition could be completely taken care of with one issue. That is to have every signature on every petition verified. This way, there is no chance we will have any fraudulent signatures or people who are cheating. If we want to ensure we still maintain the right to petition but have clean gathering of signatures, we should ask for every signature on every petition to be verified. If that is too costly, let us increase the percentage of signatures which are verified. In fact, the Secretary of State has the power right now, under statute in certain circumstances, to require that every signature on a particular petition be verified.

On page 3, section 3, we talk about every person or group of persons organized formally or informally who advocates the passage or defeat. We heard testimony earlier about highly funded organizations. I want to state for the record that many times before 2002, I participated in unfunded volunteer efforts, but in 2000, we specifically ran an entire statewide campaign without a single paid petitioner. We also ran campaigns in 2002, 2004 and 2006 with mostly unpaid petitioners. Our citizens participate in this process with little funding.

The $10,000 limit is possibly a reasonable one—far more reasonable than requiring the reporting of each individual person. In 2004 when Nevadans for Sound Government (NSG) had the Axe the Tax petition and the other petition to prohibit government employees from serving in office, there was an article in the paper that quoted Ms. Lynn Chapman saying she was having people spy on people who were opposing the Axe the Tax petition. We had retaliation within our campaign for people who were supporting it from casinos and others. When reporting $100 donations, these people are subject to persecution, reprisals and other negative results. I have included a copy of an affidavit (Exhibit F) I recently wrote for a lawsuit in which I am involved. It identifies some of the persecution and retaliation against me for my political activities. In the case of NSG, they simply sent a letter to the Secretary of State and said they would file how much money they had received in donations but would not give them any names or addresses so they could not be retaliated against. The purpose of an initiative is to bypass the Legislature or the powers that be so the people can have a voice to participate. Oftentimes, this initiates the Legislature into action. Those who participate in initiatives oftentimes become the object of persecution and retaliation, and that is why we are worried.

Let me move on to page 3, line 34. "The name and address of the contributor" is what I was just talking about. In *Brown v. Socialist Workers '74 Campaign Comm.,* 459 U.S. 87 (1982), the U.S. Supreme Court made a decision that—particularly in the case of minor parties where they had been subject to this kind of retaliation, they do not have to file any contribution or expense reports whatsoever.

Page 4, line 1 says "be signed by the person or a representative of the group of persons under penalty of perjury." This sounds reasonable, but many of these have been changed from swearing under penalty of perjury to affirming. That might not mean anything to you, but swearing has a religious connotation, so

when they removed the word "swear," that removes the religious connotation of taking an oath. For people who want to swear instead of affirm, this could violate their religious beliefs unless you actually put in they have the option to affirm or swear.

On page 4, line 14, it again talks about organized formally or informally and they must have a resident agent. If you are not organized formally, how do you have a resident agent? What does organized informally mean? Is that my neighbor and I talking about something in particular? This is absurd. Page 4, line 20 talks again about organized formally or informally—"who advocates the passage or defeat"—having to file a statement with the Secretary of State. That means persons or organizations who are for or against a particular ballot question, whether they raised any money or not, whether they put out any information or not, now have to file with the Secretary of State. In order to have free speech in Nevada on a particular ballot issue, we have to register with the Secretary of State. That is not near as objectionable if people are actually raising money and spending money to support and defeat it, but what if you are not? What if you are doing it just as part of your newsletter or sent your neighbor an e-mail; do you fall under this category? Then each statement of organization must include the names of any officers of the person or group of persons. Does a person have officers? Does an informal organization have officers?

I handed out a copy of *Buckley v. American Constitutional Law Fondation, Inc.*, 525 U.S. 182 (1999) (Exhibit G). On page 5 at the top it says:

> Our decision in *McIntyre v. Ohio* ... is instructive here. The complainant in *McIntyre* challenged an Ohio law that prohibited the distribution of anonymous campaign literature. The writing in question was a handbill urging voters to defeat a ballot issue. Applying "exacting scrutiny" to Ohio's fraud prevention justifications, we held that the ban on anonymous speech violated the First Amendment. ... "Circulating a petition is akin to distributing a handbill."

This section violates the exacting scrutiny of the First Amendment. You cannot prohibit anonymous speech. You cannot force people who want to support or oppose something to have to file with the Secretary of State even if they are not spending any money.

On page 15, section 15, we read about the LCB holding a hearing. I am opposed to this. My concern is the LCB has always been viewed as nonpartisan and with the highest respect. Now they will be holding hearings between 10 and 20 days before the election, which means it is meant to be political. It is during early voting they will be doing "appropriate research and analysis" and have a public discussion. It is going to be very political. They can talk about technical matter or, on page 16, line 12, "substantive content." We will then have the LCB involved directly in an open forum in determining the outcome of this particular ballot measure. We certainly do not object to the wonderful process we now have of putting pro and con arguments on the ballots. The citizens participating in that is great, but we have concerns about involving the LCB.

Page 16, line 22 says, "That each signer had an opportunity before signing to read the full text of the act or resolution." When you go out to get signatures, the signature page has to be attached to the full text of the petition. It is always there. Out of a thousand people you ask to sign your petition, not one will even ask you to read the full text, but you have always got it with you. Is this put in there to have another reason to complain so they can subvert your petitioning activities? Anybody can read the full text of the petition if they want to.

Page 16, line 30 through 35, you have to disclose when petitioning if you are a volunteer or paid petitioner. In *Buckley*, they prohibited Colorado from requiring a badge on people with their name and indicated whether they were paid or unpaid. The court determined they could not require a badge with the person's name because it interfered with freedom of speech. They did not make a decision whether they could be identified as paid or unpaid. We anticipate this will be one of the things, if it passes, we will go to court on because it is just one more thing you have to say, "Oh, by the way, before you can go to the door, you have to tell them if you are paid or unpaid. You cannot talk to anybody until you say that." This is the same kind of restriction on our speech for petitioning as would be placed on you if every time you or your campaign workers spoke, they had to say if they were paid or unpaid.

Page 17, lines 10 through 13 talk about the LCB giving technical suggestions regarding the petition. This might be a good idea. Sometimes, there are some technicalities which would help the petition be in better form. We do not want to oppose that part of the bill.

We heard earlier the petitioning process to allow the people to participate as sovereign citizens in their own government was subversive. This is an effort to subvert the Nevada initiative and referendum laws for those who want to stop the right of the people to participate by making it burdensome and encumbered. We encourage you to oppose this bill. If you are really worried about fraud in petitions, have every signature verified.

SENATOR HORSFORD:
Ms. Hansen, when you say verify the signatures, do you mean verified against the voter file to determine if they are registered or verified that the signature belongs to that individual?

MS. HANSEN:
The county clerks verify both, that they are registered voters and the signature.

SENATOR HORSFORD:
I would like to hear testimony because when a person registers at age 18, their signature may change as they get older. I had issues with seniors in my district who cannot even sign when they go into vote because of health considerations. I want to make sure that is a practical requirement.

MS. HANSEN:
I appreciate that because I registered to vote at 21. Our signatures do change, but if they are a registered voter, they verify it as correct unless it is entirely unverifiable. The county clerks usually err on the side of allowing the vote if the person appears to be truly registered to vote. That would be the case in either a partial or complete checking of the signatures.

LARRY LOMAX (Registrar of Voters, Elections, Clark County):
We are well aware people's signatures change as they age or have some disability incurred upon them. If a signature does not match when a person shows up to vote, we will ask for identification and have them fill out a new voter registration form so we can capture their new signature. We always lean towards the voter in that particular case. In a petition, if someone's signature changed drastically, it might be counted as a mismatch since you do not have the person there to ask them. We take that into account whenever we can.

SENATOR HORSFORD:
The provision you are requesting is not in the bill, Ms. Hansen?

MS. HANSEN:
You are right. My suggestion is—instead of these incredible numbers of regulations expanding by the moment—to simply verify all the signatures. Then, all of these other rules become moot, null and void.

SENATOR HORSFORD:
I understand that, but the practicality of your recommendation, based on Mr. Lomax's statement, would be very difficult. These petitions go in; they do not have access to the other information you would use to verify. People would be potentially thrown off of signing these petitions which would go against the person's right to sign this petition.

MS. HANSEN:
That is the reason every petition campaign always figures they need 20-percent to 30-percent additional signatures in order to cover any that might not be counted. You always have those problems when you are getting signatures. There is no way to ensure every single one, although we would like to.

SENATOR HORSFORD:
I understand that, but I go back to the voter. They should not be disenfranchised in their right to be counted because someone cannot verify that signature because of their age, disability or other things. It goes against other principles of a voter's right.

MS. HANSEN:
The issue is will they even have a right to sign a petition? As you pile on more and more regulations, the opportunity for volunteer organizations or truly homegrown organizations to participate becomes more and more unlikely. For them to even have the opportunity to exercise their franchise to sign a petition will be lessened by all of these regulations you are placing on them. You have to balance either no chance to sign a petition or the possibility because their signature changed, their individual signature might not count and thereby eliminate the opportunity for the question to go on the ballot.

JOHN L. WAGNER (The Burke Consortium):
As far as fraud is concerned, four years ago when we were running Axe the Tax, a name jumped out at me on the last day when we were getting the petitions ready. I thought, "Wait a minute, he would not sign my petition, why would he sign this one?" I called him on the phone and he had not signed the

petition. After that, we started to go through the stack that particular petitioner gave us and looked at all the signatures. We discovered many of the signatures looked like the same handwriting. If I had any doubt, we did not submit them. I was not going to turn these things in to Alan Glover's officer and say, "To the best of my ability, these are all true," when I knew they were not. We do police ourselves. I am also concerned about having to have your name for an individual on petitions. I have no problem myself, but I belong to a group called The Burke Consortium and we do not release our membership names to prevent retaliation. That is something that could happen here.

LYNN CHAPMAN (Nevada Eagle Forum):
On page 16, line 20 says, "That he believes the signatures to be the genuine signatures of the persons whose names they purport to be." My daughter said "Mom, you are going to have to go back to school. You are going to have to take a class on mind reading." How would I know somebody is purporting to be this person they are signing their name as?

I have worked on lots of petitions and have never been asked if I am a volunteer or if I am paid.

Last, when I was collecting signatures, this one older man who came up had suffered a stroke and could not sign his name. I had to print his name and address for him. Things like that do happen.

ASSEMBLYMAN CONKLIN:
If you look at the handout for A.B. 604, Exhibit C, on the third page where it says "Section 16," the items just pointed out are in *Nevada Administrative Code*; they are just being codified in *Nevada Revised Statutes* (NRS).

CHAIR CEGAVSKE:
In talking to staff, there is concern about having LCB do this. They are involved in a lot of interim committees. Knowing initiative petitions are numerous sometimes, they are concerned about the time element. Their main concern is how they are going to do that. We are looking at adding some more studies and then we also have what is existing. What was the rationale there? Did anyone from LCB come forward in the Assembly and discuss that?

ASSEMBLYMAN CONKLIN:
I do not think someone came forward at the hearing. I understand they are busy during this season.

CHAIR CEGAVSKE:
Was there an alternative or anybody else when you were drafting the bill?

ASSEMBLYMAN CONKLIN:
I recommend we ask Mr. Griffin that question because this was a provision he requested. The idea is people have a body not tied to the initiative.

CHAIR CEGAVSKE:
Ms. Hansen is right, they are viewed as nonpartisan; we want to keep it that way. This is an issue we need to look at and address.

MR. BROWN:
That provision is in the National Conference of State Legislatures (NCSL) report.

CHAIR CEGAVSKE:
They recommended that language?

MR. BROWN:
It is a way to involve the state legislative process experts in formatting a public forum. By the time the campaigns are launched and the consultants in the public relations firms are done, it often becomes, "Vote no on yes." This would be a way of having an open, public deliberation with people who are experts.

CHAIR CEGAVSKE:
You do understand the concern?

MR. BROWN:
That is a management issue.

CHAIR CEGAVSKE:
I do not know if that would create a fiscal note so we will have to look at that.

ASSEMBLYMAN CONKLIN:
I do not like fiscal notes, whatever that may mean to you at this moment.

CHAIR CEGAVSKE:
I agree, but I know what I have to do in this Committee; we have to look at how many studies we have, but then we have to look at the interim studies already there, how we stretch our staff and whether they can do something like this.

ASSEMBLYMAN CONKLIN:
I would be willing to remove a fiscal note if it meant at the expense of the bill.

CHAIR CEGAVSKE:
I bring it forward because it was just brought to my attention. We need to look and talk about it. They also have the session preparation which is extensive. I would like to hear from staff on how NCSL came up with it being the legislative bodies' counsel and then what was looked at by the other states.

MICHAEL J. STEWART (Principal Research Analyst):
I was on the NCSL Initiative and Referendum Task Force. One thing that came out of the Task Force was how to help petitioners on the front end prevent later challenges. This body has addressed a lot of that with regard to the front-end and back-end challenges we talked about last session. Recommendations 4.1 and 4.4 of the Task Force said states should require review of proposed initiative language by either the legislature or a state agency. The review should include a nonbinding suggestion for improving the initiative's technical format and content and be considered public information. Their other recommendation was the state should establish a review process and an opportunity for public challenge to technical matters, including the adherence to single-subject rules which this body approved last session, the ballot title and summary, and the fiscal note sufficiency. Keep in mind Nevada is one of 24 initiative and referendum states. I do not know how many of those states have different staffing structures than the LCB. I can provide you with a table that shows which states provide a state agency or a legislative review of these petitions. One member on the Task Force was from Colorado. She was in their Office of Revisers—basically their legal division—and they have a panel that sort of does what A.B. 604 and A.B. 606 provide. Their staffing structure, though, is slightly different than ours.

CHAIR CEGAVSKE:
Assemblyman Conklin, it was brought to us to bring the fee to $1,000. Had you thought about that?

ASSEMBLYMAN CONKLIN:
Are you referring to the fee or section 3, the reporting?

CHAIR CEGAVSKE:
Section 3.

ASSEMBLYMAN CONKLIN:
That section is the same; it is just cleanup, so we are talking about the same issue if I am not mistaken.

MR. SCHUMANN:
It is just obscene that people who give a tiny little $100 need their names listed.

CHAIR CEGAVSKE:
You were saying instead of $100 it should be $1,000.

MR. SCHUMANN:
That is reasonable because thousands of people give $100 and only a few give $1,000. The people who give $1,000 are used to getting their names listed. People who contribute because they think it is a good cause do not like to have their names spread all over the place.

ASSEMBLYMAN CONKLIN:
That is also already law, as you are well aware, because you have to disclose that information on all your forms, as do I.

CHAIR CEGAVSKE:
I had heard something else of the whereabouts of that change. I misunderstood what Mr. Schumann was asking.

ASSEMBLYMAN CONKLIN:
In section 3 where it talks about the threshold of $10,000 before the reporting is required, in the original bill, that had been accidentally deleted. It looks odd that it is taken out and then restored.

JOSEPH A. TURCO (American Civil Liberties Union of Nevada):
The prohibition of anonymous speech and the possible chilling effect of compelling small donors to identify themselves have compelled me to come forward. There are many more clauses and hoops to jump through and,

therefore, more reasons to strike down a petition drive. The idea that you cannot speak until you say whether you are paid seems to be you must invade your own privacy before you are allowed to speak. It seems silly, but the idea of an open forum is a terrific one.

ASSEMBLYMAN CONKLIN:
Mr. Turco is wearing a paid lobbyist badge, a requirement of many states when someone is being paid to advocate something.

CHAIR CEGAVSKE:
That is true. We will close the hearing on A.B. 604 and open the hearing on A.B. 606.

ASSEMBLY BILL 606 (2nd Reprint): Revises provisions relating to petitions for statewide initiatives and referenda. (BDR 24-1395)

ASSEMBLYMAN CONKLIN:
I will refer to my remarks on A.B. 604 as this bill is another piece of legislation in the nexus between an effort to create greater transparency in the process and eliminate fraud.

CHAIR CEGAVSKE:
There is a proposed amendment on A.B. 606. Have you seen this? Were you aware there was an amendment coming?

ASSEMBLYMAN CONKLIN:
Yes, I am aware of the amendment. Last session, we passed a bill requiring when you have an initiative or referendum with a fiscal impact, it is disclosed as part of the initiative or referendum. This amendment makes that same language for city and county referendums and initiatives. I am in support of this amendment.

I will go through A.B. 606 provision by provision by importance and not housekeeping. Section 2 requires that a person or group of persons who advocate the passage or defeat of an initiative or referendum register with and provide certain information to the Secretary of State. That information includes the name of the person or group, purpose of the person or group, name and addresses of any officers, and names and addresses of any affiliate group. The

term affiliate is standard legal language. There has been, and may continue to be, some concerns that I am willing to address.

Section 3 provides that petition circulators, if compensated, shall not be compensated on a per-signature basis. Paying circulators per signature can infuse large amounts of money into a petition-gathering process and increase the incidence of fraud. This expresses the will of the Legislature that circulators must maintain a high degree of integrity collecting petition signatures.

Section 4 requires that a person gathering petition signatures in this state be a Nevada resident. While the courts in recent years have struck down requirements that petition circulators be registered voters in our state, they have upheld provisions that circulators be residents of the state. This is a similar provision to all the states surrounding us—Arizona, California, Idaho, Utah and Wyoming. It ensures this process is for our citizens, not for the citizens of New York who think Nevada should be something other than it is.

Section 7 requires the county clerk or registrar of voters to make copies of all petition documents submitted for signature verification available to the public for at least 14 days.

Section 8 provides that ballot question advocacy groups for initiative petition proposals, or any petition circulator on behalf of such group, shall not intentionally misrepresent the contents of the petition, engage in fraudulent behavior to induce another person to sign an initiative petition or forge petition signatures. This section also sets forth a procedure whereby the Secretary of State may cause the appropriate proceedings in the First Judicial District Court against the person conducting such fraudulent activity. If a violation is found, the court shall disqualify signatures collected by the person or all the signatures collected on behalf of the group unless the person or group can show each petition signer intended to sign and support the petition despite the misrepresentations or fraudulent behavior. Basically, this is a shift of burden. If you are found guilty of fraud, then the burden goes back to the group to prove the validity of the signatures.

MR. LOMAX:
Section 7 states the clerks will copy the petitions and make them available for 14 days. It is unclear to me what that means. In the past, if someone, a union or any group has asked for a copy of the petition, we have done that and

charged for it. This does not clarify whether I can continue to charge or not. Also, the petitions are all due on the same dates and we normally get four or five in a big election. We can get them all at once. In 2004, there were three petitions of which people wanted copies. We had to go out and rent 4 copy machines and hire 12 temps; they worked for a week just to make copies of 3 petitions. In Clark County, we get petitions with around 100,000 signatures and they do not come in pages that you can just run through a copy machine; they are booklets so each page has to be individually flipped over and copied.
I am not objecting to doing it, but it is a time-consuming process. When does the 14 days begin? Is it when we finish verifying it or is it when it is submitted? If it is when it is turned in, it is going to delay verification.

ASSEMBLYMAN CONKLIN:
The charge is completely reasonable and I have no problem with it. This bill is silent on that, which means they can charge until we have something contrary.

BRENDA J. ERDOES (Legislative Counsel):
A general provision in NRS 239 says a governmental entity can charge for the cost of making the copies of any record.

MR. LOMAX:
That answers my question as far as charging. I need clarification on the 14 days.

ASSEMBLYMAN CONKLIN:
Page 3, line 44 indicates this 14 days begins when the referendum is submitted for signature verification to the clerks. Time is of the essence in an initiative petition. If we extend that out, then we are also extending out all the days as they go down. Mr. Lomax is aware of this as are we. Finding the right compromise is difficult here. The intention is that it is made available for at least the first 14 days after it is verified.

MR. LOMAX:
Is the answer the time begins after it is verified or when it is submitted? Hopefully, it is after it is verified.

ASSEMBLYMAN CONKLIN:
It reads once it is submitted for signature verification.

MS. ERDOES:
It says when it is turned in.

MR. LOMAX:
The reality is they are all submitted on the deadline for turning in a petition. It will probably take me a week to copy them and they are not available. They become available at different times as we get through copying them. It is impossible for them to be available beginning on the first day. We will copy them as fast as we can, and then they will be available.

ASSEMBLYMAN CONKLIN:
I interpret that Mr. Lomax will not have to make copies. Somebody is going to be allowed to request copies be made in that first 14 days. However long it takes to make those copies is a different subject.

CHAIR CEGAVSKE:
When I read page 3, line 45 says,

> The county clerk shall make true and correct copies of all the documents of the petition and signatures thereon and shall make such copies and signatures available to the public for a period of not less than 14 days.

Mr. Lomax is accurate, he will have to produce those as soon as he gets them.

ASSEMBLYMAN CONKLIN:
We know it is not a possibility; can we have a word in there that says as soon as possible?

MR. LOMAX:
Assemblyman Conklin had the perfect solution "if requested." If we could insert "shall, if requested" make copies available within 14 days, that is doable.

MS. ERDOES:
We can certainly fix this any way you would like, but I would like to explain how we drafted this work. It is not saying you have to produce them within

14 days. It simply says that once you get them, you proceed to make true and correct copies, and whenever they are made, they are made. But then you have to make them available for 14 days; in other words, they are not just available for 1 day.

CHAIR CEGAVSKE:
His concern is what day is that first day?

MS. ERDOES:
Whenever the copies are made is how I read this.

ASSEMBLYMAN CONKLIN:
Just to make this clear, what we could do is insert, "If requested, you will make them available within 14 days based on the provisions of this section."

MS. ERDOES:
We can do that. This is patterned after other language in the statutes because if a lot of people came to get the copies, then you are not going to be giving copies to them. They were assuming that you would want to make them ahead of time so they are available for that two-week period. Certainly, you could do it the other way and have them made upon request. The level of copies he is talking about might necessitate somebody coming to request them and then you ask them to come back a week later because you have gotten 500 requests that day—I do not know, but that is why it is written that way. You can go either way you want to here.

CHAIR CEGAVSKE:
The Exhibit D Rational and Importance column for section 7 says, "Upon filing with the county clerk or voter registrar, I&R petitions should be available for public inspection." I looked at that as upon the filing of the request. If that is your interpretation, then, Mr. Lomax, I think it is when they come to you.

MR. LOMAX:
I hope you just put in the words "if requested"; it is the exception rather than the rule for people to ask for copies. When they do, we make them available and we can make them available within 14 days. It would be a big waste of resources to make us copy all petitions if no one is going to look at them.

ASSEMBLYMAN CONKLIN:
That is reasonable because we already said he can charge for it. Why would he make it unless he could charge for it and recover his costs?

CHAIR CEGAVSKE:
Assembly Bill 606 will also be in work session so your recommendation will be included in our work session, Mr. Lomax.

SENATOR HORSFORD:
I had a question on the Explanation column of section 8 of Exhibit D. It says "intentionally misrepresent the contents of the petition." Is that defined somewhere? Is there some criteria? The second part of my question involves the enforcement that somehow makes it a court enforcement whereby the signature would be disqualified. I have concern with that because who determines whether it is a misrepresentation or not? I clearly remember being approached one day on a petition represented in three words to me as a misrepresentation.

MS. ERDOES:
I do not see a definition to the first question here, and there is not already one in the statute for "intentionally misrepresent." The way this is set up, it would be the duty of the Secretary of State to make the initial determination. If so, it would be the court in Carson City that makes the determination whether to go forward with the case based on statutory interpretation. If you want to define it, you certainly can; you just need to get the whole idea in there because there could be a lot of ways you do that. You may want to set a standard or something.

SENATOR HORSFORD:
Anyone can allege they have intentionally misrepresented the contents and bring a charge against the initiative itself?

MS. ERDOES:
The way I read this is anyone could go to the Secretary of State and say that the people bringing this particular petition for signatures intentionally misrepresented it. They would make their case to the Secretary of State who would then investigate it. If the Secretary of State decided there was reasonable belief it had occurred, they would take it to court.

SENATOR HORSFORD:
Because there is no proof in many of those incidences, it is all verbal. People approach you with these initiatives and say, sign this because it is going to do x, y and z. What would they have to bring to the Secretary of State?

CHAIR CEGAVSKE:
They are just filing a complaint if I am not mistaken.

MS. ERDOES:
That is the case. It is analogous to when you file a case in court for libel. You would have to have witnesses who heard it and then it would be up to you in addition to the witnesses or however you proved it—maybe you recorded it. You would show that it did happen and it was a misrepresentation.

MR. JOHN GRIFFIN:
Previous Nevada law has been silent on penalties for any misconduct and that was one of the primary goals in A.B. 606. It is to give courts guidance because they have not had any direction and there is very little time. In the little time you have, we are trying to get guidance as to what you can do if there is fraud. I submit, in echoing Mr. Wagner's comment, they self-police. I fully admit having done this stuff for a long time; there are a lot of companies and proponents that do self-police, but Nevada law is silent and void right now on how Nevada can police. For those people who do not self-police, this attempts to provide the state a means of policing the bad actors.

MICHAEL R. GRIFFIN (Former District Judge):
I am retired after 28 years in Carson City where we did most of the initiative petition things. Those who have been involved know it happens real fast. The issue you think you are fighting is not necessarily the issue being settled by the Nevada Supreme Court. In the district court, you have maybe 20 days to do something before you have to appeal it to the Nevada Supreme Court. One of the things A.B. 606 talks about is you have to print the ballot so it is compressed. The problem is we know there is fraud in some of these petitions, but we cannot do anything about them. This gives a remedy if somebody is just using bogus signatures. You can at least get ahold of it now and say, "Look, this is fraudulent, what do we do about it?" Right now, the people circulating these petitions do not even have to be living in Nevada. You cannot get them back during the court hearing; you have to find them. If they are Nevadans, at least we could find them and find out if it was forged or not.

CHAIR CEGAVSKE:
The clerks have brought issues of fraud and the district attorney's office has decided in many cases not to prosecute. Is it because there were no teeth in the law? The clerks I know are frustrated because there are cases, but they have never gone as far as the courtroom because the district attorneys have decided to not press charges.

FORMER DISTRICT JUDGE GRIFFIN:
In my opinion, there is no time to investigate them. By the time you get the allegations of fraud, the time is gone. You have 30 days to hold a hearing from the time it is filed. It is hard to find fraud. This way, if you have a presumption somebody is forging signatures, it helps.

MS. HANSEN:
On page 2, section 2 of A.B. 606, you will notice we again have the language about organized formally or informally for passage or defeat they have to register. This interferes with the statement I made earlier from *Buckley* for anonymous speech. Also on page 2, line 24 says "shall not compensate such a person on the basis of the number of signatures gathered." Let me refer you to the U.S. Constitution, Article 1, section 10, which says "no state shall pass any law impairing the obligation of contracts." This will interfere with the contract of those who are hiring the petition gatherers. In addition to that, in *Meyer v. Grant*, 486 U.S. 414 (1988), on page 5 of (Exhibit H), the U.S. Supreme Court said:

> Colorado's prohibition on paid petition circulators restricts access to the most effective, fundamental, and perhaps economical avenue of political discourse, direct one-on-one communication. ... The First Amendment protects appellees' right not only to advocate their cause but also to select what they believe to be the most effective means for so doing.

When I get signatures, there are times I get as many as 40 an hour but sometimes only 10 an hour. Some people I hire might have the ability to get 25 an hour. If people can get 40 or 25 signatures an hour, they are not going to work for $8 an hour when they can get a per signature of $1. This significantly impacts our ability to get signatures, and it violates the constitutional protection for free speech with regard to petitioning. You will notice on the front page of the *Meyer* decision, Exhibit H, it says "exacting scrutiny ... constitutes 'core

political speech,' for which First Amendment protection [of petitioning] is at its zenith." This is unconstitutional.

Secondly, on page 4, this is a speech police bill. We heard earlier how can Nevada police? Police what? Police speech? On line 8, it talks about intentionally misrepresenting. In *Meyer*, on page 8 of Exhibit H, we read:

> The people in our democracy are entrusted with the responsibility for judging and evaluating the relative merits of conflicting arguments. The State's fear that voters might make ill-advised choice does not provide the State with a compelling justification for limiting speech.

On page 3 of that same handout, it says the Court of Appeals rejected the ban.

> It first rejected the suggestion that the ban was necessary in order to prevent fraud or to protect the public from circulators who might be too persuasive: The First Amendment is a value-free provision whose protection is not dependent on "the truth, popularity, or social utility of the ideas and beliefs which are offered ... The very purpose of the First Amendment is to foreclose public authority from assuming a guardianship of the public mind. ... In this field every person must be his own watchman for truth, because the forefathers did not trust any government [including the Secretary of State] to separate the truth from the false for us."

We vehemently oppose this section of the bill; it will be used by anyone who wants to oppose a petition. They can bring information to the Secretary of State and then all the signatures could be disqualified whether they are legitimate signatures or not. All those people would be disenfranchised because of interference in free speech. It is incredible our Legislature would be passing a bill to obstruct free speech and make the Secretary of State once again, rather than the Commission on Ethics, the speech police. The court already overthrew that speech police provision for the Commission on Ethics.

On line 25, page 4, section 8, it talks about disqualifying all of these signatures. It says in order to preserve any of these signatures, the people have to prove "by clear and convincing evidence that each person who signed the documents of the petition circulated by that person or group intended to sign and support

the petition despite the misrepresentations or other fraudulent behavior." A lot of people sign it and they do not even support it. They sign it because it has a right to be on ballot, because their mother said they should or because they want to get along with their girlfriend. That might be quite a few of the people who sign it. Besides that, how could we go back and get 150,000 people and prove by clear and convincing evidence every single one of these people who signed the petition wanted to do so? It is absurd and impossible. This is a piece of legislation to destroy the right of petitioning, especially for those who want to actively challenge anybody with whom they disagree. If you are worried about fraud, have every signature checked.

MR. DEMPSEY:
I am concerned about the entire bill but specifically the civil penalty section. I am sure Assemblyman Conklin is well-intentioned, but it discloses his mind-set that he thinks by just passing more and more laws, we can correct some type of inappropriate conduct. I was impressed by Senator Horsford's questions and that is what I see in A.B. 606. Since an intentional misrepresentation can be alleged by oath or affirmation, what you are actually going to do is provide political ammunition for some in our society to attack their enemies. The civil penalties section is an attempt to circumvent your right against self-incrimination. There was a comment made to you, Madam Chair, that you have to volunteer information. You are required to volunteer, yet they did not explain that. If that information can be used against you to deny you life, liberty or property, how can you be compelled to volunteer? That is a basic constitutional violation. Constitutionally guaranteed rights do not enforce themselves; if you do not know them, you do not have any.

MR. WAGNER:
On page 4, in section 3, it sounds like you have got to prove you are not guilty. This is not the way the law is supposed to work. To disqualify all the signatures because maybe one person said he said she said they said. Also, maybe a petitioner did make a mistake in one case. Are you going to throw out all those signatures? I sure hope not.

MR. TURCO:
I want to advise the panel of the following: A.B. 606, insofar as it prohibits pay and bans people from out of state from being employed as signature gatherers, may well infringe upon free speech. Because free speech is a fundamental right, the reasons put forth by government to restrict speech must be compelling and

the reasons set forth here may not be compelling. Even where speech is purely commercial, this would apply. There is something about the interstate commerce clause that may be implicated herein as well when you ban people from out of state from employment.

MR. SCHUMANN:
On the first page of A.B. 606, the fiscal note says, "Effect on Local Government: No." That has to be corrected because until the language is changed, we are talking tens of thousands of pages here. Page 3, line 45 says clerk "shall," that does not mean the clerk "may" if he or she wants to. "The county clerk shall make true and correct copies of all the documents of the petition and signatures thereon." Then, if somebody comes along and wants them, he can sell them. But he first has to make them, so this bill will force the county clerks to spend thousands of dollars in time and reams of paper. This is just an effort to make it difficult to engage in petitions for initiatives and referendums. Do the people benefit? There have been allegations of fraud. I would like to see some real evidence. For the most part, signature gathering has been every bit as clean as legislating.

DENNIS JOHNSON (People's Initiative to Stop the Taking of Our Land):
It is the opinion of our committee, that section 4 especially violates the right to travel under the commerce clause of the U.S. Constitution and is an attempt to stifle the democracy of the people.

JAMES T. ENDRES (McDonald Carano Wilson, LLP):
I am sponsoring the proposed amendment (Exhibit I). Assemblyman Conklin's representation of what this amendment intends to do is accurate. It may be a long amendment, but it has a singular purpose to harmonize the fiscal note process with that of the state process when a local petitioner seeks to circulate an initiative petition for signatures. Similar to the state requirement, it would require the LCB to obtain a fiscal note.

CHAIR CEGAVSKE:
Would they also have the LCB look at it?

MR. ENDRES:
Yes.

CHAIR CEGAVSKE:
This is going to be an issue. Your amendment further exacerbates the issue of asking staff to do more.

MR. ENDRES:
It would have to be more only to the extent there is an initiative petition circulated at the local level.

CHAIR CEGAVSKE:
I understand.

SENATOR RAGGIO:
On both of the bills we have heard, the opposition has indicated constitutional restrictions may be applicable. I do not know if you have asked the Legislative Counsel—staff is heaped with burdens, but some of these sound like they may have some basis. The Committee needs some direction. For example, in A.B. 606, I am not seeing the provision that it pertains to out of state.

CHAIR CEGAVSKE:
It is section 4 on page 2, line 26.

SENATOR RAGGIO:
I did hear a number of constitutional objections raised and ask the Committee be advised as to the validity of those objections.

CHAIR CEGAVSKE:
There were several on this bill as well as A.B. 604.

SENATOR RAGGIO:
There was the violation of the right to contract mentioned as well as the commerce clause and the freedom of speech provision.

CHAIR CEGAVSKE:
Legislative Counsel Bureau talked to us about the things we have them doing during the interim. This would add to their workload. We talked about whether or not there is a fiscal note because of that and whether this has to be rereferred to the Committee on Finance.

MS. ERDOES:
We looked at these things as we drafted these bills, but I can go back and make sure one more time and come back to the Committee.

MR. JOHN GRIFFIN:
In response to Senator Raggio's request, there is case authority in all the legal issues raised. In some cases, there are split authorities in different circuits, but there are either U.S. Supreme Court cases or circuit court cases on all the legal issues raised.

CHAIR CEGAVSKE:
I will close the hearing on A.B. 606 and open the hearing on Assembly Joint Resolution (A.J.R.) 1 of the 22nd Special Session.

ASSEMBLY JOINT RESOLUTION 1 of the 22nd Special Session: Proposes to amend Nevada Constitution to revise provisions governing petition for initiative or referendum. (BDR C-14)

ASSEMBLYMAN HARRY MORTENSON (Assembly District No. 42):
Assembly Joint Resolution 1 of the 22nd Special Session would change the Nevada Constitution to make it constitutional. The provision in our current Constitution which says 10 percent of the vote from 75 percent of the counties is needed to pass a referendum has been declared unconstitutional. This bill uses a new approach where we use the three Congressional Districts. This bill has passed through this House during the last special session; it was an emergency bill created during that special session. It passed through the Assembly again this session and should it pass through this House, it will go to the voters in the next general election.

It does one other thing. It mandates the number of registered voters required to file a petition must be determined at the time the copy of the petition is filed with the Secretary of State.

SENATOR WIENER:
We processed Senator Dean A. Rhoads' bill and landed on a different configuration. If yours goes to the voters, what happens with Senator Rhoads' bill? It just dies?

ASSEMBLYMAN MORTENSON:
It will come before the voters a second time.

SENATOR WIENER:
This bill predates the bill we just processed this session, no question.

MS. ERDOES:
The Nevada Constitution provides for this kind of conflict. Unless the language in the second one says it repeals the first one should it pass first, the second one will become null and void at the point the first one passes. If there is one ahead, because that language is not amending the old language anymore and we have the new one, the Constitution says the second one coming through is void and will not be put on the ballot. This can be cured by putting language in the second one you are passing now that refers to the first one that says if it also passes, you are repealing it. It makes them not conflict.

CHAIR CEGAVSKE:
As you know, this House passed out Senate Joint Resolution (S.J.R.) 3 and we were supportive of that measure to go along with the bill that was passed out. This will be something the Committee will have to figure out in work session.

SENATE JOINT RESOLUTION 3 (1st Reprint): Proposes to amend the Nevada Constitution to revise provisions relating to signature requirements for initiative petitions. (BDR C-260)

MS. HANSEN:
We supported A.J.R. 1 of the 22nd Special Session and have been supportive of the concept you passed out which gives representation to the whole state. As of now, we do not have anything that governs this, so we have supported both measures.

CHAIR CEGAVSKE:
You did not have one concept over the other?

MS. HANSEN:
This is easier than S.J.R. 3, but it does not have a real representation of the full state. Those doing petitions might want to choose this one, but we also recognize the entire state being represented is a good thing.

MR. TURCO:
The American Civil Liberties Union of Nevada (ACLU) supports A.J.R. 1 of the 22nd Special Session because it goes by Congressional Districts. The three of them—soon to be four—more or less intersect in Clark County. The other reasons are Congressional Districts will change least over time, and it is being done by constitutional amendment.

SENATOR BEERS:
Is the ACLU bringing an action to change county lines in the next four years?

MR. TURCO:
Are you responding to when I said they would change least over time?

SENATOR BEERS:
Yes, you said the Congressional Districts change less than county lines over time. We will get four, maybe five, Congressional Districts in the next reapportionment, and to add the fourth seat requires the Congressional lines to change. We have not changed a county line here in a long time.

MR. TURCO:
I apologize because I have just come up to speed on this referendum initiative process so my testimony has been short, not only because we are limited in time, but because I am limited in knowledge. I will have a written response to that question for you.

MR. BROWN:
I was involved last session in putting together A.J.R. 1 of the 22nd Special Session. We started with Assembly districts, but Mr. Lomax's concern about verification was valid. We looked at Senate districts, but because Nevada is a state with multimember Senate districts, we were not sure if it would pass muster. We looked at court districts, but nobody knows where the boundaries are. Finally, we came down to Congressional Districts. Looking twice at constitutional amendments is wise because it provides an opportunity for better ideas to come forward. Because Senator Rhoads was concerned everything would still be focused into one county, he worked with this Committee, Ms. Erdoes and others to come up with a better idea.

MR. JOHNSON:
It is our opinion this particular bill violates the Constitution as it violates the one-person, one-vote rule. Most of the state laws, state officials etc. are voted statewide and not by district. Therefore, the petitions should go ahead and be done on a statewide basis and not by districts.

CHAIR CEGAVSKE:
We will close the hearing on A.J.R. 1 of the 22nd Special Session and open the hearing on A.B. 335.

ASSEMBLY BILL 335 (1st Reprint): Makes various changes related to public office. (BDR 24-1195)

ASSEMBLYMAN CONKLIN:
The nexus of A.B. 335 is for all intents and purposes personal. There has been an assault on our collective integrity over the past few years, particularly those members living in Clark County due to the violation of the public's trust by certain officials. We know it is not always whether the act took place, it is simply the appearance of such an act. Most of you, if not all, know when a violation comes out in the press, your friends cast you into shadow and people treat you differently because you are a politician. In my experience, the vast majority of us always have the best intentions at heart. It occurred to me over summer last year that while this body is highly regulated in its ethical statutes—reporting requirements in sessions and lobbying activities, the rest of the state has little to report and share. This bill is an attempt to clean that up, allow for greater disclosure in the municipal arena and a few other provisions.

Page 8, section 10 deals with the definition of gift. There are two problems with the definition of gift. One, it is not anywhere in the ethics statute. The definition of gift only appears in the lobbyist statute. We have thought for the longest time it was the definition of gift, but it is only a definition in that statute. When you get your financial disclosure statement every year, there is no definition of gift on the financial disclosure statement. That is because the statement is created in a separate chapter of NRS. One of the things I chose to do was copy the definition from the lobbyist statute into the financial disclosure so there is never a question about the definition.

The second thing sections 10 through 18 do is deal with the definition in the sense it removes the cost of entertainment—that is on page 8, line 25.

Understand, this is an exception statute. Gift is everything not listed here. Entertainment has been listed as a gift for some time. The public sees entertainment as a gift and so I suggest we strike it from this provision, which means tickets to Rolling Stones, the Las Vegas Motor Speedway or anything else. If it is more than $200—which is the current law, then it would be a gift. It is a reasonable change.

There is an additional change in here from third to fifth consanguinity at the suggestion of Assemblyman Joe Hardy. Then, in clarifications starting at lines 31 through 37, the attendance of things in your official capacity—whether a chamber of commerce event honoring the mayor of the city or whatever as a Legislator, something you would not have gone to otherwise—is not considered a gift. When you go to a charity event recognizing somebody, whether here or in the off-season when we are not here, that provision is covered because that has been questionable for some time.

SENATOR HARDY:
What about a charity golf tournament when you know the reason you are invited there is in your capacity? You are sometimes invited to help attract other people to participate. Would that be something in your official capacity?

ASSEMBLYMAN CONKLIN:
I am going to leave that up to the Legislative Counsel on your Committee.

SENATOR HARDY:
I appreciate your effort to clarify this; I just want to make sure we are talking about all the circumstances. Is the fact that the event is something you enjoy?

ASSEMBLYMAN CONKLIN:
That is not in question here. It clearly states an event relating to public office or an event benefiting an organization under IRS 501(c)(3) status.

SENATOR HARDY:
I guess it is the "but-for" rule; but for your position as a Legislator, you would not be invited to attend at no cost.

ASSEMBLYMAN CONKLIN:
Kind of in reverse, but yes.

SENATOR HARDY:
Ms. Erdoes is indicating that under the way it is drafted, a charity golf tournament would not be considered a gift.

MS. ERDOES:
That is the case and you would use the "but-for" test to figure it out because it is the one the federal law and Secretary of State have adopted.

SENATOR RAGGIO:
We are part-time Legislators and have another life other than the 120 days we spend here. I am always concerned about the zeal we have to remove any perception of a conflict or a potential ethics violation. On the other hand, I do not want to create a minefield for people and chill the process of encouraging people to participate. There have been many occurrences of events or instances where we are unfairly criticized as Legislators. Over the years I have served in this Legislature, there have been any number of occasions where we have been invited to attend openings of major hotels in Las Vegas and, as part of that, there is dinner and a show. We are not the only ones invited, everyone else is too, yet certain media representatives have criticized Legislators. They attend and then they do not report it. I can tell you a lot of us never gave it a second thought.

For instance, when the Wynn Las Vegas opened, all the Legislators were invited as were hundreds of other people. I got a call afterwards asking if I attended. I was then asked, "Well, did you disclose that?" I said no, because one of the requirements was you donate $3,000 to the Wynn charity which I did personally. I did not feel some obligation. Going further, when the Celine Dion show opened, a number of Legislators were invited along with hundreds of other people. Would the "but-for" test apply there? I read it would have to be disclosed as a gift; you struck out cost of entertainment.

Let me give you another example on the consanguinity test. Let us say my father's first cousin's son exchanges gifts with me, as we have since we were kids. Now that happens to be the sixth degree of consanguinity because you have to add up to the common ancestor and then down; that is the test. I suggested to Assemblyman Hardy the third degree of consanguinity would be trouble. I suggested if there is a family relationship or a final relationship, you should excuse it. It should not be something you have to disclose. I am not picking on your bill; I just do not want to be ridiculous and have people in

jeopardy—like second cousins who have been exchanging gifts during their lifetime. I know what we want to do, but we could create problems for ourselves with unintended consequences.

SENATOR HARDY:
I was not asking my question as a Senator who enjoys charity golf tournaments. I was asking as an association president who does a charity golf tournament to benefit our apprenticeship program. They are much better attended if I can attract a number of Legislators to come and play so folks can mingle with them.

ASSEMBLYMAN CONKLIN:
This is a tough area because everybody has the best interests. We all have similar experiences. I went on a cruise for my grandfather's ninetieth birthday; it is a family reunion, and I am adding up receipts from my cousins. Should I really have to concern myself with the bar tab? I recognize we are a citizen Legislature, but we have responsibility to the public to reaffirm ourselves to them. It is not this body creating an appetite from the community to seek these types of remedies.

If this law is too tight, I will continue to run for office, but I will never go anywhere. Many folks will not have access to me because I do not want to give the appearance of impropriety. "No, Mr. Hardy, I will not go to your charity golf event and if you have constituents of mine there, I am sorry, they will have to send me an e-mail." They will not get the chance to talk to me except when I am walking door-to-door. I will tell the same thing to the union and chamber. That is not in the best interest of this body or the public. I understand both sides of the argument; I attempted to craft this in such a way that made it clear. It puts it in our statute so no one could ever question it.

SENATOR RAGGIO:
I tend to agree with you. We do not go to all of these openings because we enjoy them. We go because people expect us to go and show support—for a new business venture or something of that kind. To get caught up in this and have it be declared a conflict because you have not disclosed is just creating obstacles and doing a disservice to our process. People expect us to go to these things. For us to have to keep a notepad in our pocket—"Last week where did I go? I went to this, I went to that."—you have a practical problem with what we are trying to accomplish.

ASSEMBLYMAN CONKLIN:
Section 2 of A.B. 335 seeks to create a campaign blackout period for all other bodies—other than those bodies that already have a blackout period. The Legislature, the Governor and Lieutenant Governor have blackout periods every other year, 30 days before and 30 days after our session, and any special sessions, 30 days before and 30 days after.

CHAIR CEGAVSKE:
Is it not less if it is a special session?

MS. ERDOES:
It is ten days before and ten days after.

ASSEMBLYMAN CONKLIN:
We have clear precedent; however, the rest of the state has no blackout period. Let us suppose I am a city council member passing a zoning ordinance. I finish passing it, I walk outside and here is Developer A who was pushing hard for this zoning ordinance with a campaign contribution in his hand. That is perfectly legal. The public does not believe that is an acceptable practice. I would not want to claim there was not any impropriety in that transaction, but the appearance of impropriety is enormous. Something needs to be done with respect to this. Many Legislators discussed the possibility that 30 days before and 30 days after you could not collect a campaign contribution from a person who had an interest in the vote. If you are in city or county government though, you have no way of keeping track of that. This bill says 12 months before and up to 3 months after your general election is your time period to raise money for that election. Do we get out all of the problem? No, but for two full years out of every four-year cycle, the public can rest assured no money transactions go on between elected officials while public policy debate and decisions are made in city and county governments. As a compromise, it is fair.

Additionally, A.B. 335 seeks to streamline the financial disclosure provisions by incorporating the financial disclosure with the campaign contribution and expenditure form. There will be one form turned into one location. There are two positives here. For Legislators, elected officials and public policy makers, the advantage is you have one form and you know when it is due; you do not have multiple due dates and you just fill it out. The advantage to our constituents is that during the campaign season, we are technically filing the

information on a financial disclosure form multiple times so if it changes between filings, they can see that. It is a huge disclosure in terms of ethics in Nevada.

Section 6 requires this form be offered on the Internet for easy access. I made some additional suggestions to the Secretary of State. There is a provision that once the forms are filed, they are posted on the Secretary of State's Website. You will put those into the counties wherever you file, but then they will be rolled so the Secretary of State will have all the forms.

The other provision is in sections 11 and 13 which require municipalities to adopt ordinances and regulations concerning the activities of lobbying in their branches of government much like we do. This sheds additional sunshine on the city and county governmental practice.

CRAIG WALTON, PH.D. (Nevada Center for Public Ethics):
We took part in the Assembly committee's discussion, and this bill is a fine product of listening to each other. Strong highlights from Assemblyman Hardy's A.B. 312 have been worked into this text.

We first wanted to emphasize what Assemblyman Conklin just mentioned. Lobbyists who seek to influence city or county elected officials or high appointed levels—appointed at the policy-making levels—have to register. It requires the city and county to make some way of keeping track of these people's activities.

Sections 10 and 18 talk about the gift definition Assemblyman Conklin put in the provision from the lobbying rule so it would now fall under the Legislators. In two of our town hall meetings in Las Vegas, Republican and Democratic Legislators—Senate and Assembly—pointed out they were no longer able to go to meetings like the mining conference where they learn about mining issues on which they have to make policy but have little or no knowledge. They could not go because who is going to pay for it? Is that going to be cited as a gift? Assemblyman Hardy suggested events related to your public office like seminars, workshops and conferences where you learn something could now be available. You could go to places, learn more than you already know and not have it count against you as a gift.

CHAIR CEGAVSKE:
We had elected officials who took these trips but never attended any of the meetings. That was a concern when the issue was brought up. I do not know if that was brought up in your discussions.

DR. WALTON:
It did not come up in the Assembly discussion, but it has come up at the University of Nevada, Las Vegas, for decades. There is professional development money set aside for faculty. When somebody is getting financial help to attend but they do not actually go to the meetings, that has led us to make provisions for checking up. It would not be offensive to A.B. 335 to add some kind of an accounting requirement.

Standardizing the form for financial and campaign disclosures is a strong improvement. Instead of having the Commission on Ethics get some forms and the Secretary of State others, in this bill, the Secretary of State's Office would use one form obtainable on the Internet.

MS. CHAPMAN:
On page 8, line 40 says:

> Each board of county commissioners shall enact ordinances that regulate the activities of lobbyists who lobby: Elected officers of the county; or Appointed officers of the county who the board of county commissioners has determined having policymaking authority.

Would this be paid or unpaid lobbyists? Unpaid lobbyist would mean any citizen. How would any citizen go before any city, county or state public servant and talk to them? How would they do that without becoming a lobbyist who has to then fill out paperwork and go through all these hoops? I can understand highly paid lobbyists, but I am unpaid and that would not be fair to the regular citizens.

SENATOR HARDY:
Is somebody who is a paid consultant more likely to do something inappropriate than an unpaid lobbyist?

MS. CHAPMAN:
No, but I was just asking if it was for paid or unpaid lobbyist.

SENATOR HARDY:
You were not saying we should amend out unpaid lobbyist. You are saying no lobbyist should be required to register?

MS. CHAPMAN:
It would not be fair to unpaid lobbyists because they just want to talk to their elected or appointed officials; this makes everybody a lobbyist.

SENATOR HARDY:
If the intent is to get to individuals who are inappropriately trying to influence, that could be an unpaid person or a paid lobbyist.

MS. CHAPMAN:
Yes, but how could anyone approach any public servants without being called a lobbyist? Are they not there for the citizen?

SENATOR HARDY:
Everybody talks about special interests and how Legislators and decision makers are influenced by special interests, but everything is a special interest. Some people just choose to do it through a paid lobbyist; it is still exercising your constitutional right to petition your government, but you are busy with a job. We need to be careful when we start differentiating between the types of individuals who are petitioning their government. Everybody has a right to go as an individual, but everybody has just as much a right to pay an advocate to do it for them.

CHAIR CEGAVSKE:
They are asking the board of the county—and then in section 13 for the city council—to adopt ordinances that regulate the activities of lobbying as we do. We have enacted regulations for anybody who lobbies here; you have to get a badge and declare if you are paid or unpaid. You want them to do something similar to how we govern people who lobby us in the Legislature?

ASSEMBLYMAN CONKLIN:
Correct, and we are not giving them specific instructions but something similar. A statute already in place defines lobbyist as someone who is not up here representing themselves but someone who is up here representing on behalf of others. If I am Marcus Conklin, citizen, and I want to come up here and sit

before you and tell you my personal experience about something, you are not a lobbyist and no one wants to stop that.

CHAIR CEGAVSKE:
That provision protects us.

MS. ERDOES:
Yes, that is what it says. If you were testifying for yourself, you do not have to get a badge or do anything. Nonpaid lobbyists can lobby for other issues as well as for themselves. There are three categories.

MS. HANSEN:
I have concerns about increasing the disclosure requirements. I would like to paraphrase Senator Randolph J. Townsend a couple of years ago as they continue to bring these forth. He said, "I am terrified that nobody will even be willing to run for office anymore."

Let me bring your attention to the same place Ms. Chapman was talking about. I have concerns slightly different than she mentioned. I have spoken at the Sparks City Council, Washoe County Commission and Reno City Hall. I would have to register at every one of those places if I wanted to speak representing people. Every one of them would have a different set of rules. I have also gone to Lyon, Elko and many other counties. I would have to register as a lobbyist in every one of those counties. If you are going to pass this, I beseech you to ensure all the rules are the same for every county and city. Otherwise, it will be a nightmare for people who are citizen activists. How are citizens suppose to participate? How would they get around the labyrinth of 17 and 19 different sets of rules?

SENATOR HORSFORD:
I have a two-part question. Another bill came forward that would have set a standard approach for all cities and it was withdrawn from the bill. This provides local discretion, but it requires some standard be developed. Why should state government be under the requirements of lobbyist disclosure and local government not?

MS. HANSEN:
I am not necessarily saying they should not be, but I am concerned with 19 and 17 different sets of rules. They may infringe on free speech and discourage

citizen participation. We want to make sure those rules are not extreme in one city or county and totally lax in another. I am concerned about the uniform nature. The lobbying regulations touch on free speech and our right to petition the government. We do not want a whole patchwork of different ones that we cannot participate in because we are not sure whether we are violating the law.

SENATOR HORSFORD:
I respect that, but at some point we have to do something. Right now, there are minimal standards, if any.

MS. HANSEN:
I did not say to not have any.

SENATOR HORSFORD:
Legislatively, we have brought several measures forward and unless we get agreement on one approach that works better than others, the result may be nothing passes. I need to hear from you whether local government should have disclosure and lobbyist requirements?

MS. HANSEN:
I am concerned about the diversity of laws on the local level. Some may be very onerous. For instance, every person who comes before the school board in a county will now have to register as a lobbyist. Every neighborhood organization representative who comes before the county commission or the city council will also have to register. How many citizens do you see participating in this legislative building? Very few, we are some of the only ones. There will be a chilling effect on citizen participation. I know who you are after, those doing things they should not be doing. You want that disclosed.

MS. ERDOES:
I just received an e-mail from the staff at the Commission on Ethics. L. Patrick Hearn had to leave early and they want me to read the e-mail. It says:

> It appears that the intent for the definition of the term "gift" is to have that apply only to the financial disclosure sections of the ethics in government law. But as it is proposed in A.B. 335, it would apply to all of the chapter and/or at least all of the ethics in government law that may have more implications than the bill's sponsor had anticipated.

ASSEMBLYMAN CONKLIN:
I am not sure I understand the far-reaching implications. The term gift is used in lobbyist and ethics statutes exclusively. I, for one, would like one definition. Without it in the ethics statute, I have heard on more than one occasion that folks from the Commission on Ethics think they have jurisdiction to decide and the lobbyist statute does not apply. I disagree with that. Lobbyists should know the same definition of "gift" Legislators know. The more convoluted this is, the more difficult it becomes. I agree with every comment made here about gifts, but at some point we need to make sure we have a clear definition everyone must abide by. It creates a vast loophole.

CHAIR CEGAVSKE:
I would be concerned if the Commission on Ethics has a different interpretation than we do.

ASSEMBLYMAN CONKLIN:
But without it in the statute of their jurisdiction, what will they have to deal with and how are we to argue?

CHAIR CEGAVSKE:
That is part of the bigger issue.

MS. ERDOES:
It is a policy choice for you to make. I am not entirely certain what your intent is with this definition. They are correct in pointing out we have defined it for the entire chapter. If that is not what you wish, then we should change it. We can easily do that.

ASSEMBLYMAN CONKLIN:
Are they saying my intention is to make sure it applies to financial disclosure only—there is a better place for it so that is how it is applied?

MS. ERDOES:
Yes, we could define it for that purpose only as opposed to the rest of the chapter.

ASSEMBLYMAN CONKLIN:
I do not understand if gift is mentioned in the rest of the chapter, but my intention was for it to be applied exclusively to financial disclosure.

CHAIR CEGAVSKE:
We will close the hearing on A.B. 335. There are six bills I have before you today on work session (Exhibit J). We will start with A.B. 569.

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

MICHELLE L. VAN GEEL (Committee Policy Analyst):
Assembly Bill 569 was brought to the Committee on behalf of the Nevada Association of County Clerks. It was heard on May 1. This is essentially the county clerks' cleanup bill for the session. It make various changes relating to elections including: eliminating various obsolete statutory provisions concerning election supplies no longer used, making changes regarding early-voting deadlines and providing for when certain offices must be declared elected. One amendment brought by Senator Beers on page 15, line 15 of the bill clarifies section 29 to allow the county clerks to continue mailing official absent ballots in the quickest and least expensive manner possible if the United States Postal Service makes any changes to the official election mail logo.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 569.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR CEGAVSKE:
We will go to A.B. 570.

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

MS. VAN GEEL:
Assembly Bill 570 was introduced on behalf of the City of Reno. It would revise pertinent portions of NRS, certain city charters and certain airport authority acts to provide that election results must be canvassed on or before the

sixth working day after an election. The bill was originally heard on May 1 and no formal amendments were offered.

SENATOR RAGGIO MOVED TO DO PASS A.B. 570.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CEGAVSKE:
We will move to Senate Concurrent Resolution (S.C.R.) 17.

SENATE CONCURRENT RESOLUTION 17: Urges the Governor to name the new Department of Motor Vehicles building in North Las Vegas after former Speaker of the Assembly Paul W. May, Jr. (BDR R-181)

MS. VAN GEEL:
This was brought by Senator John J. Lee. The current form would urge the Governor to name the new Department of Motor Vehicles building in North Las Vegas after former Speaker of the Assembly Paul W. May, Jr. During testimony on the bill on April 17, staff from the Department of Motor Vehicles (DMV) indicated it is not their policy to name buildings after people. Senator Lee offered an amendment that would dedicate the building after Mr. May. The DMV agreed with that amendment if the Committee so chooses.

SENATOR RAGGIO:
It is not their policy to name buildings, but they could do a signage of some kind.

CHAIR CEGAVSKE:
Just something small; nothing to lead anybody to think it was the name, but he wanted to do a dedication. He also offered to absorb any cost.

SENATOR RAGGIO MOVED TO AMEND AND DO PASS AS AMENDED S.C.R. 17.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR RAGGIO:
As I understand it, the policy would mean they could also designate somebody else to be honored with an appropriate plaque.

CHAIR CEGAVSKE:
That is what he was indicating; he did not want to rename the building, so we agreed.

We will open A.B. 80.

ASSEMBLY BILL 80 (1st Reprint): Requires certain business entities that engage in certain political activities to register with the Secretary of State. (BDR 24-170)

MS. VAN GEEL:
Assembly Bill 80 was sponsored by the Assembly Committee on Elections, Procedures, Ethics, and Constitutional Amendments. It was heard in this Committee on May 3. The bill would require any business entity for which the owners, investors, officers, directors, members or other organizers are disclosed in public record to register with the Secretary of State. The business must provide certain identifying information before soliciting or receiving contributions or making contributions or expenditures designed to affect the outcome of an election or a question on the ballot. No formal amendments were offered on this bill.

SENATOR BEERS:
How wide of a net are we casting here? I have a vague memory of someone talking to me on behalf of the Boy Scouts of America this session about something related to their attempt to dispose of one of their camps. They are a nonprofit corporation for which the members are not disclosed in any public record.

SENATOR WIENER:
A member, in legal terms, is how you describe someone who is in a limited liability company (LLC), if that is the legal use of the word here. It does not mean a member of an organization that has membership.

SENATOR BEERS:
Right, but this bill does not mention LLCs.

SENATOR HARDY:
The individuals Senator Beers are describing might be organizers of the entity.

MS. ERDOES:
If you look at the rest of the definition on page 2, line 4, it says "for which the owners, investors, officers, directors, members or other organizers of the entity are not disclosed in any public record." Most of the organizations you are talking about disclose their organizers in the form they use. For the Boy Scouts, in the corporation documents, you have to disclose and it is on the public record. The ones we are talking about are the LLCs and the different varieties of LLCs where, when you file it, you just file the name and the resident agent and there are no officers disclosed; that is the limiting factor here.

SENATOR BEERS:
I agree and understand where we are going; however, this bill does not say LLC anywhere. I am letting my mind roam and coming up with the chamber of commerce of which I have been a past member. I am concerned this definition we are casting is a little wide.

ASSEMBLYMAN CONKLIN:
The chamber of commerce would not fall under this because their organizing members are on public record. This is to cast a net on those who are intentionally circumventing the system by making donations without having to disclose who they are. You heard testimony from Senator Dina Titus about organizing an LLC. If we had simply put in an LLC, then it would have been a triple LLC, LC, LP or an LLP. The intent is to capture those groups wanting to participate in politics. If you are the Boy Scouts, you are not donating anyway because that is a violation of federal law. If you want to participate and you have organized yourself in such a way as to hide who you are, you must disclose that to participate.

CHAIR CEGAVSKE:
We did not have any opposition when this bill was heard.

SENATOR BEERS:
I understand the intent. I am concerned the language goes beyond that intent.

SENATOR RAGGIO:
You have raised my interest now because it talks about a business organization. I want to make sure PACs are included in this.

CHAIR CEGAVSKE:
No, we already had the bill for the PACs go to the other House.

SENATOR RAGGIO:
Does the PAC definition exclude business associations?

CHAIR CEGAVSKE:
We had one that we sent out. We did a PAC and the LLC.

SENATOR RAGGIO:
I would like to know the status of that bill.

CHAIR CEGAVSKE:
It is Senate Bill 548. It was heard May 8, but no action was taken.

SENATOR BEERS:
I am additionally troubled by some examples of entities formed under the initial cloak of anonymity that eventually filed disclosures. I did not keep track to find out if more or less than half of it came from business or other nonbusiness special interests. This seems to focus solely on business. I would not want it to leave out LLCs not ever formed for any form of business.

ASSEMBLYMAN CONKLIN:
I understand where Senator Beers is coming from though the term business entity applies to the tool and instrument used to move the money. It is not saying you are a business like a Jack in the Box or law firm; it is the actual vehicle through which the flow of money is taking place. Whether it is for business, private or personal interest makes no difference. An LP can be used for many things; it can be used for a trust. But if you are going to donate money

from that trust through the LP, we have a right to know who is donating that money. The trust is not a person with a purpose, it is the person giving the money. That is behind the business entity definition. It is not focused on the business per se as much as the instrument of an LLC, LP or any such business entity. Although it can be used for a personal or nonprofit purpose, it can be used for a lot of different things. All of these are encompassed in a business entity as I understand it.

SENATOR HARDY:
Your attempt is to get to a business entity as defined here that forms for no other purpose than making political contributions as a business. Every other circumstance in a legitimate business to operate for the purpose of doing anything would be disclosed under public record somewhere.

MS. ERDOES:
That is the purpose of the LLCs, LLLCs and those. They run businesses blindly, even without disclosing. If they did disclose, publish something or come out, then they would not have to do any sections.

SENATOR HARDY:
I understand the purposes of an LLC. You are trying to get to the creation of LLCs that do not conduct legitimate business but are just involved in political contributions. It is like getting around the PAC laws. This is broader than that.

ASSEMBLYMAN CONKLIN:
I am trying to create transparency in the system. The biggest problem is exactly what you described. I have $100,000 I want to give somebody. As Marcus Conklin, I can only legally give $10,000. But Conklin LLC can give $10,000 and the same with Conklin two LLC and Conklin three LLC and up to Conklin ten LLC.

SENATOR HARDY:
My brother-in-law and I own an auto repair shop. Say we have a friend of ours who wants to run for the Assembly. We want to give him $10,000. That is not who you are trying to cast this net over?

ASSEMBLYMAN CONKLIN:
You and your brother's business have publicly disclosed who you are already.

SENATOR HARDY:
Not necessarily, if it is an LLC and I want to remain a private partner, this would cast the net over it. I am trying to establish your intent. I remember in the testimony the problem and concern was the creation of LLCs for purposes of giving political contributions and having more entities to give political contributions. This bill casts a net over my auto shop that does not have any interest in politics except having a friend running for the Assembly and wanting to give a one-time donation.

ASSEMBLYMAN CONKLIN:
If you want to write a personal check for $10,000, you can do so; your name and address are on the check and that all gets disclosed. If you write a check through the auto repair shop, then you should disclose the owner.

SENATOR HARDY:
You do intend to cast the net on me.

ASSEMBLYMAN CONKLIN:
You, as the owner, have an option; you can write a personal check. An LLC is a pass-through, all the money that goes into the LLC is yours. It is strictly a pass-though entity; revenue passes back and forth but liability stays outside the shield. It is the purpose of the business entity. The money is all yours so why would you choose to report when you can just write a personal check and be done with it?

CHAIR CEGAVSKE:
Senator Raggio and Senator Hardy have to leave so we are going to hold over A.B. 80, A.B. 143 and A.B. 342.

This meeting is adjourned at 4:45 p.m.

RESPECTFULLY SUBMITTED:

Josh Martinmaas,
Committee Secretary

APPROVED BY:

Senator Barbara K. Cegavske, Chair

DATE: